



**Copyright (Amendment) Bill 2014**  
**Submissions of the Progress Lawyers Group**

**A. Introduction & Executive Summary**

1. The Government of Hong Kong Special Administrative Region (the “**Administration**”) tabled the Copyright (Amendment) Bill 2014 (the “**Bill**”) on 13 June 2014. Currently, the Bills Committee of Legislative Council (“**LegCo**”) is examining the Bill. Progressive Lawyers Group (“**PLG**”) is writing to submit our views on the Bill. IN SUMMARY:-
  - (1) The Administration rejected the netizens’ proposal for an open-end exemption, User Generated Content (“**UGC**”) Exemption on the ground that the UGC exemption is adopted only by Canada in 2012 which may not pass the three-step test under the international treaties.
  - (2) PLG is proposing the Fair Use doctrine which has been in operation for 35 years in United States and followed by different Asian countries recently to address the concern of the Administration.
  - (3) It is important to allow greater user’s rights in the copyright law regime to cultivate creativity and innovation which will benefit the economy.
2. Under the Bill, the Administration proposes major changes to the current Copyright Ordinance (Cap 528), including introducing the new communication rights (section 28A), safe harbour provisions (sections 88A-J), amending the criminal offence of copyright infringement (section 118) and introducing more fair dealing exemptions (sections 39 and 39A) etc. Among these, the most controversial issue is whether the newly introduced exemptions provide sufficient protection to the netizens’ freedom of speech and expression but at the same time strike a balance between the rights of copyright owners and the netizens.
3. Accordingly, the netizens’ group proposed a User Generated Contents (“**UGC**”) exemption during the consultation period. The netizens’ UGC

exemption is an open-ended exemption modelled after the Canadian UGC exemption which requires the users to fulfil 3 requirements: a) the purpose of the use of the copyrighted work is for non-profit making; b) the user has the reasonable ground to believe that the content is not generated from a copyright infringed work and acknowledges the source of the copyrighted work; and c) the content does not substitute the copyrighted work. Only if a user fulfils the above requirements, would the use of a copyrighted work will be exempted from the civil and criminal liabilities.

4. As expected, the Administration rejected the UGC exemption on the following grounds<sup>1</sup>:-
  - a. No other jurisdictions except for Canada, adopts a UGC exemption in their copyright law regime. United Kingdom, United States, Australia and Ireland have each adopted a wait-and-see approach to the adoption of UGC exemption;
  - b. UGC exemption may not pass the 3-step test of the Berne Convention, in particular, the first step of the three-step test which requires the exemption to be confined to certain special cases; and
  - c. Netizens' proposal of the UGC exemption is wider than the Canadian UGC exemption.
5. Accordingly, the Administration expressed a concern that if the UGC exemption is adopted, Hong Kong may not be in compliance with its international obligations under the Berne Convention and other international treaties. To our disappointment, other than outright refusal, the Administration has not responded to the demand for an open-ended exemption by suggesting other alternatives. These submissions of PLG aim to widen the discussion of copyright exemption and users rights by drawing experience from other jurisdictions which have adopted an open-ended exemption but has not been challenged in the international forum.

## **B. Fair Use Exemption in the US**

6. Section 107 of the United States Copyright Act 1976 codified a doctrine of fair use as a defence to copyright infringement ("**s. 107 USC**"). This section stipulates that fair use of a copyrighted work for purpose such as criticism, comment, news reporting, teaching, scholarship or research, is not an infringement.

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<sup>1</sup> 立法會CB(4)100/14-15(01)號文件 《2014 年版權(修訂)條例草案》委員會 個人用戶衍生內容  
<http://www.legco.gov.hk/yr13-14/chinese/bc/bc106/papers/bc1061104cb4-100-1-c.pdf>

7. This list is by no means exhaustive. The Senate and House Committee Reports accompanying the bill which was enacted as s. 107 USC suggests that the fair use exemption to copyright infringement is a broad and flexible doctrine:<sup>2</sup>

“...since the doctrine is an equitable rule of reason, no generally applicable definition is possible, and each case raising the question must be decided on its own facts... The bill endorses the purpose and general scope of the judicial doctrine of fair use [...] but there is no disposition to freeze the doctrine in statute... Beyond a very broad statutory explanation of what fair use is and some of the criteria applicable to it, the courts must be free to adapt the doctrine to particular situations on a case-by-case basis.”

8. In deciding whether a use is fair, a court is required to consider four factors, as set forth in s. 107 (1)-(4) USC:

“(1) *the purpose and character of the use, including whether such use is of a commercial nature or it for nonprofit educational purposes;*  
(2) *the nature of the copyrighted work;*  
(3) *the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and*  
(4) *the effect of the use upon the potential market for or value of the copyrighted work.*”

9. The U.S. legislative framework allows for an open-ended fair use system that leaves the task of determining individual cases to the courts. A distinctive advantage of such a framework is flexibility. The courts can expand or confine the scope of copyright limitations to gauge a balance between exclusive rights and conflicting social, cultural, and economic needs, especially during a period of rapid development of the Internet. This reduces the pressure for constant changes to legislation that may struggle to keeping pace with technological developments.

10. In this way, the fair use defence can be viewed as a counterbalance that tackles the risk of overprotection of exclusive rights. With this “breathing space”, innovative uses of copyrighted work that are more desirable from the perspective of social, cultural and economic needs would then be encouraged.

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<sup>2</sup> Senate and House Committee Reports, quoted in L.E. Seltzer in *Exemptions and Fair Use in Copyright: The Exclusive Rights Tensions in the 1976 Copyright Act*, Harvard University Press 1978, p.19-20.

11. The U.S. fair use doctrine provides a broader and more flexible interpretation than the restrictive World Trade Organisation (“**WTO**”) interpretation of the “three-step test”. PLG is aware of the decision of WTO on United States Article 110 (5) of the USC on 15 June 2000<sup>3</sup> (“**WTO 2000**”). We also noted that WTO 2000 has been heavily criticised in the Max Planck Institute Declaration<sup>4</sup> in which it argues failing one of the test in the three-step test will not deem it to violate the test. A totality approach to interpret the test is recommended. Further, studies show that the fair use doctrine is compliant with the “three-step test.”<sup>5</sup> This may shed some light on why the fair use doctrine has never been challenged by the WTO or any other international forums since the provision entered into force 35 years ago in different jurisdictions around the world.

### C. International trend with examples

#### Australia

12. The Australian Law Reform Commission (“**ALRC**”) released its report on Copyright and the Digital Economy in February 2014 (“**the ALRC Report**”). In the ALRC Report, the ALRC recommended that a ‘fair use’ exception be introduced and existing ‘fair dealing’ exceptions in the Australian Copyright Act be repealed.
13. ALRC emphasized:<sup>6</sup>

*“Fair use also facilitates the public interest in accessing material, encouraging new productive uses, and stimulating competition and innovation. Fair use can be applied to a greater range of new technologies and uses than Australia’s existing exceptions. A technology-neutral open standard such as fair use has the ability to respond to future and unanticipated technologies and business and consumer practices. With fair use, businesses and consumers will develop an understanding of what sort of uses are fair and therefore permissible, and*

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<sup>3</sup> United States – Section 110(5) of The US Copyright Act, World Trade Organisation’s Report of the Panel [https://www.wto.org/english/tratop\\_e/dispu\\_e/1234da.pdf](https://www.wto.org/english/tratop_e/dispu_e/1234da.pdf)

<sup>4</sup> Declaration A balanced Interpretation of the “Three-Step Test” In Copyright Law [http://www.ip.mpg.de/fileadmin/user\\_upload/declaration\\_three\\_step\\_test\\_final\\_english1.pdf](http://www.ip.mpg.de/fileadmin/user_upload/declaration_three_step_test_final_english1.pdf)

<sup>5</sup> The Australian Law Reform Commission, after a lengthy inquiry and study in 2013, arrived at this conclusion: “[the U.S.] fair use is consistent with the three-step test. This conclusion is based on an analysis of the history of the test, an analysis of the words of the test itself, and on the absence of any challenge to the US and other countries that have introduced fair use or extended fair dealing exceptions.” See the Australian Law Reform Commission, Copyright and the Digital Economy – Final Report, 2013, p.116-122.

<sup>6</sup> The Australian Law Reform Commission, Copyright and the Digital Economy – Final Report, 2013, p.22.

*will not need to wait for the legislature to determine the appropriate scope of copyright exceptions.”*

14. Further, it was stressed that the Fair Use doctrine is not new:<sup>7</sup>

*“The standard recommended by the ALRC is not novel or untested. Fair use builds on Australia’s fair dealing exceptions, it has been applied in US courts for decades, and it is built on common law copyright principles that date back to the 18th century.”*

15. ALRC observed ‘transformative’ uses as a powerful and flexible feature of fair use: “Fair use promotes what have been called ‘transformative’ uses — using copyright material for a different purpose than the use for which the material was created.”<sup>8</sup>
16. ALRC stated that the defence ‘can allow the unlicensed use of copyrighted material for such purposes as criticism and review, parody and satire, reporting the news and quotation.’<sup>9</sup> ALRC added: ‘Many of these uses not only have public benefits, but they generally do not harm rights holders’ markets, and sometimes even enlarge them’.<sup>10</sup>
17. In conclusion, ALRC stated that their proposals would not undermine the rights of copyright owners.

### Israel

18. In May 2008 the new Israeli Copyright Act 2007<sup>11</sup> came into force. The new Act replaces the old law and represents the entire law in most aspects of copyright matters.
19. In particular, section 19 Copyright Act 2007 (“s. 19 CA”) replicates s. 107 USC with two important enhancements. First, the first fair use factor in s. 19 CA does not include the sentence “...including whether such use is of a commercial nature or is for nonprofit educational purposes.” Often fair uses are neither non-profit nor for educational purposes, but they are nonetheless still fair uses. This gives further flexibilities to the courts in giving decisive

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<sup>7</sup> The Australian Law Reform Commission, Copyright and the Digital Economy – Summary Report, 2013, p.13.

<sup>8</sup> The Australian Law Reform Commission, Copyright and the Digital Economy – Final Report, 2013, p.23.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> [http://www.wipo.int/edocs/mdocs/sme/en/wipo\\_smes\\_ge\\_10/wipo\\_smes\\_ge\\_10\\_ref\\_topic09\\_1.pdf](http://www.wipo.int/edocs/mdocs/sme/en/wipo_smes_ge_10/wipo_smes_ge_10_ref_topic09_1.pdf)

weight to pure normative considerations, notwithstanding commercial or non-commercial use aspects.

20. Section 19(c) of the Copyright Act 2007 authorizes the Minister of Justice to make regulations prescribing conditions under which a use shall be deemed as fair use. This seeks to reduce legal uncertainties thus mitigating chilling effects. Moreover, it provides a checks and balances mechanism between courts and legislatures.<sup>12</sup>

### South Korea

21. South Korea introduced Article 35-3 (Fair-Use of Copyrighted Material) to its Korean Copyright Act in 2012 under the US-Korea Free Trade Agreement. The article provides that:

*“Except for situations enumerated in art. 23 to art. 35-2 and in art. 101-3 to 101-5, provided it does not conflict with a normal exploitation of copyrighted work and does not unreasonably prejudice the legitimate interest of the copyright holder, the copyrighted work may be used, among other things, for reporting, criticism, education, and research.”*

22. In determining whether art. 35-3(1) above applies to a use of copyrighted work, the following factors must be considered: the purpose and character of the use, including whether such use is of a commercial nature or is of a nonprofit nature; the type or purpose of the copyrighted work; the amount and importance of the portion used in relation to the copyrighted work as a whole; the effect of the use of the copyrighted work upon the current market or the current value of the copyrighted work or on the potential market or the potential value of the copyrighted work.
23. It is observed that Article 35-3.1 has incorporated the language of the three-step test while factors to be considered in determining a fair use case in Article 35-3.2 are largely modeled after S.107 of the USC. By doing so, the provision has adopted a mixed model of the open-ended US fair use approach and the European closed list approach. It allows the co-existence of the fair use doctrine and the three step test in the same provision and thus gives more flexibility to the provision. In addition to introducing the fair use doctrine, South

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<sup>12</sup> ISRAEL'S FAIR USE By Zohar Efroni <http://cyberlaw.stanford.edu/blog/2008/01/israel%E2%80%99s-fair-use>

Korea has also recognized exceptions where copyrighted works made public can be used (quoted) without the copyright holder's permission in Art 23-38 of the Act. This has further supplemented the fair use doctrine.

### The Republic of Philippines

24. The Philippines has also incorporated the American style of fair use provision in its copyright law (S.185 Intellectual Property Code of the Philippines). It even went further to cover fair use of unpublished works in S.185.2.

25. Sec.185 Fair Use of a Copyrighted Work:

*“185.1. The fair use of a copyrighted work for criticism, comment, news reporting, teaching including multiple copies for classroom use, scholarship, research, and similar purposes is not an infringement of copyright. Decompilation, which is understood here to be the reproduction of the code and translation of the forms of the computer program to achieve the inter-operability of an independently created computer program with other programs may also constitute fair use. In determining whether the use made of a work in any particular case is fair use, the factors to be considered shall include:*

- (a) The purpose and character of the use, including whether such use is of a commercial nature or is for non-profit education purposes;*
- (b) The nature of the copyrighted work;*
- (c) The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and*
- (d) The effect of the use upon the potential market for or value of the copyrighted work.*

*185.2. The fact that a work is unpublished shall not by itself bar a finding of fair use if such finding is made upon consideration of all the above factors.”<sup>13</sup>*

26. Leaving aside the Philippines's expanded exemption on the fair use of unpublished work, it is observed that the global trend is to adopt the American style of open ended fair use exception. Like other jurisdictions introduced in this submission, the language of S.185 is modelled after S.107 USC.

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<sup>13</sup> [http://www.jpo.go.jp/shiryou\\_e/s\\_sonota\\_e/fips\\_e/pdf/philippines\\_e/e\\_tizai.pdf](http://www.jpo.go.jp/shiryou_e/s_sonota_e/fips_e/pdf/philippines_e/e_tizai.pdf)

27. Subsequently, there was an amendment to S.185.1, which added the criteria for the fair use of decompilation. However, it should be noted that the factors to be considered in determining fair use of other types of copyrighted work remain unchanged.
28. Section 185.1. of Republic Act No. 8293<sup>14</sup> is hereby amended to read as follows:

*“185.1. The fair use of a copyrighted work for criticism, comment, news reporting, teaching including limited number of copies for classroom use, scholarship, research, and similar purposes is not an infringement of copyright. Decompilation, which is understood here to be the reproduction of the code and translation of the forms of a computer program to achieve the interoperability of an independently created computer program with other programs may also constitute fair use under the criteria established by this section, to the extent that such decompilation is done for the purpose of obtaining the information necessary to achieve such interoperability.”*

### The Republic of Singapore

29. Previously, Singapore’s copyright law used the common law fair dealing approach to secondary creations. It provided for 4 non-exhaustive factors to be considered by the court when determining a copyright infringement and this fair dealing only applies to specific purpose of research and private study. This approach is actually quite similar to S.39A of the current Copyright (Amendment) Bill 2014 proposal in Hong Kong. Later in 2006, Singapore shifted from fair dealing to the US fair use and now Singapore’s fair use doctrine is governed by S.35(2)(a) of the Singapore Copyright Act which is also modelled after S.107 USC.<sup>15</sup>

*“(2) For the purposes of this Act, the matters to which regard shall be had, in determining whether a dealing with a literary, dramatic, musical or artistic work or with an adaptation of a literary, dramatic or musical work, being a dealing by way of copying the whole or a part of the work or adaptation, constitutes a fair dealing with the work or adaptation for any purpose other than a purpose referred to in section 36 or 37 shall include –*

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<sup>14</sup> Source: <http://www.gov.ph/2013/02/28/republic-act-no-10372/>

<sup>15</sup> Singapore Academy of Law Journal (2012) 24 SAclJ The Transformative Use Doctrine and Fair Dealing In Singapore, Understanding the “Purpose and Character” of Appropriation Art <http://www.sal.org.sg/digitallibrary/Lists/SAL%20Journal/Attachments/615/%282012%29%2024%20SAclJ%20832-866%20%28D%20Tan%29.pdf>



- (a) *the purpose and character of the dealing, including whether such dealing is of a commercial nature or is for non-profit educational purposes;*
- (b) *the nature of the work or adaptation;*
- (c) *the amount and substantiality of the part copied taken in relation to the whole work or adaptation;*
- (d) *the effect of the dealing upon the potential market for, or value of, the work or adaptation; and*
- (e) *the possibility of obtaining the work or adaptation within a reasonable time at an ordinary commercial price.”*

30. Although it could be said the introduction of the fair use doctrine in Singaporean Copyright law is a result of the implementation of Singapore’s commitment under the US-Singapore Free Trade Agreement (“**USSFTA**”), the concept of fair use has gained recognition in Singapore, especially when US cases on fair use are cited in Singaporean cases. It is also suggested that the flexible nature of the fair use doctrine enables the law to cope with new types of UGC. As stated by S Jayakumar, the Minister for Law of Singapore during the parliamentary debate of the Copyright Amendment Bill 2004:

*“While the closed list system provides certainty, it is also restrictive in that it does not cater for other new uses which could fall under the concept of fair dealing. While the current permitted activities have been retained, the amendment refines our fair dealing system by allowing other acts to be assessed according to a set of factors in determining whether these acts could constitute fair dealing.....I believe they will create an environment conducive to the development of creative works, and also facilitate greater investment, research and development in the copyright industries in Singapore”*

31. In conclusion, experience from these jurisdictions entails that the fair use doctrine is a trend in Asian copyright law and is gaining more reputation. The fact that the fair use doctrine has gone unchallenged suggests that it has no conflict with the three step test. Particularly in South Korea, the language of three step test is incorporated into the provision together with the fair use doctrine, which shows that the three step test can act as a general guidance for determining whether a case falls under a fair use exception. It remains debatable whether the test should be restrictive in nature, but this is nonetheless a creative way to reconcile the fair use doctrine and the three step test.

## D. Economic benefit of Fair Use

32. The economic benefits of Fair Use is immense. Take the US as an example, according to a CCIA study (using the WIPO methodology)<sup>16</sup> and the Copyright and the Economic Effects of Parody: An Empirical Study of Music Videos on the YouTube Platform and an Assessment of the Regulatory Options<sup>17</sup>, the fair use exceptions accounts for more than \$4.5 trillion in annual revenue of the US. Figures also indicated that over the years fair use exceptions has created 11 millions of job opportunities in the US and has significant contribution to the US GDP growth. In addition, the study showed that fair use exceptions not only benefit the high tech businesses, but also non-technology dependent industries such as the insurance and legal services.
33. An economic growth related to the adoption of the fair use has also been recorded in Singapore. There was a 3.3% increase in the GDP of private copying industries and a slight decrease in the GDP of the copyright groups. This indicates that the positive impact of fair use in private copying technology groups outweigh the harm done to the copyright industries. The annual GDP growth rate increased from 1.97% before fair use amendment to 10.18% after fair use amendment. The total increase in revenue of the private copying technology group after fair use amendment is 2.27 billion Euro. These figures suggest that the economic benefit brought by the introduction of fair use is significant and that the fair use provision can balance the interests of various stakeholders.<sup>18</sup>

## E. Recommendations

34. Given the local situation in Hong Kong, section 37(3) of the Copyright Ordinance adopted the language of the three-step test in which it states:-

*“(3) In determining whether an act specified in this Division may be done in relation to a copyright work notwithstanding the subsistence of copyright, the primary consideration is that the act does not conflict with a normal*

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<sup>16</sup> Fair Use Economy Represents One-Sixth of U.S. GDP

[http://web.archive.org/web/20080415213601/www.ccia.net.org/artmanager/publish/news/First-Ever\\_Economic\\_Study\\_Calculates\\_Dollar\\_Value\\_of.shtml](http://web.archive.org/web/20080415213601/www.ccia.net.org/artmanager/publish/news/First-Ever_Economic_Study_Calculates_Dollar_Value_of.shtml)

<sup>17</sup> UK Intellectual Property Office, The Copyright and the Economic Effects of Parody: An Empirical Study of Music Videos on the YouTube Platform and an Assessment of the Regulatory Options,

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/309903/ipresearch-parody-report3-150313.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/309903/ipresearch-parody-report3-150313.pdf)

<sup>18</sup> Gilbert B (2012) ‘The Economic Value of Fair Use in Copyright Law. Counterfactual Impact Analysis of Fair Use Policy On Private Copying Technology and Copyright Markets in Singapore’

<http://infojustice.org/download/copyright-flexibilities/articles/Roya%20Ghafele%20and%20Benjamin%20Gibert%20-%20The%20Economic%20Value%20of%20Fair%20Use%20in%20Copyright%20Law.pdf>

*exploitation of the work by the copyright owner and does not unreasonably prejudice the legitimate interests of the copyright owner.”*

35. Accordingly, the adoption of the Fair Use doctrine under Division III of the Copyright Ordinance will automatically apply the three-step test in its operation which greatly reduces the risk of violation of the three-step test. Therefore, given the specific scope in regard to Fair Use doctrine limited by the four additional conditions, PLG recommends that the Fair Use doctrine should be added as section 39B as follows:-

*“Section 39 B Fair Use*

*Notwithstanding the provisions of sections 39 and 39A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—*

- (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;*
- (2) the nature of the copyrighted work;*
- (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and*
- (4) the effect of the use upon the potential market for or value of the copyrighted work.*

*The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.”*

36. To avoid confusion and conflict with the above proposed Fair Use doctrine, we recommend to delete sections 39(1)(a), 39(2)(a), 39(4), 39(5) and 39A(2) of the Bill.

## F. Conclusion

37. The Australian Law Reform Commission Report on the Copyright and Digital Economy (Report 122) suggested that fair use is more preferable than fair dealing. The Report made such comparison:

*“6.19 Despite the many benefits common to both fair use and fair dealing, a confined fair dealing exception will be less flexible and less suited to the digital age than an open-ended fair use exception. Importantly, with a confined fair dealing exception, many uses that may well be fair will continue to infringe copyright, because the use does not fall into one of the listed categories of use.”*<sup>19</sup>

38. Therefore, it is noticeable that more and more countries are shifting from fair dealing to fair use recently like Israel, the Philippines, South Korea and Singapore. All these countries have already adopted the Fair Use doctrine to cultivate innovation and creativity recently. Even Canada is said to be shifting from fair dealing to the Fair Use doctrine quietly<sup>20</sup>.

39. Furthermore, according to World Intellectual Properties Organisation, Article 10 of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled adopted by the Diplomatic Conference to Conclude a Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities in Marrakesh on June 27, 2013<sup>21</sup>, the international treaty has already recognised the Fair Use doctrine as one of the exemptions to be adopted in the local legislation:-

*“3. Contracting Parties may fulfill their rights and obligations under this Treaty through limitations or exceptions specifically for the benefit of beneficiary persons, other limitations or exceptions, or a combination thereof, within their national legal system and practice. These may include judicial, administrative or regulatory determinations for the benefit of beneficiary persons as to fair practices, dealings or uses to meet their needs consistent with the Contracting*

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<sup>19</sup> The Australian Law Reform Commission Report on the Copyright and Digital Economy (Report 122)

<http://www.alrc.gov.au/publications/6-new-fair-dealing-exception/advantages-fair-use-over-fair-dealing>

<sup>20</sup> Fairness Found: How Canada Quietly Shifted from Fair Dealing to Fair Use by professor Michael Giest

[http://www.press.uottawa.ca/sites/default/files/9780776620848\\_5.pdf](http://www.press.uottawa.ca/sites/default/files/9780776620848_5.pdf)

<sup>21</sup> World Intellectual Properties Organisation, Article 10 of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled adopted by the Diplomatic Conference to Conclude a Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities in Marrakesh on June 27, 2013:

[http://www.wipo.int/treaties/en/text.jsp?file\\_id=301016](http://www.wipo.int/treaties/en/text.jsp?file_id=301016)

*Parties' rights and obligations under the Berne Convention, other international treaties, and Article 11."*

40. Unfortunately, throughout the consultation period and in all the Administration's documents in relation to the Bill, we do not see the Administration has taken the lead to bring such world-wide phenomenon to the table for an in-depth discussion. To stay competitive with other countries in the region, PLG urges the Administration must keep an open mind and an eye on our competitors so that we are not lagging behind in any aspect in the development of the copyright law regime.

**Progressive Lawyers Group  
29 June 2015**