

s 22(1)(a)(ii)

[Redacted]

From: Rebecca Walker <Rebecca.Walker@aigroup.asn.au>
Sent: Monday, 23 April 2012 1:54 PM
To: s 22(1)(a)(ii) [Redacted]
Subject: TPP: views on behalf of members: Telecommunications and IP chapters

Hi [Redacted] s 22(1)(a)(ii)

Thanks for the briefing today. Further to our discussion this morning, please find below the views expressed on behalf of members through the Technology & Public Policy area of Ai Group:

[Redacted]

TPP Intellectual Property Chapter

s 22(1)(a)(ii)

Ai Group notes that a number of important developments in Australian copyright law are expected to occur in the next 12 – 18 months. The Australian Government has asked the Australian Law Reform Commission (ALRC) to conduct an inquiry into copyright law in the digital environment. Ongoing cases before Australian courts will also have significant implications, for example, *Singtel Optus Pty Ltd v National Rugby League Investments Pty Ltd (No 2)* [2012] FCA 34 (1 February 2012) is currently being appealed in the Federal Court and *Roadshow Films Pty Limited v iiNet Limited* [2011] FCAFC 23 (24 February 2011) is before the High Court.

Given these developments, Ai Group recommends that the Australian Government exercise caution in entering into any new international obligations that go beyond the TRIPs standards and relate to matters that are under review, or are not settled, under Australian law. Entering into new international obligations at this time could unduly limit the Australian Government's ability to respond to developments in this important area of law.

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Regards

Rebecca

Rebecca Walker
Senior Adviser
International and Government Relations
THE AUSTRALIAN INDUSTRY GROUP

s.22(1)(a)(ii) [redacted]
www.aigroup.com.au | s.22(1)(a)(ii) [redacted]

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s 22(1)(a)(ii)

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s 22(1)(a)(ii)

[Redacted]

From: [Redacted] s 22(1)(a)(ii)
Sent: Thursday, 24 January 2013 4:11 PM
To: s 22(1)(a)(ii) [Redacted]
Cc: Ward, Elizabeth; Brodrick, Lloyd
Subject: Letting you know about the ADA copyright forum, Friday 1 March 2013, National Portrait Gallery

s 22(1)(a)(ii)

Hi [Redacted] Elizabeth and Lloyd,

Just a quick email letting you know about the Australian Digital Alliance's upcoming copyright law and policy forum, on Friday 1 March 2013 at the National Portrait Gallery: <http://digital.org.au/content/2013-australian-digital-alliance-copyright-forum>. The forum, 'embracing the digital economy: creative copyright for a creative nation' considers the way in which the existing Australian copyright framework fits in with the 'digital world', drawing on issues raised by the Australian Law Reform Commission (ALRC) so far in their Copyright Inquiry.

While this year's forum doesn't have a panel session specifically on the Trans-Pacific Partnership Agreement (TPPA), it does go through a range of consumer, commercial innovator, creator and cultural/educational institution uses of content that may not fall within the bounds of current copyright law, but shed some light on the complexities of drafting "digital proof" policy.

We've been lucky enough to secure two international speakers, in New Zealand internet law expert Judge David Harvey, and respected copyright academic Associate Professor Matthew Sag, particularly noted for his work on the relationship between economics and copyright law, and the predictability of fair use. They'll join a range of panelists from iiNet, Quickflix, the Art Gallery of NSW and the Brisbane Writers Festival alongside artists, digital historians, copyright academics and open data experts.

There'll be drinks the night before at the National Library of Australia (all details at the attached link, plus a PDF program) – it would be great to see you there!

Kind regards,

Ellen

Ellen Broad
Executive Officer | Australian Digital Alliance
Copyright Adviser | Australian Libraries Copyright Committee

t [Redacted] | e [Redacted] | w www.digital.org.au | a National Library of Australia, Parkes ACT 2600

s 22(1)(a)(ii)

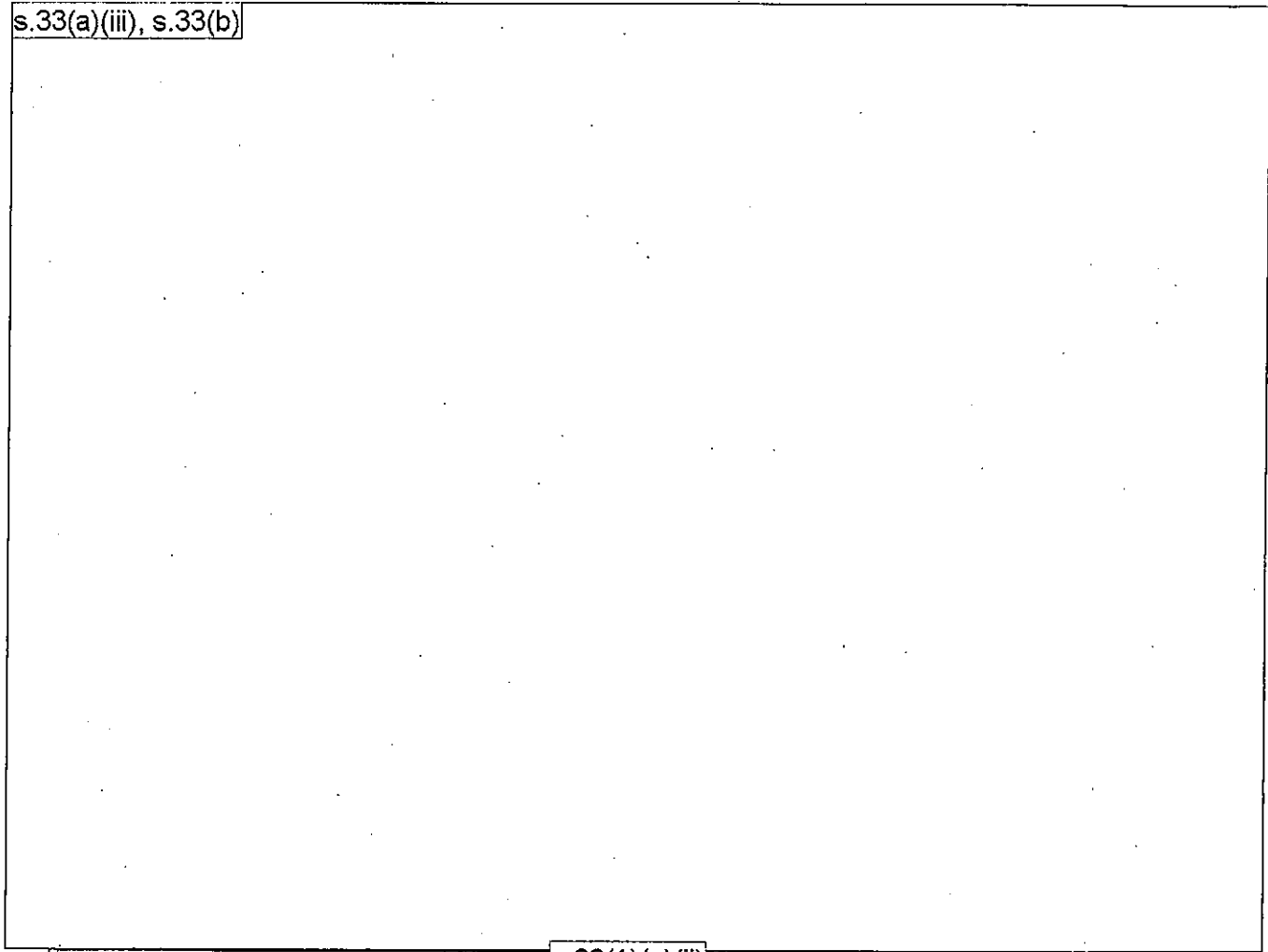
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TPP Negotiations, R18
IP Group
Intellectual Property [Rights] Chapter
23 July 2013

s.33(a)(iii), s.33(b)

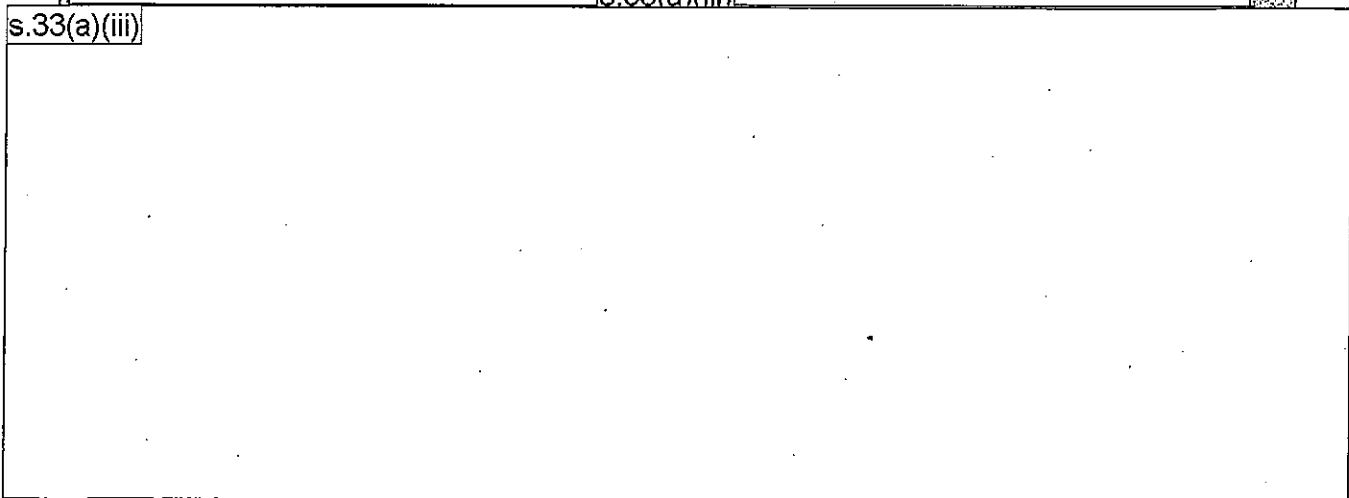


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s.33(a)(iii)

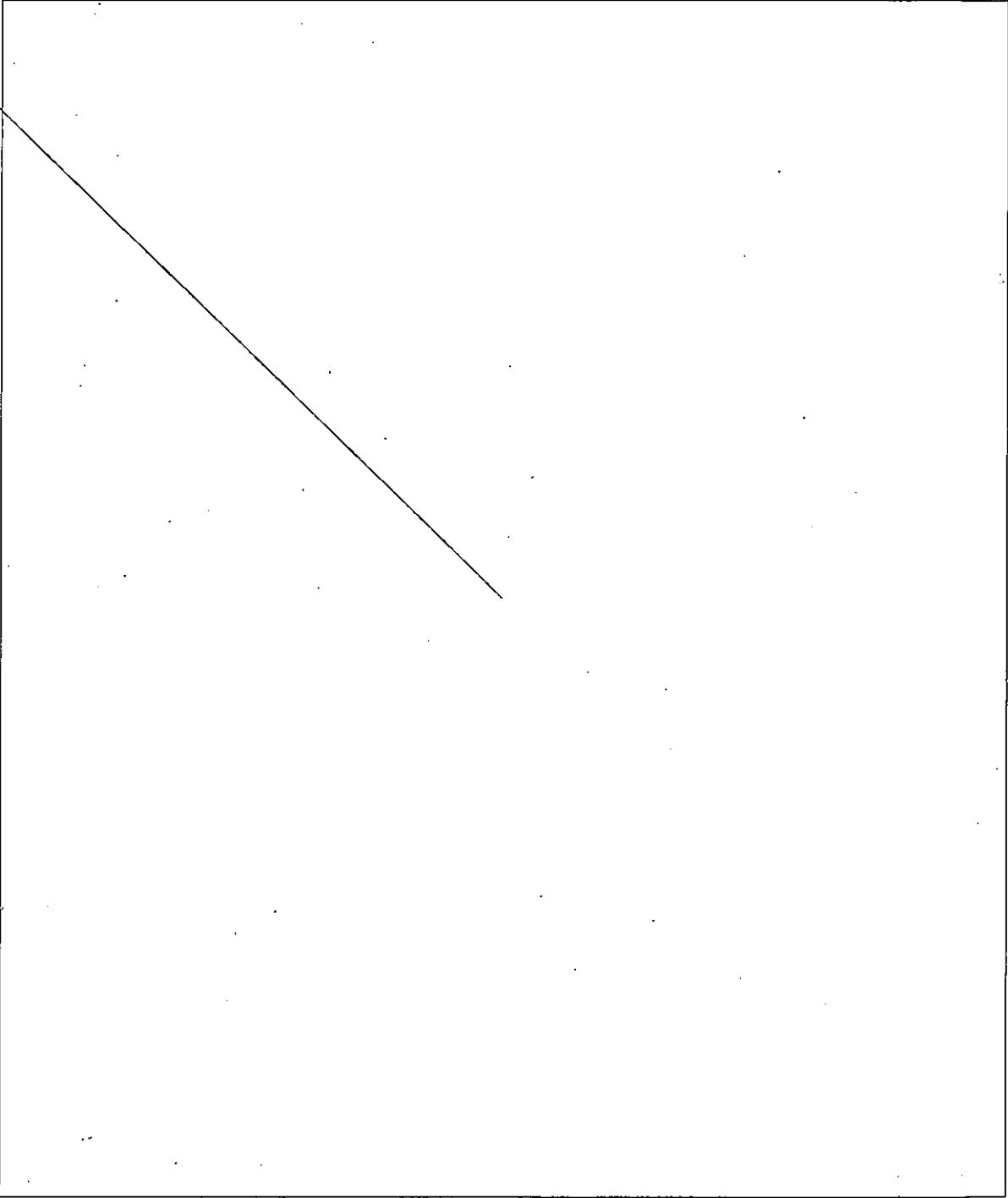
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Leaked TPP Text on Copyright Limitations & Exceptions

s 22(1)(a)(ii)



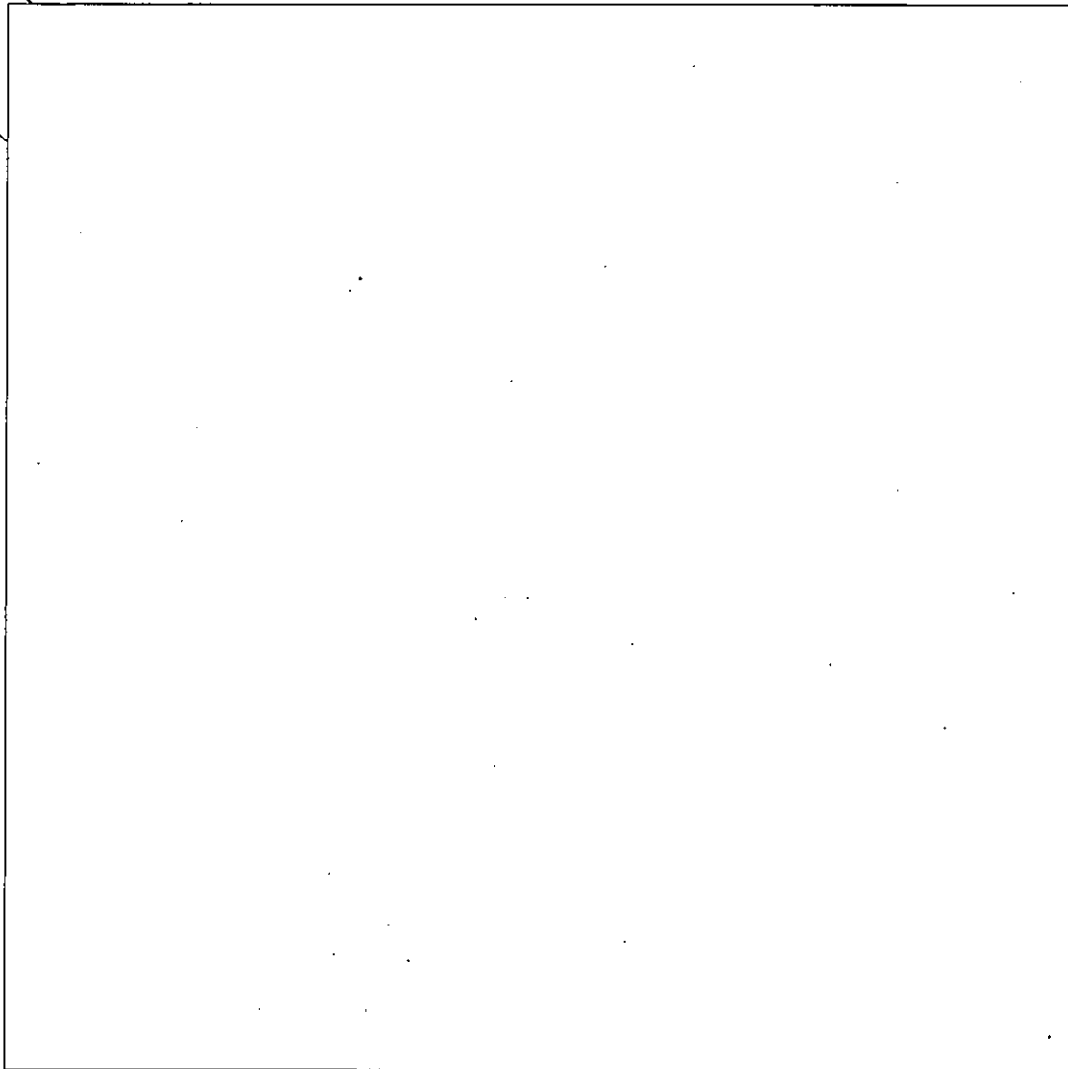
Is Australia's position in the TPP seeking to prejudge the outcome of the ALRC's Inquiry into Copyright and the Digital Economy?

- No. Australia would not support provisions in the TPP that prejudged the outcomes of our own domestic reviews
 - including our present flexibility to enact copyright limitations and exceptions in relation to the digital environment.

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Background

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Australia is a party to several international treaties, including the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) and relevant WIPO treaties, which provide for copyright limitations and exceptions. Australia supports these provisions and is not proposing to reduce the capacity for copyright limitations and exceptions (including for the digital environment) in the TPP. We would not accept an outcome in the TPP that prejudged the outcome of our domestic reviews, including the Australian Law Reform Commission's Inquiry into Copyright and the Digital Economy.

s 22(1)(a)(ii)

Prepared by:	Cleared by Branch Head:
[redacted] A/g Director IPS	Elizabeth Ward, AS GIB
Ext: [redacted]	Mob: [redacted]
Date: 18 October 2012	Date: 18 October 2012

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s 22(1)(a)(ii)

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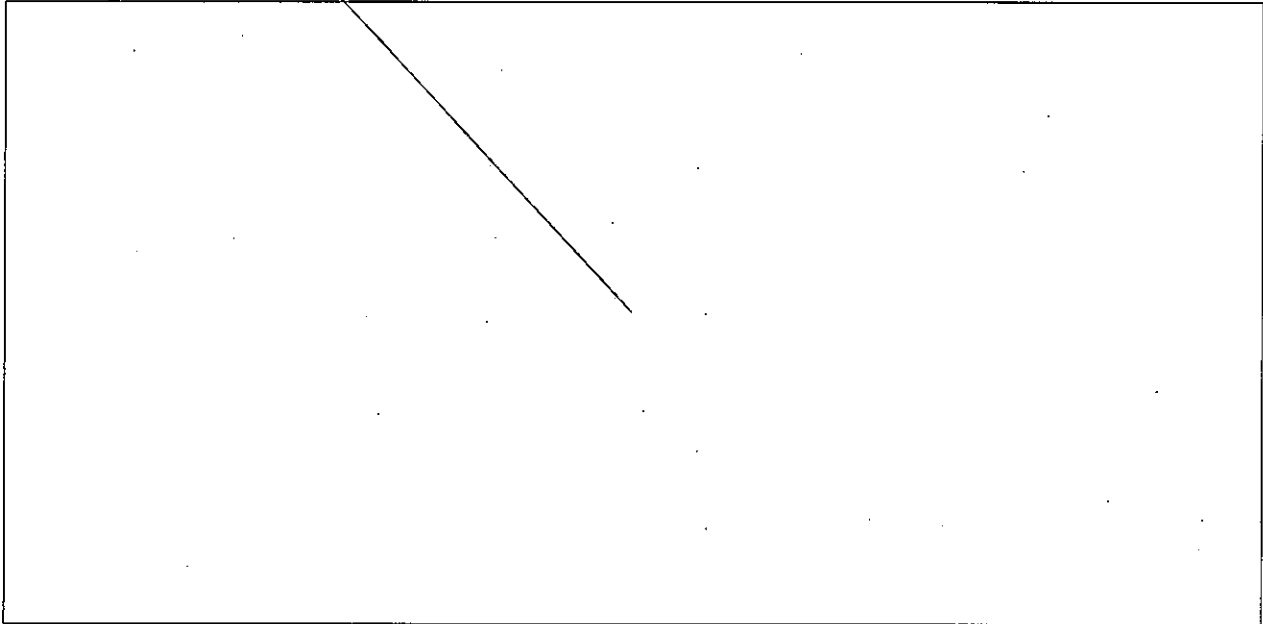
Australian Government
Department of Foreign Affairs and Trade

MEDIA TALKING POINTS

Subject: **Trans-Pacific Partnership Agreement: Copyright Limitations and Exceptions**

Date/Version: 8 August 2012, version 1

Talking Points s 22(1)(a)(ii)

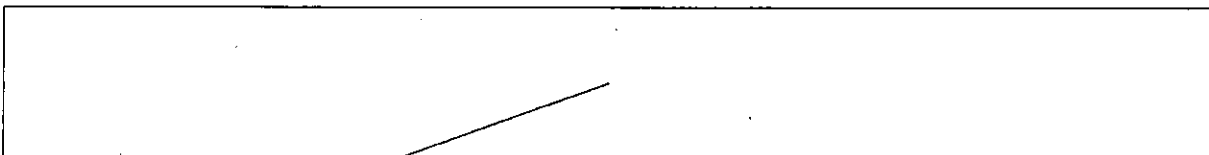


If asked: Is Australia's position in the TPP seeking to prejudge the outcome of the ALRC's Inquiry into Copyright and the Digital Economy?

- No. Australia would not accept an outcome in the TPP that prejudices the outcomes of our own domestic reviews.
- This includes our present flexibility to enact copyright limitations and exceptions, including in relation to the digital environment
 - these limitations and exceptions are essential for maintaining a balanced intellectual property system in the 21st century.

If asked: Was the ALRC's Inquiry into Copyright and the Digital Economy consulted on Australia's apparent new TPP position?

- Australia's positions in the intellectual property chapter have been, and continue to be, informed by a wide range of relevant stakeholder views and perspectives
 - including relevant government agencies.



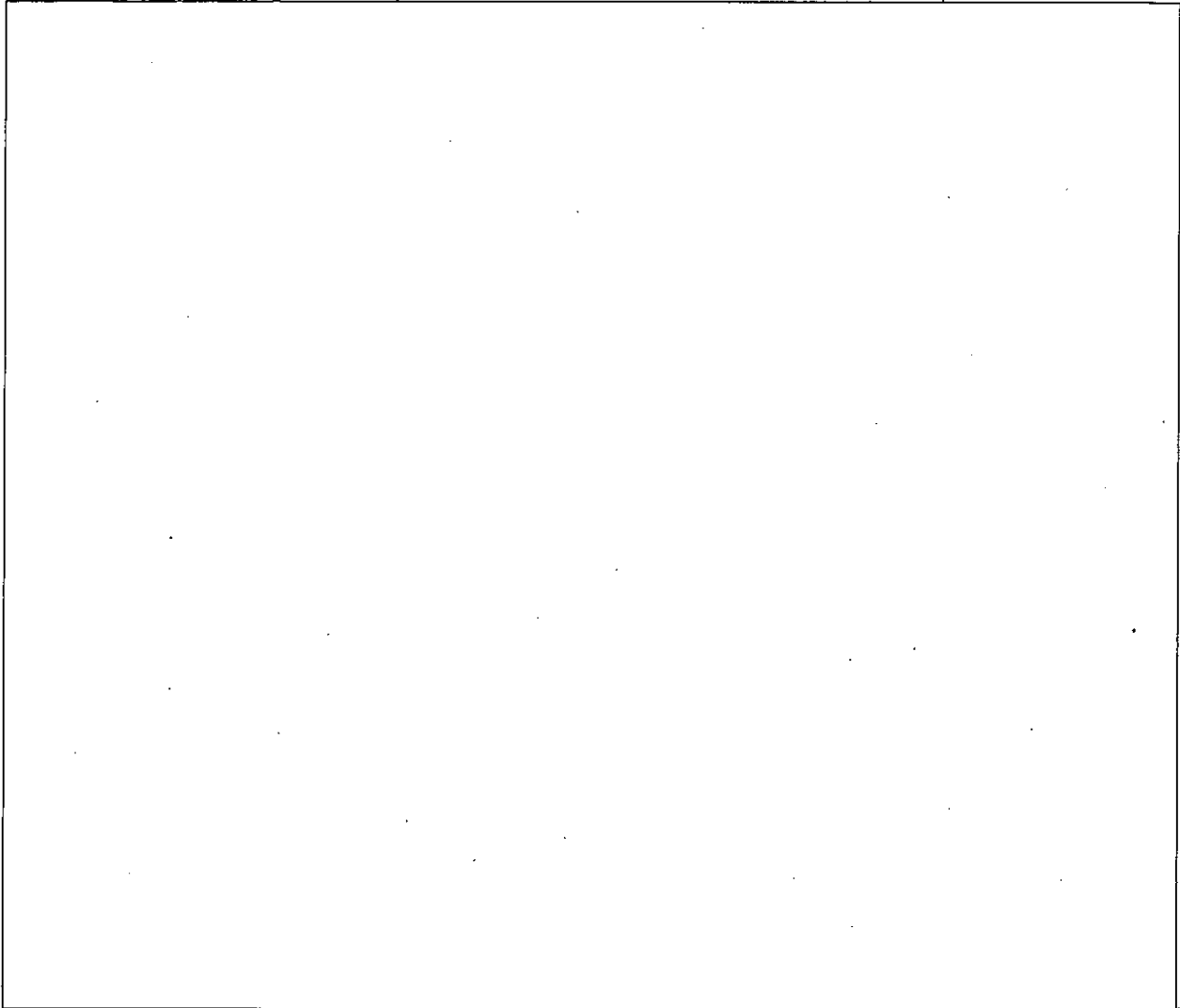
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ONCE CLEARED TPS SHOULD BE EMAILED TO RELEVANT MEDIA AND POLICY ADVISERS IN THE MINISTERS' OFFICES AND TO THE MEDIA LIAISON SECTION (media_talking_points@dfat.gov.au). THE TEXT OF ALL TPS SHOULD BE CUT AND PASTED ON THE EMAIL TO ASSIST BLACKBERRY USERS

Background (not for public use)



s 22(1)(a)(ii)

Australia is still developing its final position on copyright limitations and exceptions, taking into account our existing international obligations, stakeholder views and perspectives, and domestic developments. We are aware of the Australian Law Reform Commission's Inquiry into Copyright and the Digital Economy, and would not accept an outcome in the TPP that prejudices the outcome of this or any other domestic review.

Media Interest

Greens Press release; media coverage online and broadsheet coverage in Fairfax press; local twitter feed.

Approval

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Author	[Redacted] Executive Officer, IPS/SSB/OTN [Redacted]
Cleared by	Hamish McCormick, FAS OTN [Redacted] 8 August 2012, 10am
Consultation	Attorney-General's Department

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ONCE CLEARED TPS SHOULD BE EMAILED TO RELEVANT MEDIA AND POLICY ADVISERS IN THE MINISTERS' OFFICES AND TO THE MEDIA-LIAISON SECTION (m-mls-talking_points@dfat.gov.au). THE TEXT OF ALL TPS SHOULD BE CUT AND PASTED ON THE EMAIL TO ASSIST BERRY USERS

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From: Kingston Anderson [<mailto:kingston@adg.org.au>]

Sent: Wednesday, 8 August 2012 11:30 AM

To: Trans-Pacific Partnership Agreement

Subject: New areas in intellectual property

I read with interest the report by the US Trade Representative on the last TPP negotiations. I was particularly interested in the new proposal that the US put forward in intellectual property. I quote here from the US Trade Representative:

"Notably, the United States tabled a new proposal in the intellectual property rights group having to do with copyright limitations and exceptions. Negotiators will now take the progress made in the various chapters back to their capitals for review."

What is this new proposal on intellectual property to do with copyright?

As we are about to embark on a copyright review by the ALRC this might be an important proposal for Australian intellectual copyright industries, particularly in the creatives ones.

Thanks for your time.



Kingston Anderson
General Manager
Australian Directors Guild
PO Box 211,
Rozelle, NSW, 2039.
Tel : 1300 539639

s.22(1)(a)(ii)

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The ADG would like to thank Screen Australia, Screen NSW; Screenrights, South Australian Film Corporation, Screen QLD, Screenwest, Film Victoria and ASDACS for their financial assistance and support of ADG's annual cultural events and activities.

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[redacted] s 22(1)(a)(ii)

From: s 22(1)(a)(ii) [redacted]
Sent: Tuesday, 7 August 2012 3:50 PM
To: Media AGD
Cc: Ward, Elizabeth (Elizabeth.Ward@dfat.gov.au); Brodrick, Lloyd: s.22(1)(a)(ii)
Subject: s 22(1)(a)(ii) [redacted]
 RE: Media enquiry - copyright exceptions in Trans Pacific Partnership Agreement - John Hilvert - ITnews [SEC=UNCLASSIFIED]

Hi AGD Media

As requested, please find attached cleared responses to queries from John Hilvert of ITnews.

s 22(1)(a)(ii)

Q2: Notwithstanding your response to Q1, can you affirm or vary that Australia remains of the view that its position on the IP chapter will not affect Australia's present copyright regime?

Australia would not accept an outcome in the TPP that reduced our present flexibility to enact copyright limitations and exceptions in Australian domestic law, including in relation to the digital environment.

Q3: Was the Australian Law Reform Commission's Inquiry into Copyright Exceptions consulted on this apparent new TPP position?

Australia's positions in the intellectual property chapter have been, and continue to be, informed by a wide range of relevant stakeholder views and perspectives.

Q4: Will this qualify its inquiry especially the terms of reference concerning recognition "of fair use of copyright material"?

See response to Q2.

s 22(1)(a)(ii)

If you need anything else please let us know.

Kind regards

[redacted] s 22(1)(a)(ii)

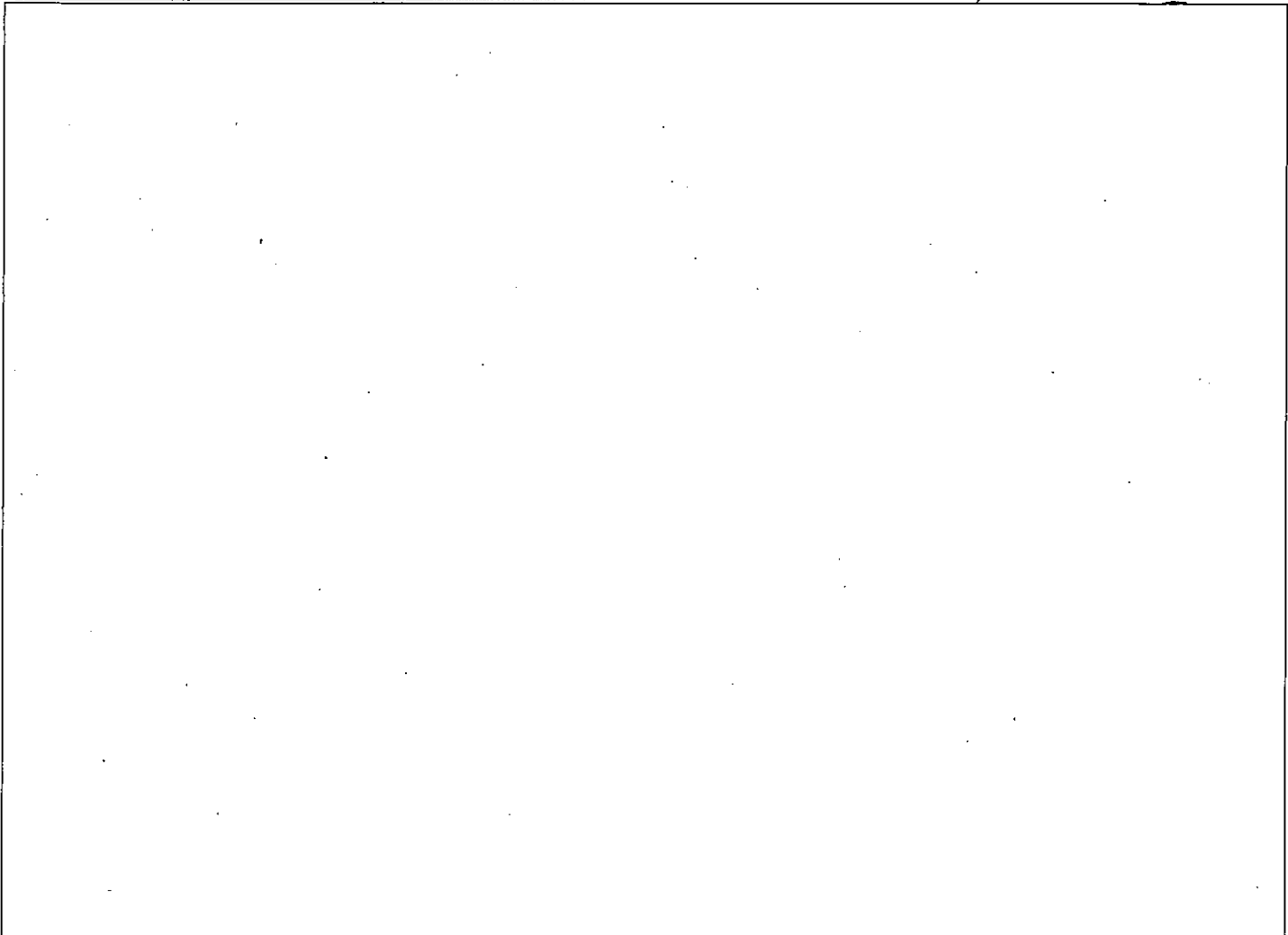
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Executive Officer
International Intellectual Property Section
Office of Trade Negotiations
Australian Department of Foreign Affairs & Trade

Tel: [redacted]
Fax: [redacted]

s 22(1)(a)(ii)

s 22(1)(a)(ii)

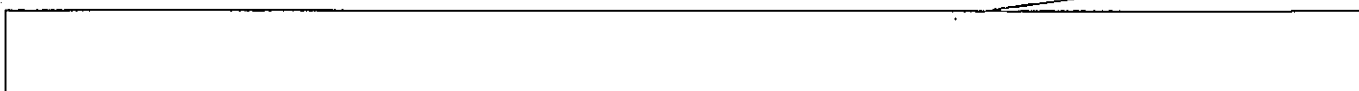


From: John Hilvert
Sent: Monday, 6 August 2012 12:16:23 PM (UTC+10:00) Canberra, Melbourne, Sydney
To: Media AGD
Cc: tpp@dfat.gov.au
Subject: Invitation to comment on Australia's position re copyright exceptions at TPP

Greetings,

*** I'd appreciate it if you could respond to this media inquiry by 4pm Tuesday 7 August 2012 ***

s 22(1)(a)(ii)



Q2: Notwithstanding your response to Q1, can you affirm or vary that Australia remains of the view that its position on the IP chapter will not affect Australia's present copyright regime?
Q3: Was the Australian Law Reform Commission's Inquiry into Copyright Exceptions consulted on this apparent new TPP position?

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Q4: Will this qualify its inquiry especially the terms of reference concerning recognition "of fair use of copyright material"?

s 22(1)(a)(ii)

Thanks in advance,

John Hilvert
ITnews.com.au

s.22(1)(a)(ii)

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s 22(1)(a)(ii)

From: Kursten Leins <kursten.leins@ericsson.com>
Sent: Thursday, 24 May 2012 4:32 PM
To: s 22(1)(a)(ii)
Subject: TPP IP stakeholder meeting & Ericsson perspective on copyright
Attachments: Ericsson Submission to Draft ALRC Terms of Reference 2012 FINAL.pdf

Hi s 22(1)(a)(ii)

It was a pleasure to meet you today at the TPP IP Stakeholder meeting in Canberra, and I appreciate the opportunity to hear directly from yourself and others involved in the negotiations, as well as the underlying ambition to ensure alignment with current Australian legislation.

s.22(1)(a)(ii)

In order to harness the benefits of the networked society, Ericsson firmly believes that any enforcement or copyright review does not limit or unfairly disadvantage trade in digital goods and services, in particular digital content (eg film, music, books, etc). The attached Ericsson submission to the ALRC TOR Copyright review provides a more comprehensive explanation of this perspective, which I hope provides strong insight into the demand-drivers for a digital economy and how digital content distribution in Australia today remains in a nascent state. The three main causes for the market supply failure of digital lawful content are:

1. The deliberate limited availability of attractive lawful digital content offerings due to (windowing⁷, malign exclusive licensing⁸, territoriality);
2. The technology specificity of copyright licensing such as schemes published by collecting societies that cater for specific business models only, technology specificity of exclusive rights (and hence direct licensing), technology specific exceptions and the first sale-principle, all limiting or delaying innovative digital services until adequate licensing is available.
3. The unreasonable transaction costs that make digital content offerings to consumers unnecessarily expensive.

I would be more than happy to discuss this further with you, or with another chapter negotiator if you feel this issue sits more within e-commerce, services or elsewhere within the TPP framework.

Kind regards
 Kursten

KURSTEN LEINS
GM Strategy & Government Affairs

Ericsson Australia
 Level 8, 818 Bourke Street
 Docklands Vic 3008, Australia

s.22(1)(a)(ii)

www.ericsson.com

http://www.ericsson.com/current_campaign

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s.22(1)(a)(ii)

From: Leanne O'Donnell [mailto:]

Sent: Tuesday, 7 August 2012 3:22 PM

To: s 22(1)(a)(ii)

s 22(1)(a)(ii)

Subject: IP chapter of the TPP - copyright

Dear s 22(1)(a)(ii)

Thank you for your time this afternoon.

As discussed, I have attended DFAT briefings on the TPP but still have a number of questions about Australia's negotiating position on the IP chapter.

Unfortunately all we have to go on is leaked text from February 2011 in relation to the bulk of the IP chapter.

Key issues from this leaked text (from my perspective):

s.22(1)(a)(ii)

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In addition, there is also a concern that the more recent leak in relation to exceptions and limitations will cut across the ALRC Review of Copyright.

My direct telephone number is s.22(1)(a)(ii) (Herbert Geer Lawyers) or mobile s.22(1)(a)(ii)

Thank you again for your time.

Kind regards,
Leanne

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Leanne O'Donnell .

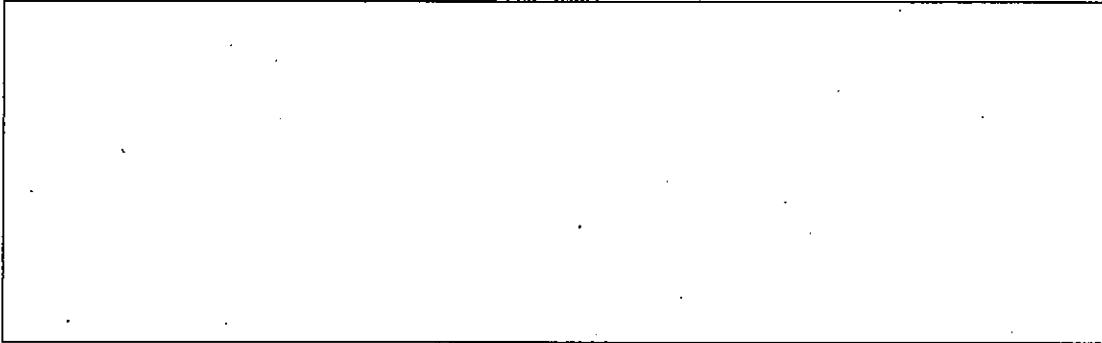
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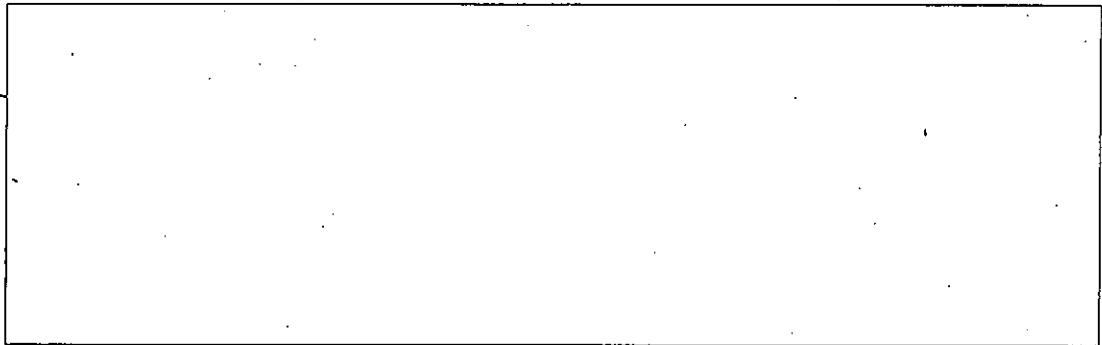
Trans-Pacific Partnership Agreement: Copyright Limitations and Exceptions

6 August 2012

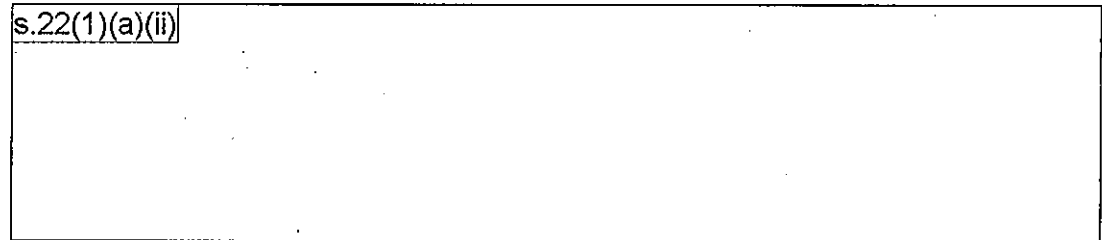
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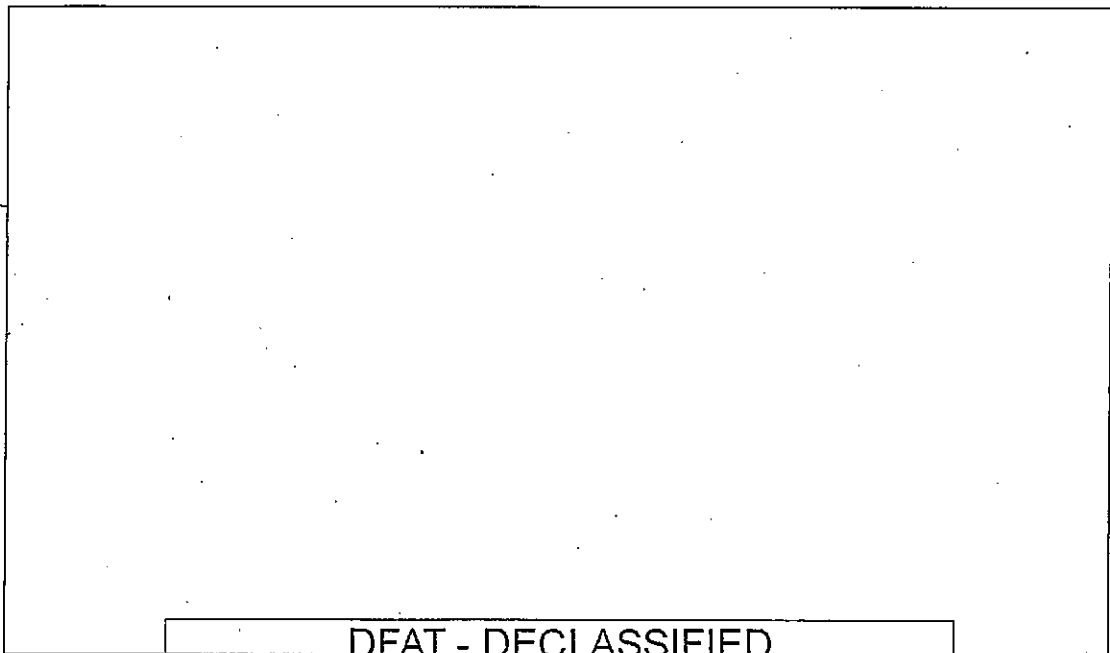
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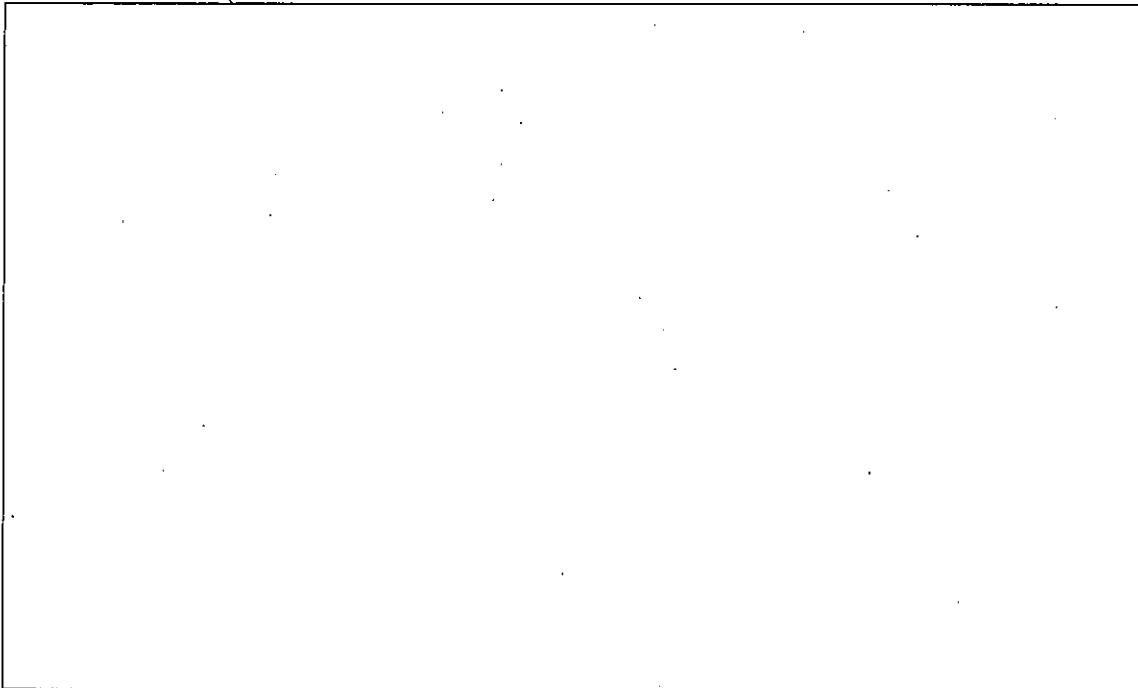
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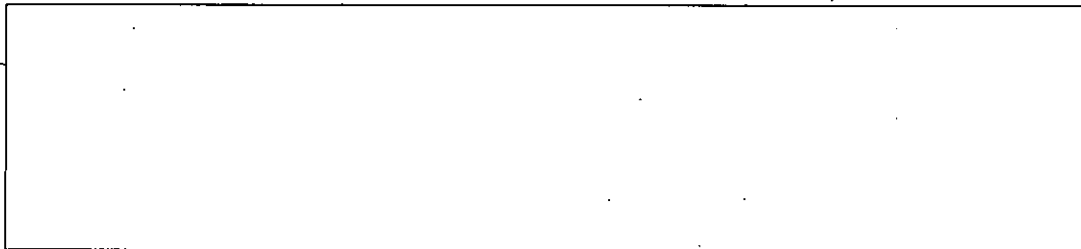
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2. Australia supports copyright limitations and exceptions in the TPP Agreement that are consistent with those provided under the multilateral copyright treaties to which we are a party, not that reduce their scope.
3. Australia supports the provision of limitations and exceptions in the digital environment. We have already agreed to this in the WIPO Copyright Treaty and will do so in other international agreements to ensure we preserve flexibility to enact copyright limitations and exceptions for the digital environment in our laws.
 - Maintaining this flexibility is even more important at the present time as the Australian Law Reform Commission (ALRC) is conducting an inquiry into whether Australia has adequate and appropriate copyright limitations and exceptions, and statutory licences, for the digital economy. The ALRC is due to report by November 2013.

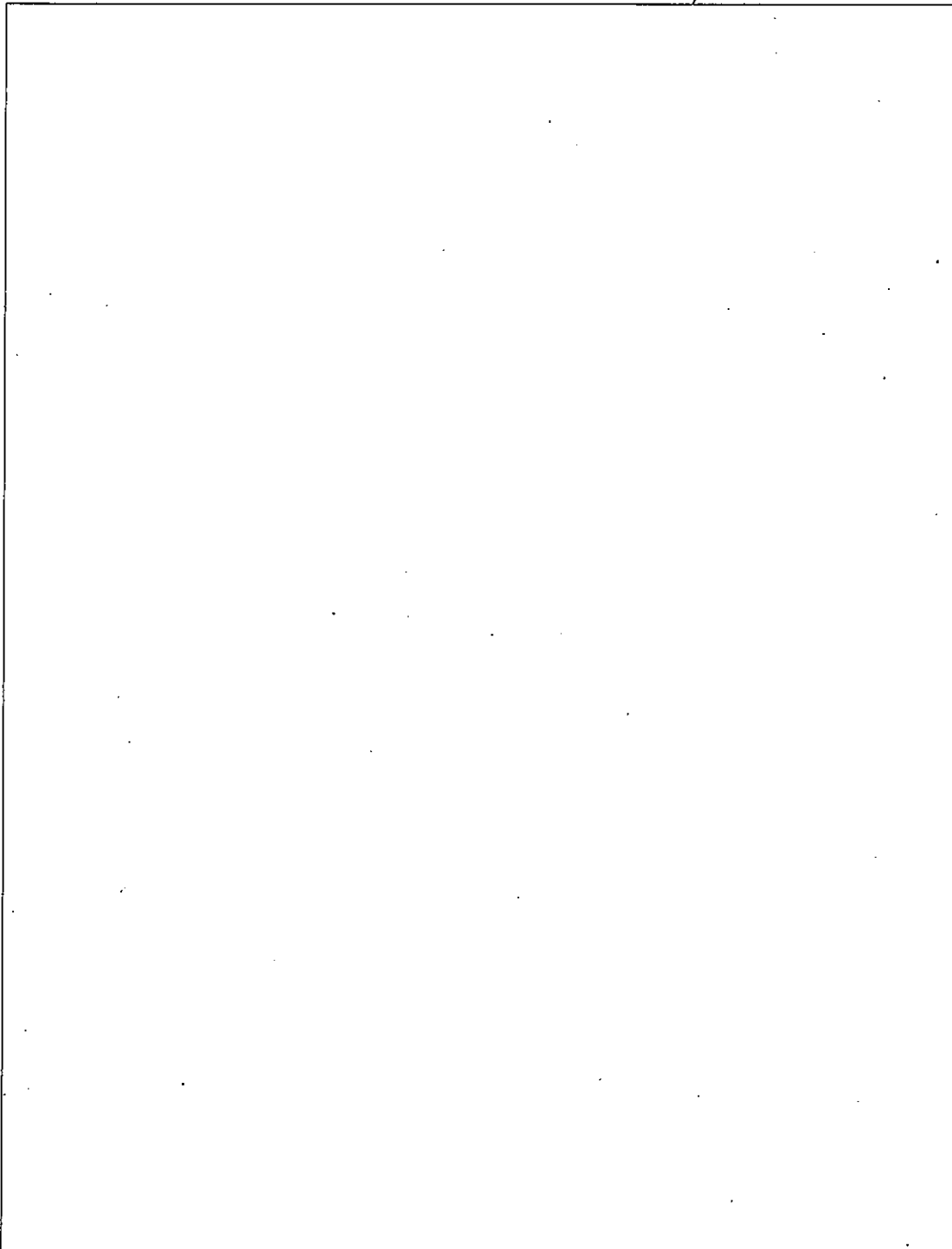
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Talking points for Director, NSWSO – Speech to AmCham on Intellectual Property and Transparency in the Trans-Pacific Partnership

Intellectual Property

s 22(1)(a)(ii)

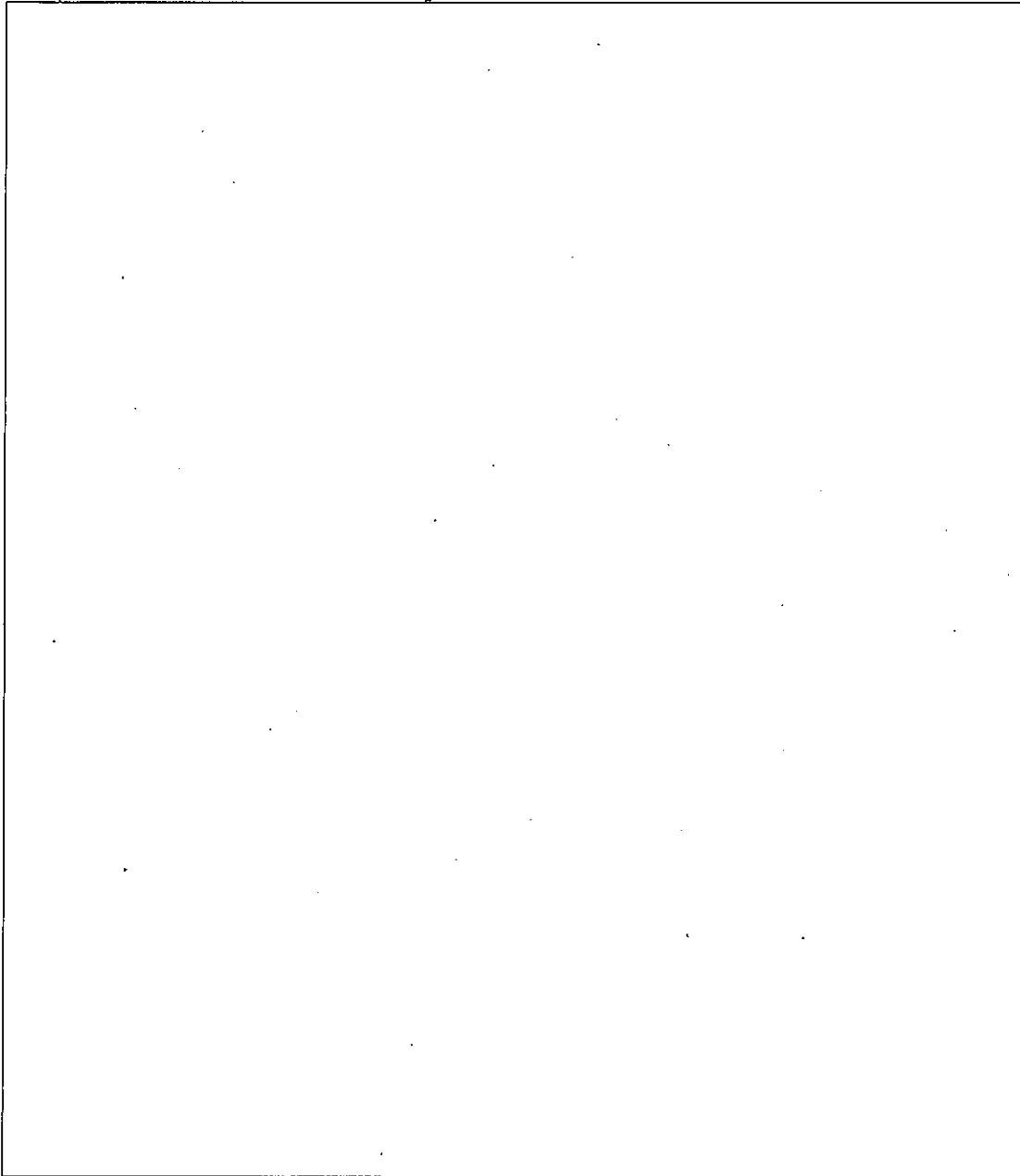


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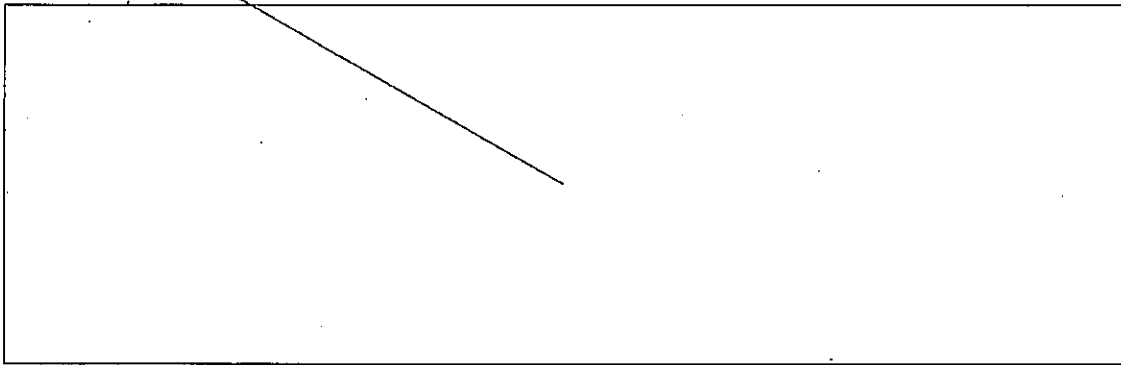
If raised, how is Australia managing the IP negotiations with so many domestic IP reviews?

- We are closely monitoring these reviews
 - the government agencies overseeing them – IP Australia and the Attorney-General's Department – are actively involved in the TPP negotiations and provide us with regular updates on the status of reviews
 - we are also consulting with other stakeholders with an interest in these matters, including government agencies, industry and interest groups and members of the public.

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s 22(1)(a)(ii)



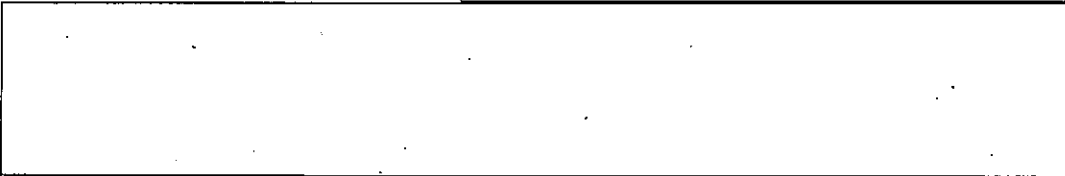
Background on IP reviews

Several major IP reviews are underway in Australia, including an ALRC inquiry into *Copyright and the Digital Economy* (due to report November 2013)



s 22(1)(a)(ii)

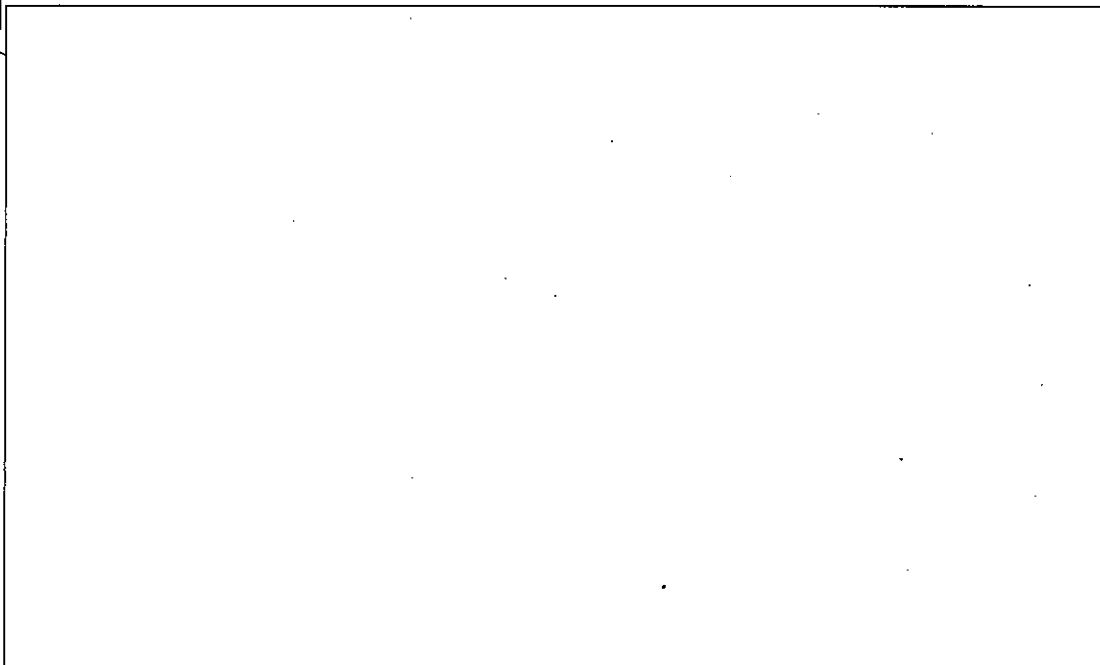
The ALRC is considering whether exceptions and statutory licences in the *Copyright Act 1968* are adequate and appropriate in the digital environment and whether further exceptions should be recommended.



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In TPP, some Australian stakeholders have raised concerns that restrictive provisions on copyright exceptions would limit the ALRC's ability to make recommendations for reform.

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TPP: Domestic IP reviews in Australia

How are you managing the IP negotiations with so many domestic IP reviews in Australia?

- There are a number of domestic reviews underway looking at our domestic IP settings
 - on copyright, there's a major review on limitations and exceptions in the digital economy

s 22(1)(a)(ii) [Redacted]

- We are closely monitoring these reviews
 - the government agencies overseeing them, s.22(1)(a)(ii) and the Attorney-General's Department, are actively involved in the TPP negotiations and provide us with regular updates on the status of reviews
 - we are also consulting with other stakeholders with an interest in these matters, including government agencies and members of the public.

s 22(1)(a)(ii) [Large Redacted Area]

Background (not for public use)

Copyright

1. ALRC inquiry into **Copyright and the Digital Economy** (due to report November 2013)

On 29 June 2012 the Attorney-General provided the ALRC with Terms of Reference for its inquiry into Copyright and the Digital Economy. The ALRC is to consider whether exceptions and statutory licences in the Copyright Act 1968 are adequate and appropriate in the digital environment and whether further exceptions should be recommended. The scope of the review is very broad and covers limitations and exceptions in a number of areas including (i) internet functions (ii) private use (iii) transformative use (iv) libraries, archives and digitisation (v) orphan works (vi) educational institutions and (vii) fair use. In conducting the review, the ALRC will have regard to, among other things, Australia's international obligations.

In TPP, some Australian stakeholders have raised concerns that restrictive provisions on copyright limitations and exceptions would limit the ALRC's ability to make recommendations for reform. s.22(1)(a)(ii)

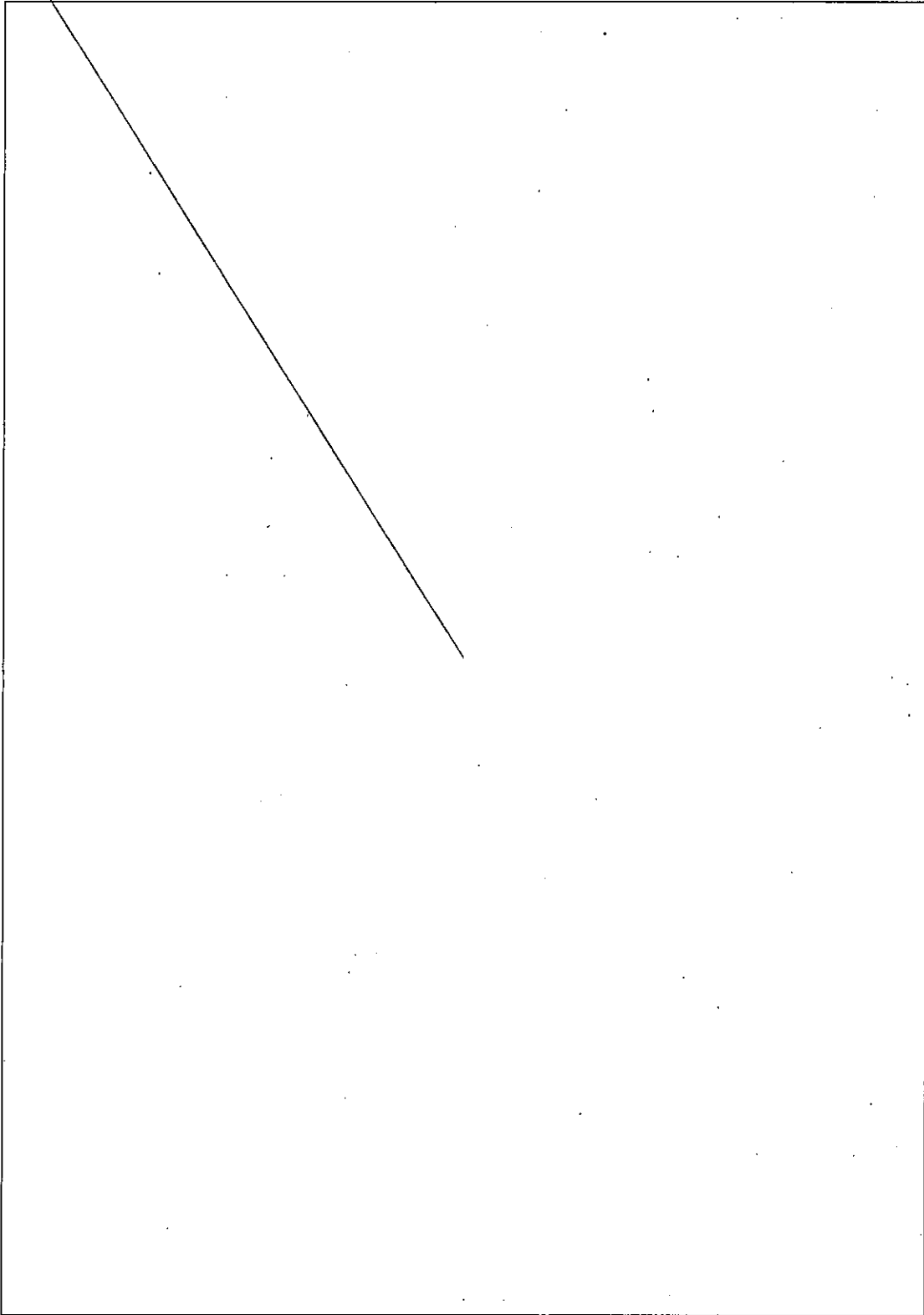
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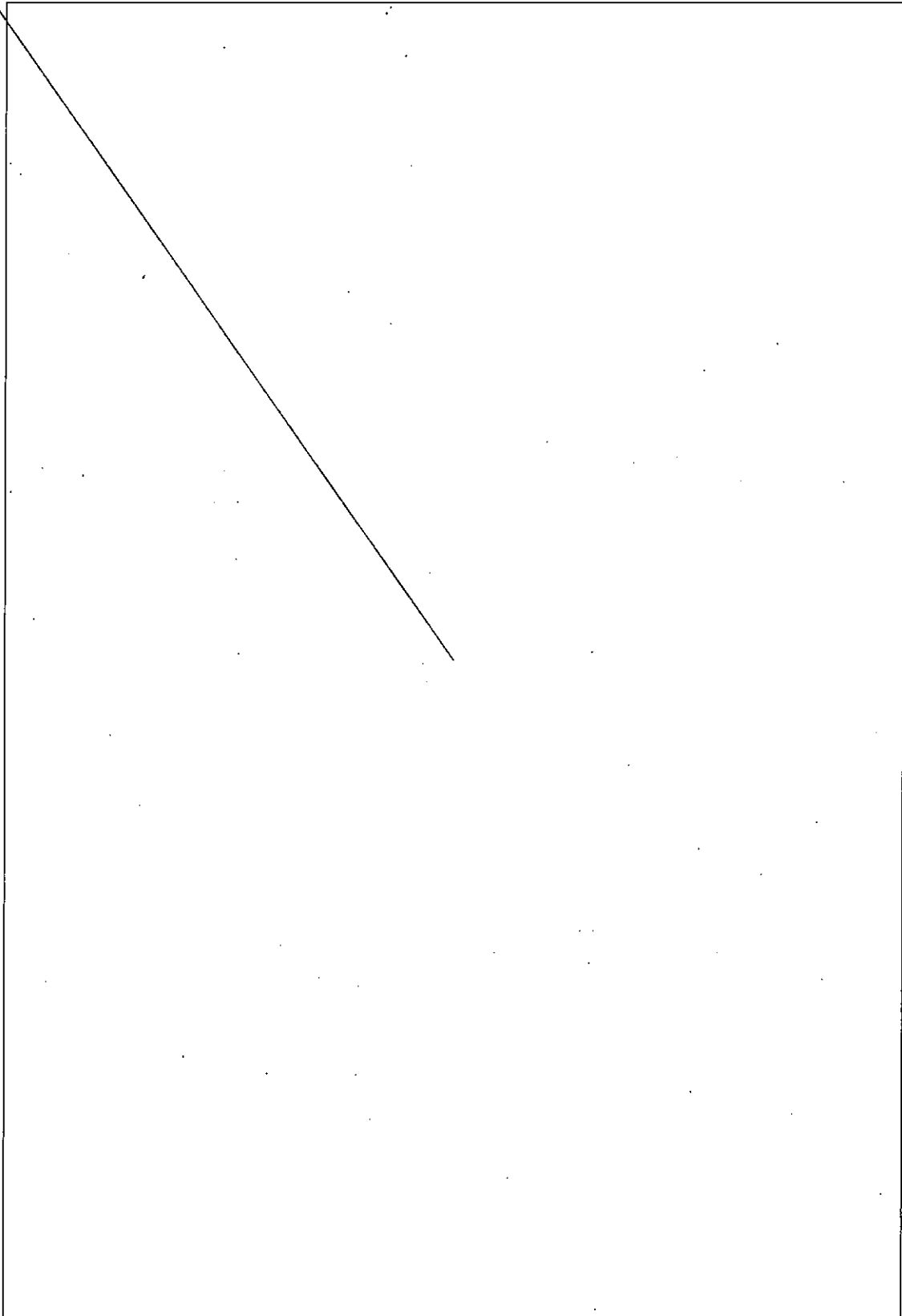
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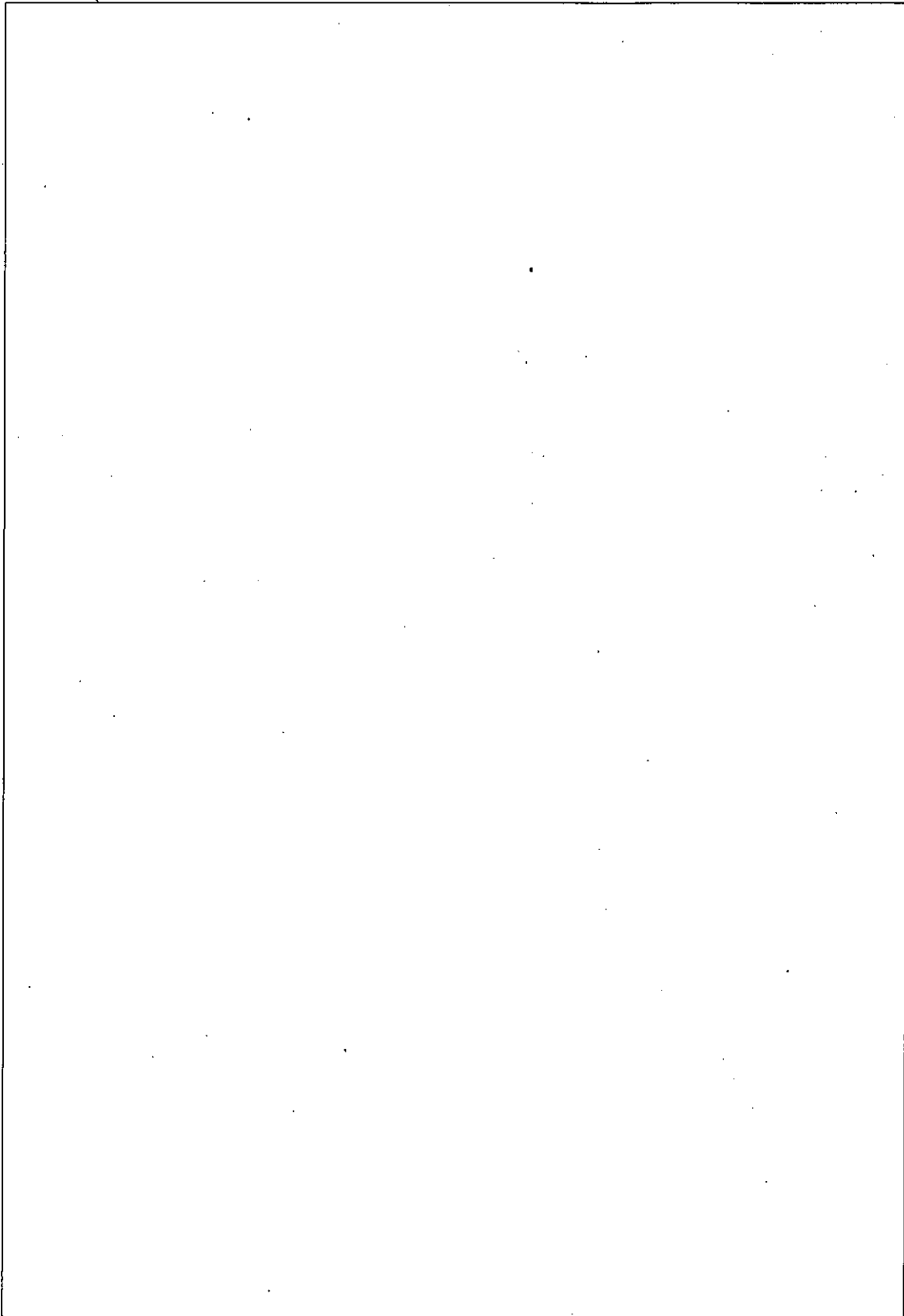
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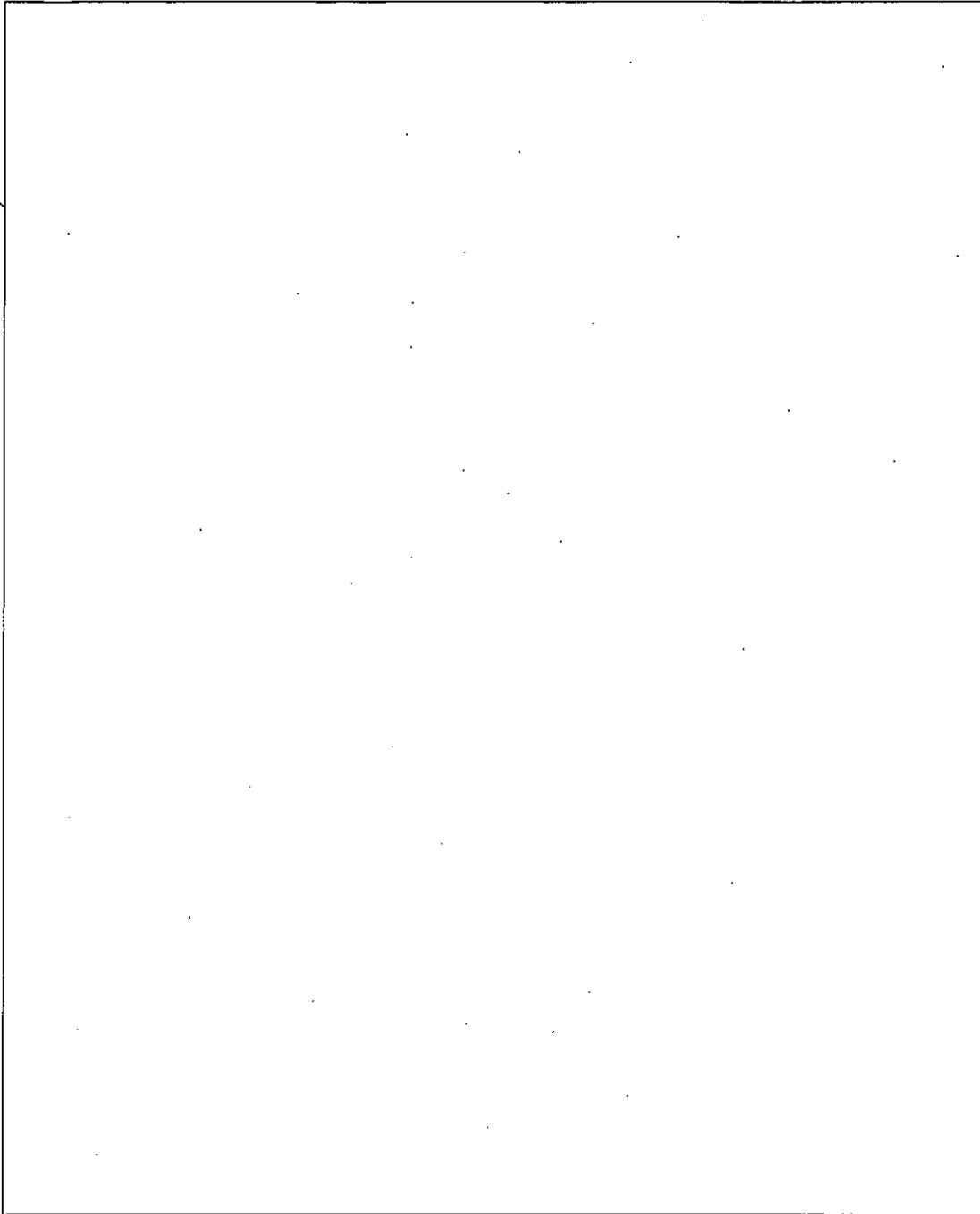
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TPP: Leaked Copyright Limitations & Exceptions Text

s 22(1)(a)(ii)



Is Australia's position in the TPP seeking to prejudge the outcome of the ALRC's Inquiry into Copyright and the Digital Economy?

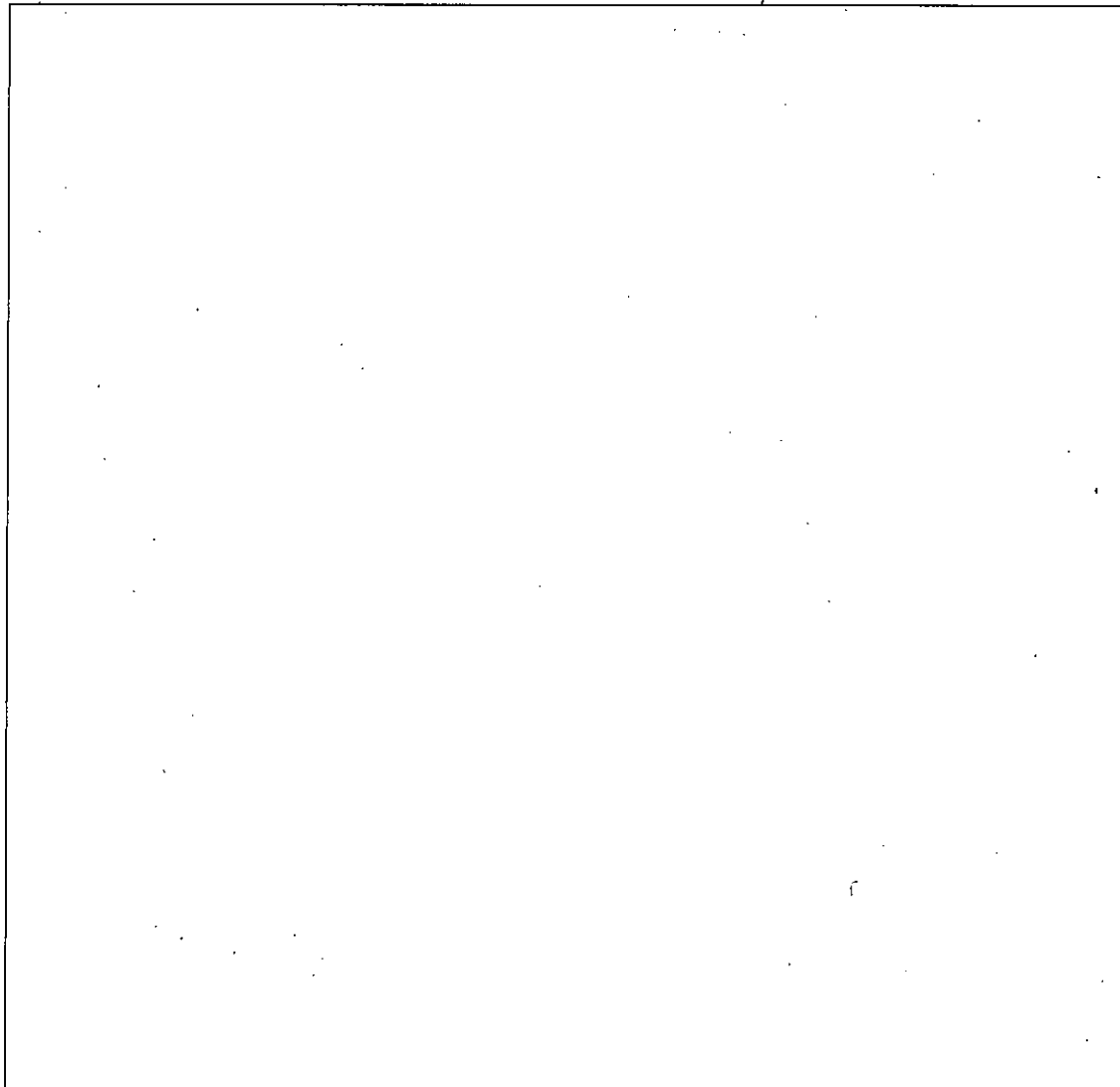
- No. Australia would not support provisions in the TPP that prejudged the outcomes of our own domestic reviews
 - including our present flexibility to enact copyright limitations and exceptions in relation to the digital environment.

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s 22(1)(a)(ii)

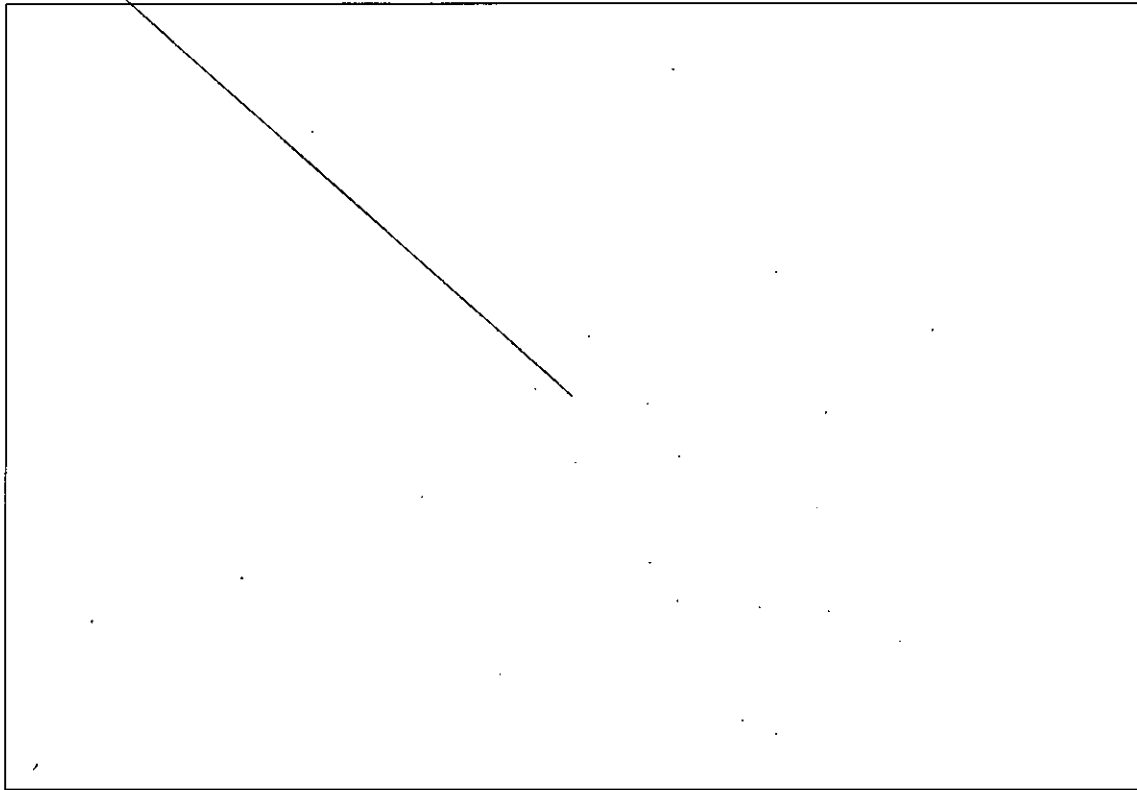


2. Australia supports copyright limitations and exceptions in the TPP that are consistent with those provided under the multilateral copyright treaties to which we are a party, not that reduce their scope.
3. Australia supports the provision of limitations and exceptions in the digital environment. We have already agreed to this in the WIPO treaties and will do so in other international agreements to ensure we preserve flexibility to enact copyright limitations and exceptions for the digital environment in our laws.
4. Maintaining flexibility is very important given the Australian Law Reform Commission (ALRC) inquiry into whether Australia has adequate and appropriate copyright limitations and exceptions, and statutory licences, for the digital economy.

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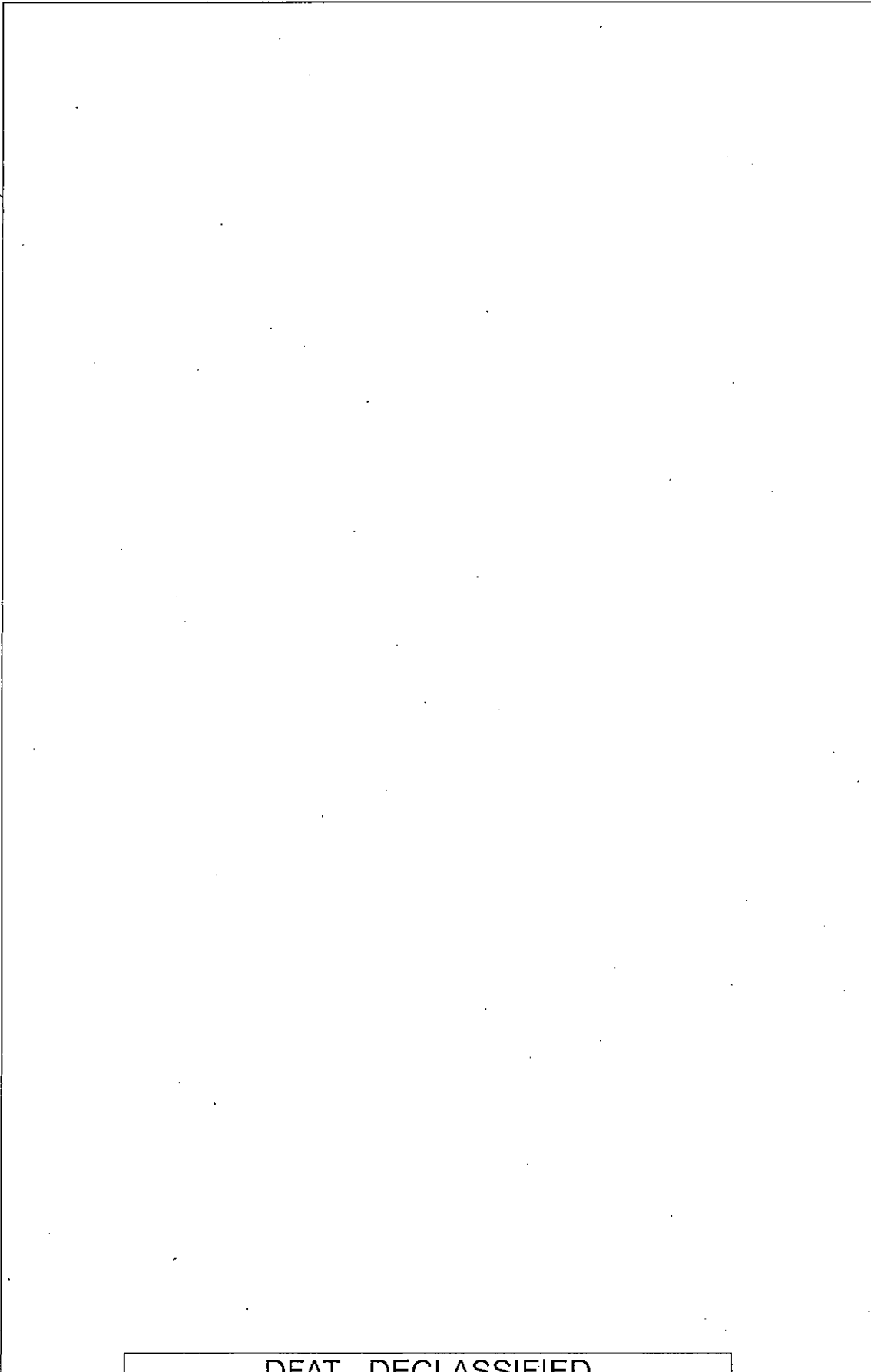
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s 22(1)(a)(ii)



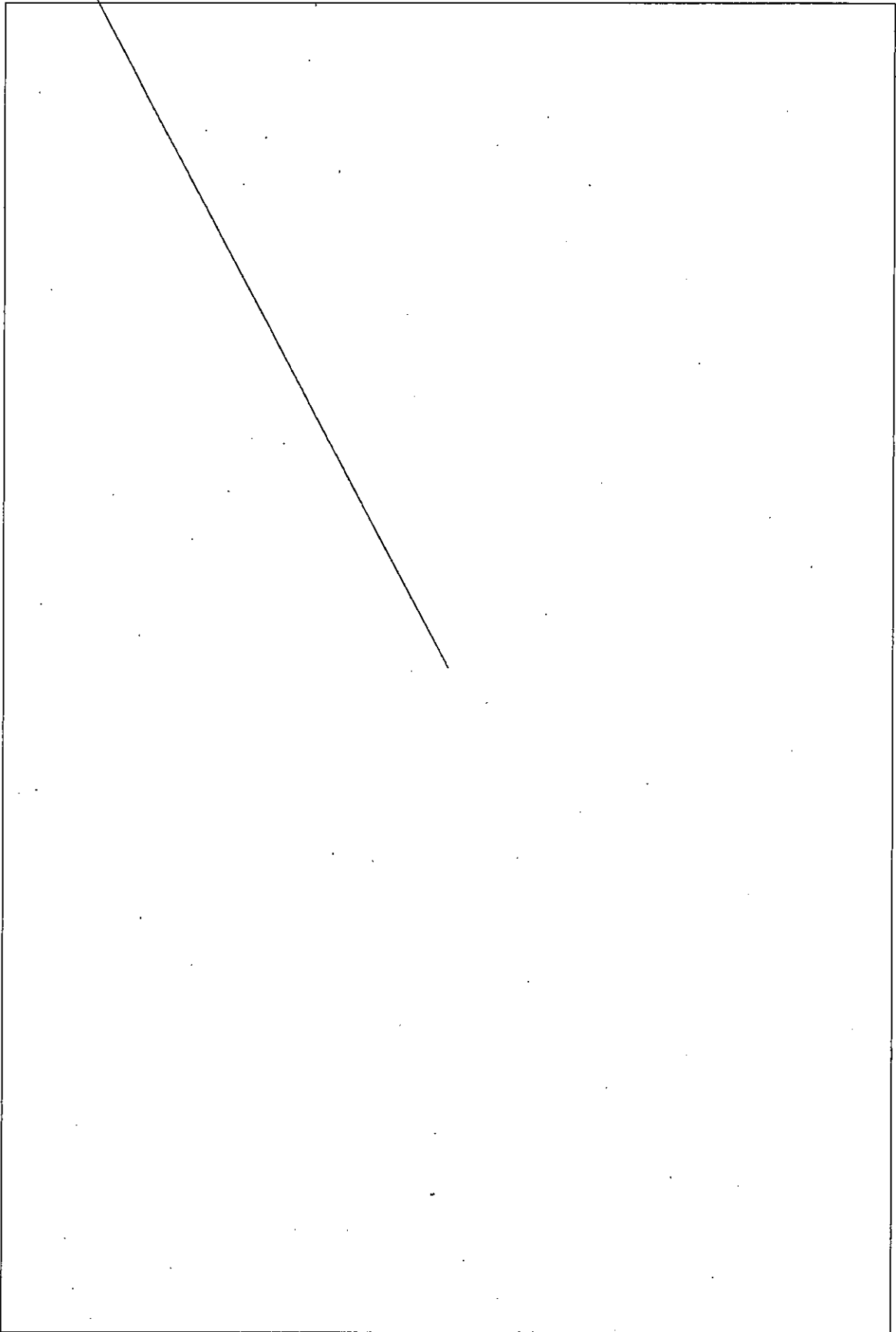
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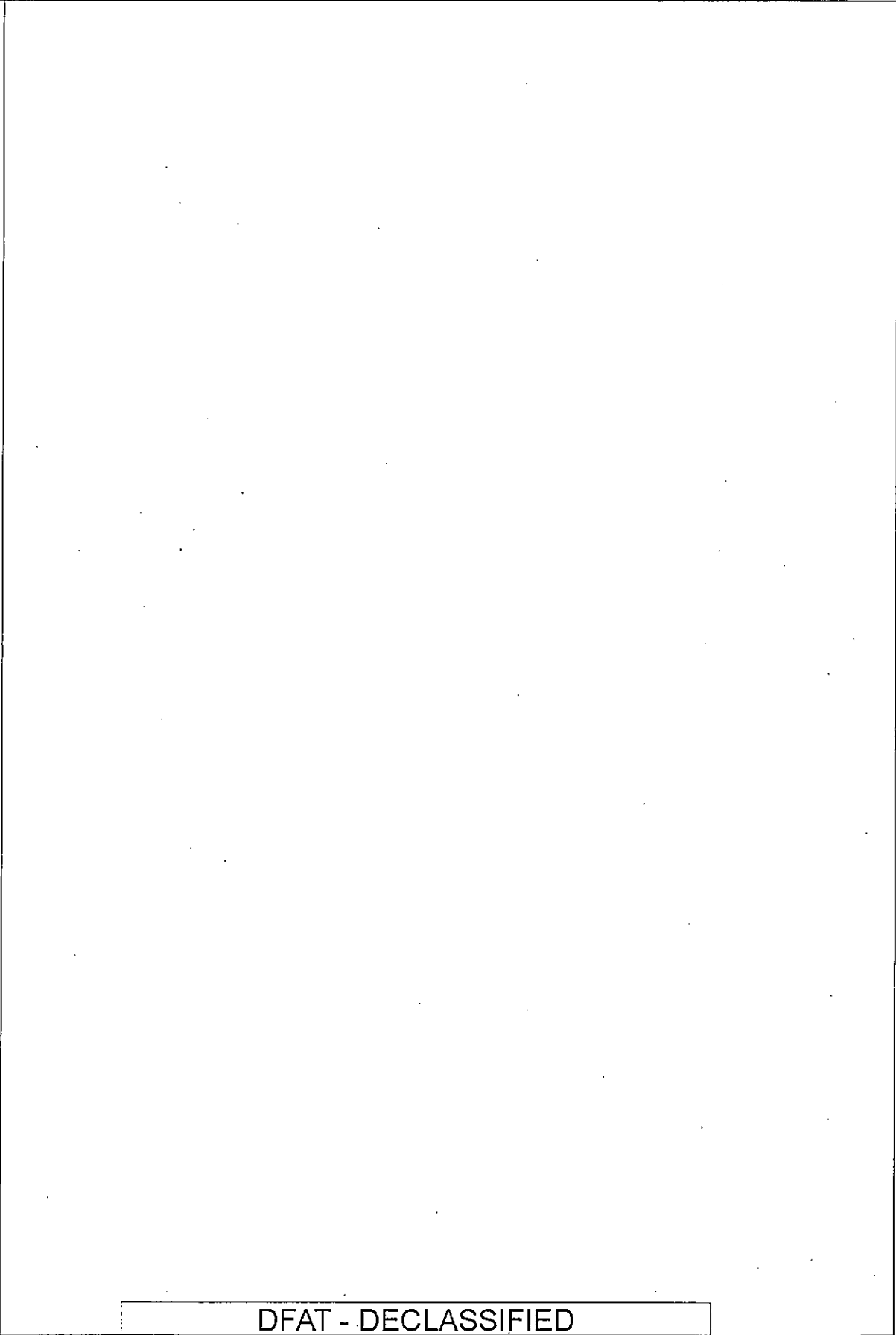
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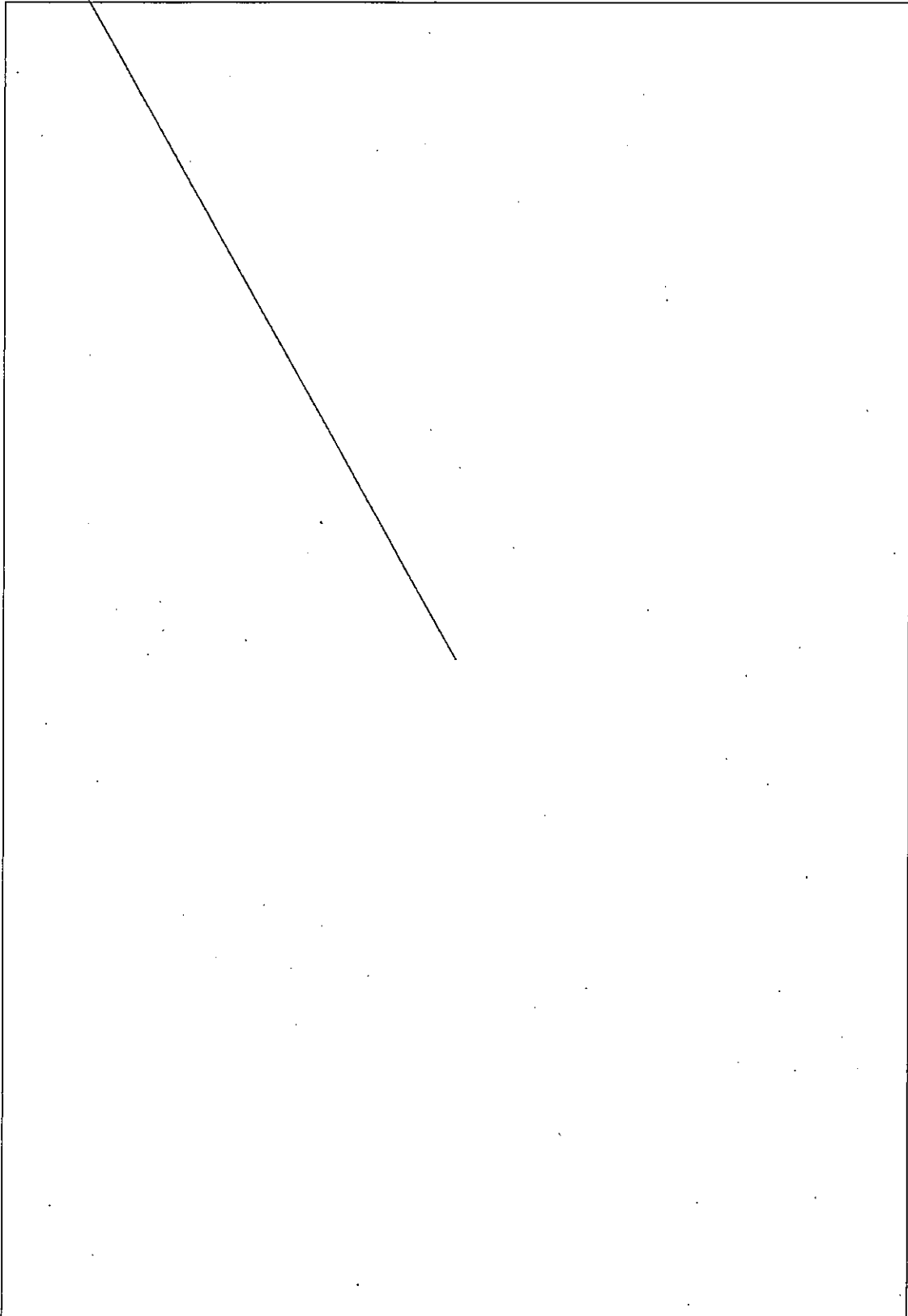


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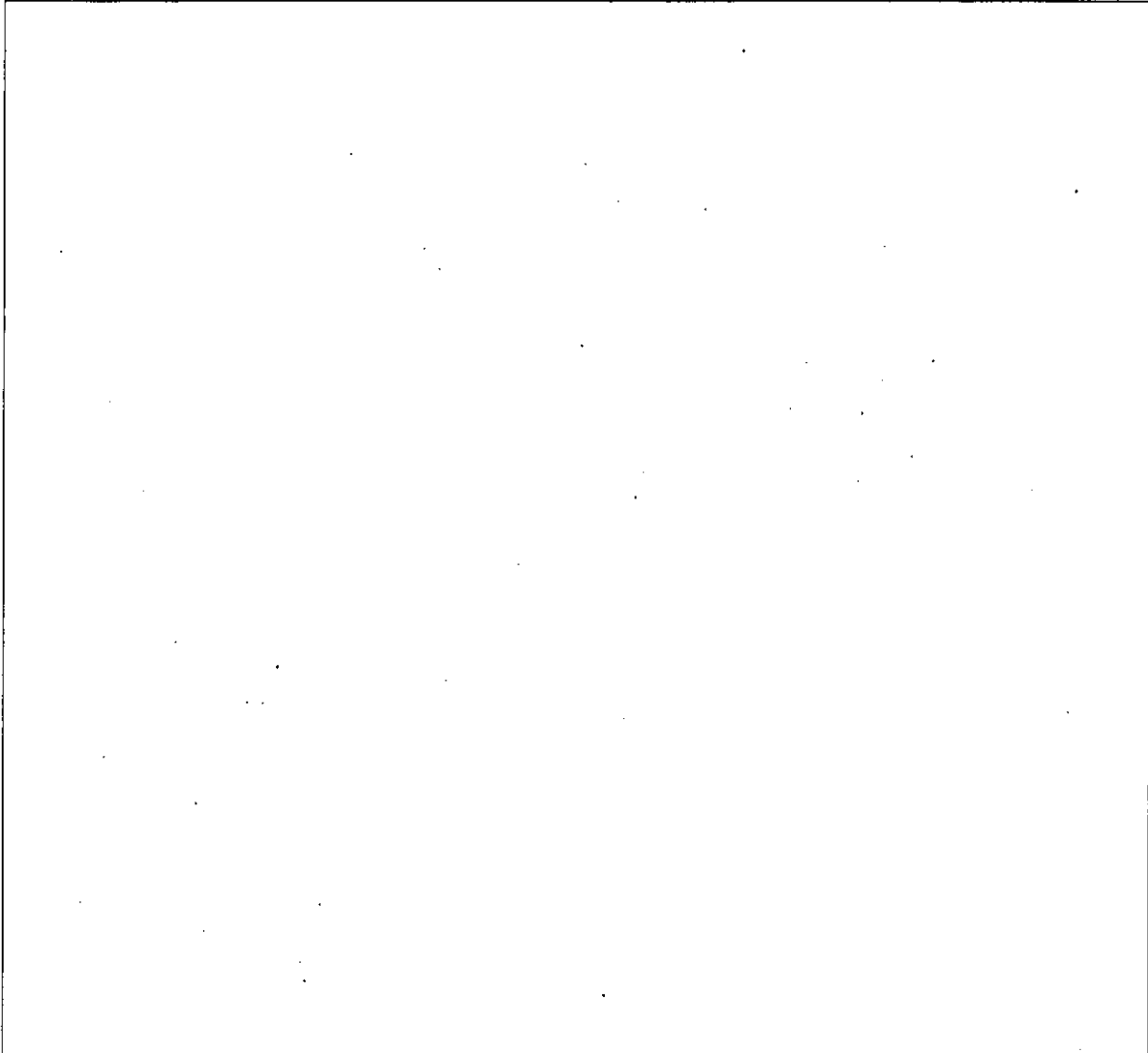
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FTA-IN-CONFIDENCE

s 22(1)(a)(ii)

**Nicholas Gruen meeting with Simon Newnham on Thursday 14 June
Trans-Pacific Partnership Agreement (TPP)**

The Attorney-General has announced a proposed review by the ALRC on the operation of copyright in the digital environment in Australia

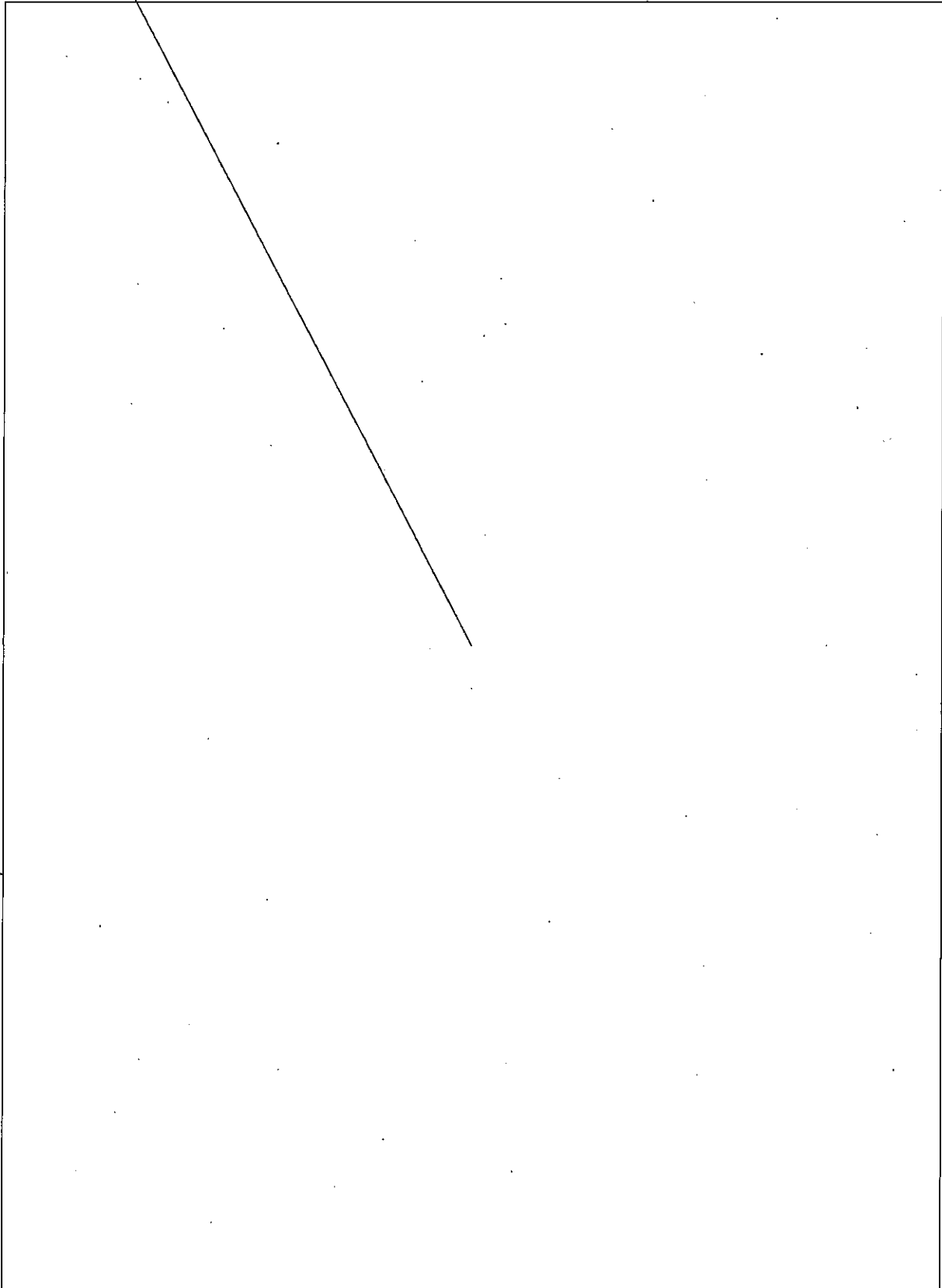
- draft terms of reference were released for public comment earlier this year, outlining that the ALRC would, amongst other things, consider whether further exceptions should be provided under Australia's Copyright Act to:
 - : facilitate legitimate use of copyright works to create and deliver new products and services of public benefit; and
 - : allow legitimate non-commercial use of copyright works for uses on the internet such as social networking(i.e. to broaden Australia's 'fair dealing' provisions and safe harbour scheme).



DFAT - DECLASSIFIED s 22(1)(a)(ii)

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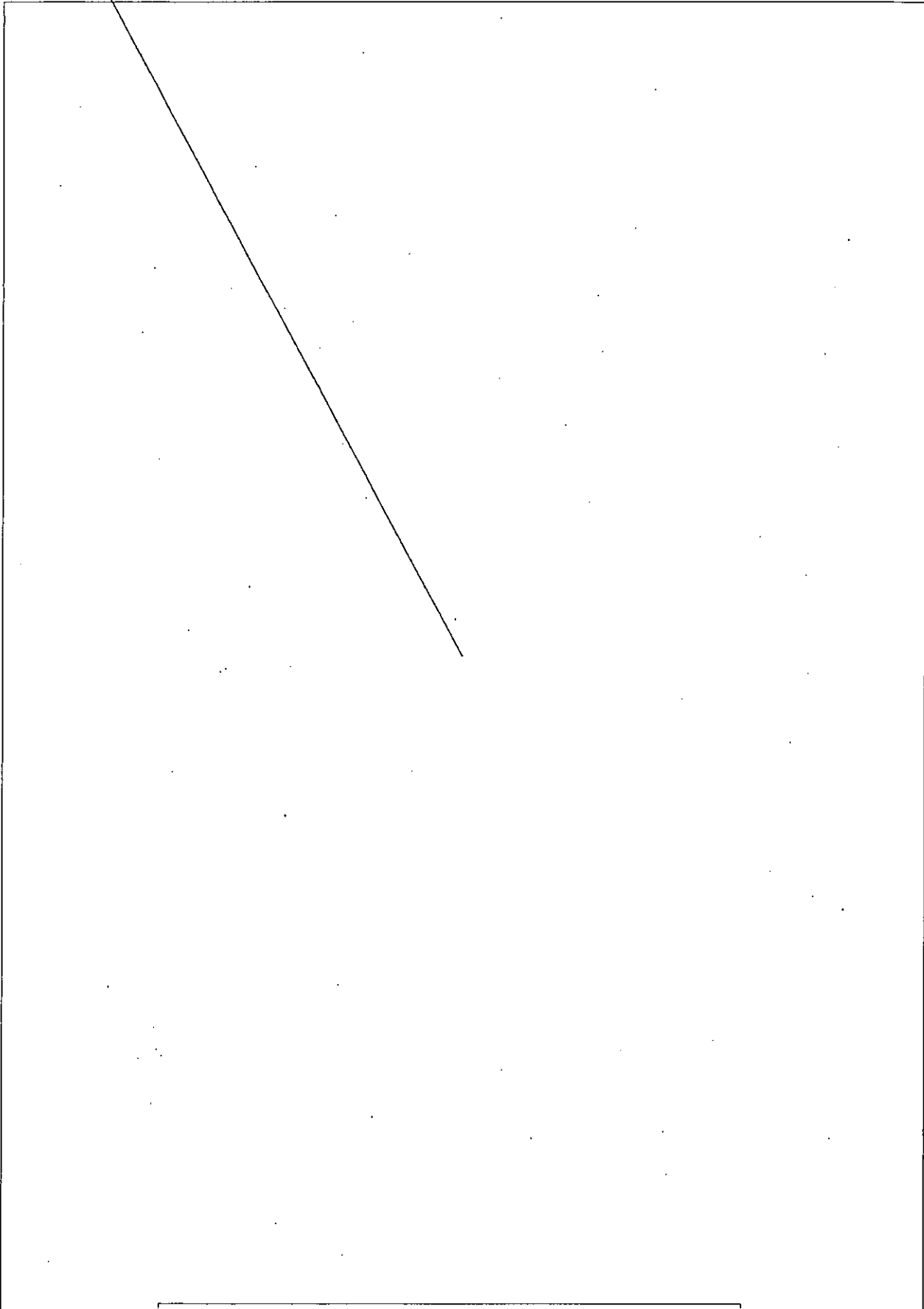
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s 22(1)(a)(ii)

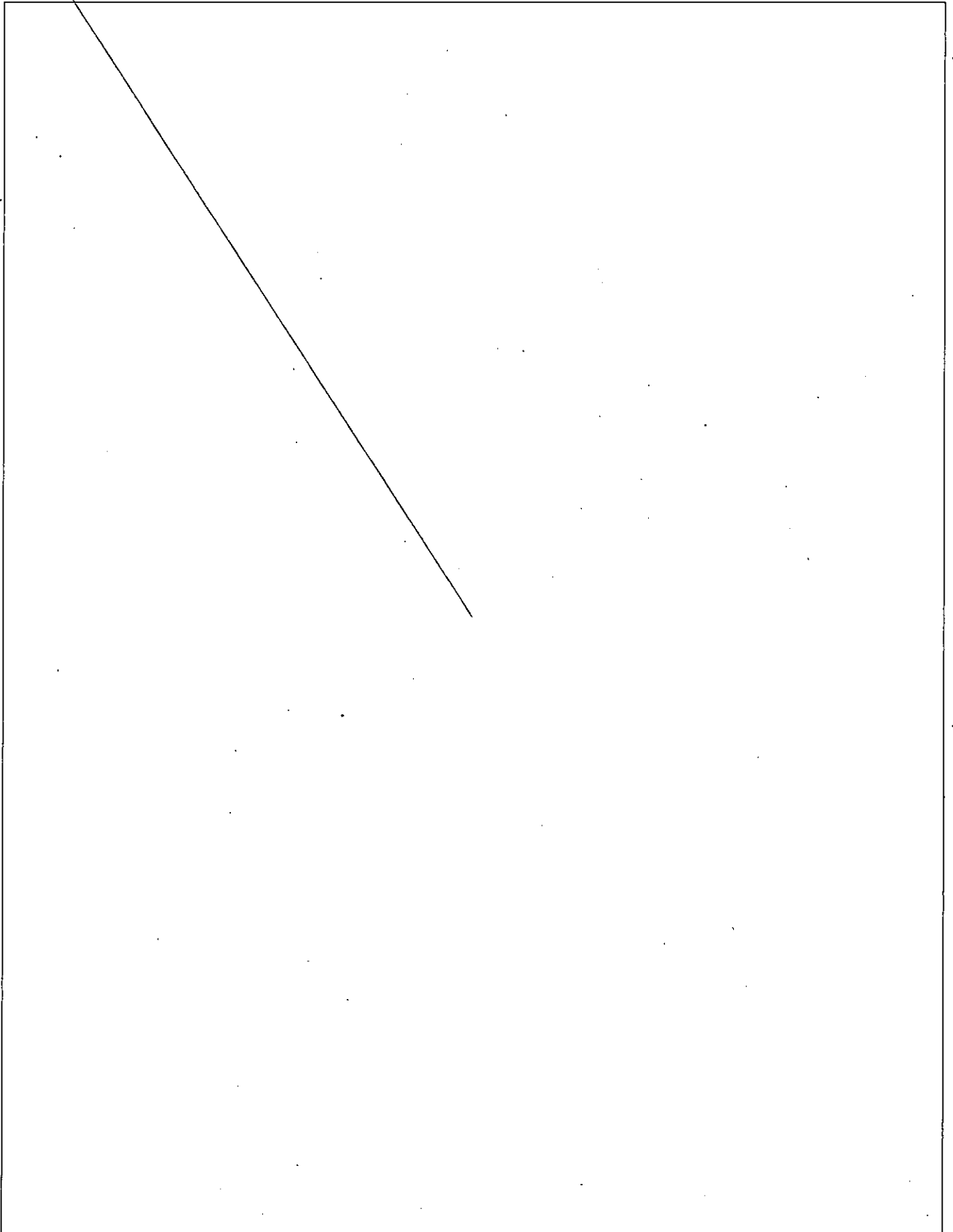
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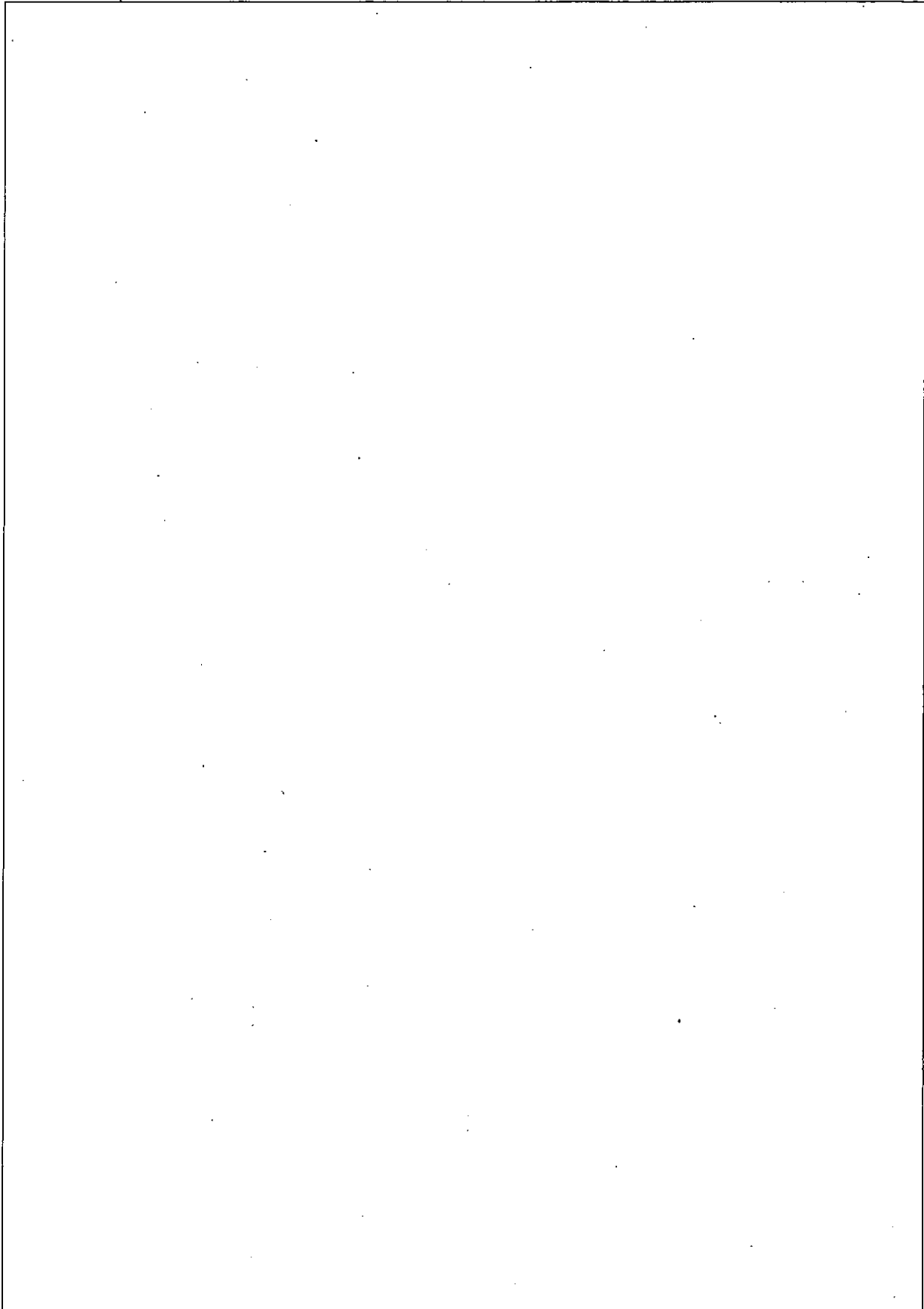
s 22(1)(a)(ii)

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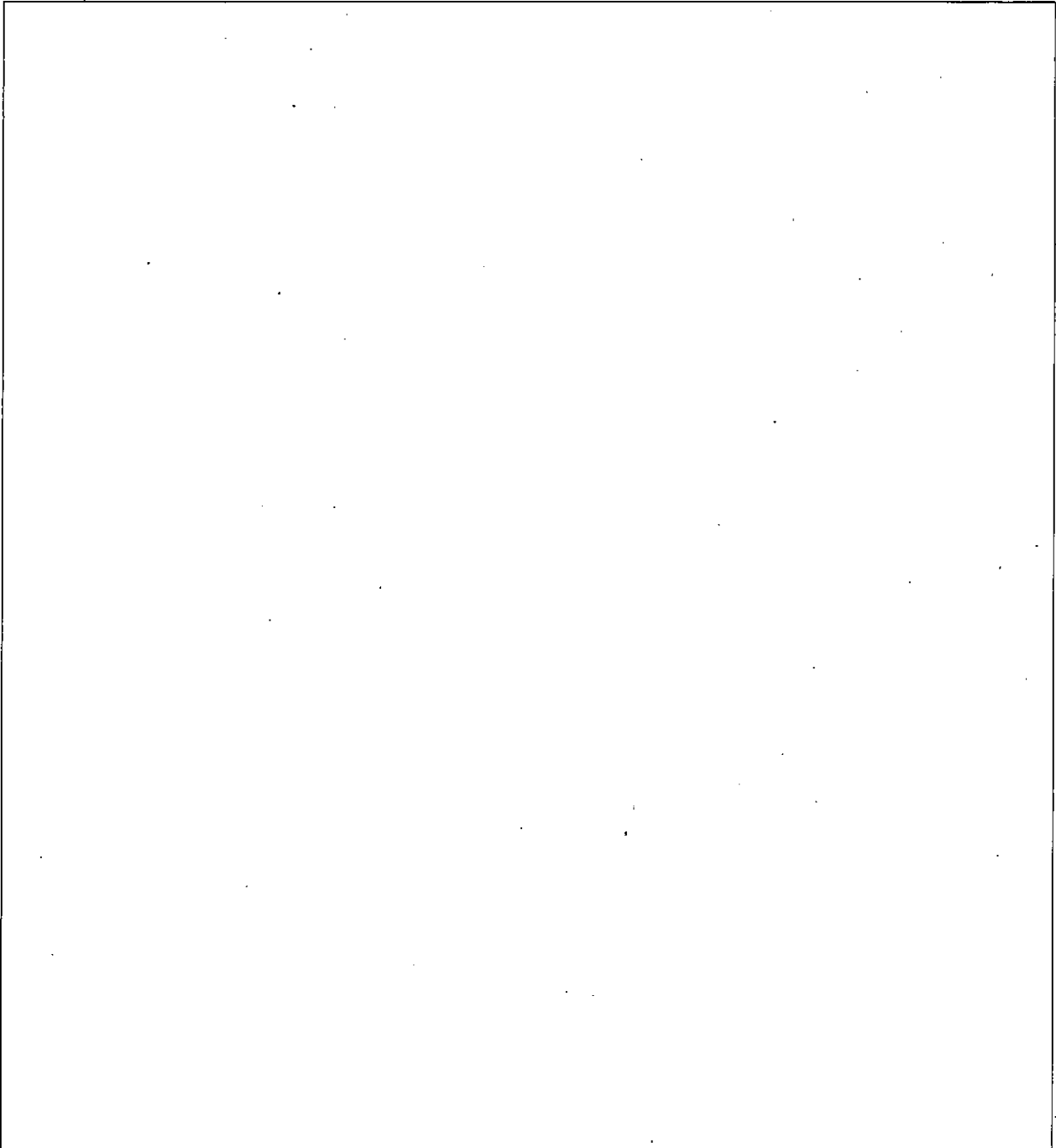


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s 22(1)(a)(ii)

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s 22(1)(a)(ii)	s 22(1)(a)(ii)	Convenor, Lecturer	10/08/2012	Canberra / Sydney / Melbourne	Telephone call	IP s 22(1)(a)(ii)	Provided update on IP issues discussed at San Diego round table sought information on copyright including: 'three-step test', exceptions and limitations, and Australia's position in the context of the ALRC copyright review. Asked about implications for the TPP or JSCOT and EU decisions on ACTA.	Nil	s 22(1)(a)(ii)
s 22(1)(a)(ii)									
s 22(1)(a)(ii)	[Redacted]	Senior Associate	14/08/2012	Canberra / Melbourne	Telephone call	IP	Provided update on copyright and ISP discussions and Australia's positions raised concerns about ISP liability, parallel import restrictions, new criminal measures, copyright limitations and exceptions including in context of the ALRC copyright review.	Nil s 22(1)(a)(ii)	s 22(1)(a)(ii)
s 22(1)(a)(ii)									

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)	General Manager	16/08/2012	Canberra	Meeting	IP	Provided update on IP negotiations, information on Australia's positions on copyright protections, and limitations and exceptions, including in relation to ALRC copyright review.	s 22(1)(a)(ii)
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s 22(1)(a)(ii)

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s 22(1)(a)(ii)	Executive Officer, Copyright Adviser	3/09/2012	Canberra	Meeting	IP	Provided update on copyright and enforcement negotiations leading into Leesburg negotiating round. Noted importance of maintaining flexibilities, including for exceptions and limitations in context of ALRC copyright review.	s 22(1)(a)(ii)
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s 22(1)(a)(ii)

s 22(1)(a)(ii)	Senior Adviser	4/09/2012	Canberra	Meeting	IP	Provided update on copyright negotiations leading into Leesburg round requested information on Australia's positions on copyright limitations and exceptions in light of ALRC copyright review.	s 22(1)(a)(ii)
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s 22(1)(a)(ii)

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s 22(1)(a)(ii)	s 22(1)(a)(ii)	Director of Policy, AIMIA Regional Manager, Yanco	19/09/2012	Canberra	Meeting	IP, digital economy, audiovisual services	General introduction and update on TPP negotiations. <input type="checkbox"/> asked about E-commerce, NCMs and IP, in particular copyright limitations and exceptions and Australia's position given the ALRC copyright review.	None	s 22(4)(a)(ii)
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s 22(1)(a)(ii)

s 22(1)(a)(ii)

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s 22(1)(a)(ii)	Associate Professor	23/11/2012	Canberra / Sydney	Telephone call	IP	Nil	Provided update on IP negotiations, with focus on copyright and enforcement. Provided views on these issues including the importance of flexibilities given the ALRC copyright review on exceptions and limitations.	s 22(1)(a)(ii)	s 22(1)(a)(ii)	s 22(1)(a)(ii)	s 22(1)(a)(ii)
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s 22(1)(a)(ii)

s 22(1)(a)(ii)

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s 22(1)(a)(ii)

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s 22(1)(a)(ii)

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s 22(1)(a)(ii)	Executive Officer, Copyright Advisor	205/2013	Canberra	Meeting	IP	Provided updates on copyright and enforcement issues following the Lima negotiating round provided information on progress of the ALRC copyright_review	Nil	s 22(4)(a)(i)
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s 22(1)(a)(ii)

s 22(1)(a)(ii)

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s 22(1)(a)(ii)

Private Party	Brendan Molloy	Councillor	12/07/2013	Canberra	Meeting	IP	<p>Provided update on IP negotiations. Molloy asked about Australia's positions on copyright, patents, pharmaceutical issues, and enforcement. Said Australia must retain flexibility including for developments such as the ALRC copyright review. Asked about economic modelling and said more transparency needed in the TPP negotiations.</p> <p>Provided overview of Australia's positions on IP in the negotiations. Raised concerns about the impact of TPP on consumer choice, and the negative effects of restrictive copyright and enforcement provisions. Said TPP must provide for flexibility in areas such as TPMs and copyright limitations and exceptions, especially given the ALRC copyright review.</p>	<p>s 22(1)(a)(ii)</p> <p>s 22(1)(a)(ii)</p>
s 22(1)(a)(ii)	s 22(1)(a)(ii)	Project Coordinator Policy Advisor	16/07/2013	Kota Kinabaku, Malaysia	Meeting	IP		s 22(1)(a)(ii)

s 22(1)(a)(ii)

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s 22(1)(a)(ii)

s 22(1)(a)(ii)	Nil	s 22(1)(a)(ii)	s 22(1)(a)(ii)	s 22(1)(a)(ii)	s 22(1)(a)(ii)	s 22(1)(a)(ii)	s 22(1)(a)(ii)	s 22(1)(a)(ii)	s 22(1)(a)(ii)
----------------	-----	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------

Provided update on IP issues from Kola Khabalu negotiating round. [redacted] said Australia should not support extensions to copyright term or new criminal sanctions and must not reduce current policy flexibility especially on limitations and exceptions. She provided an update on ALRC copyright review.

IP

Meeting

Canberra

12/08/2013

Executive Officer
Copyright Advisor

s 22(1)(a)(ii)

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s 22(1)(a)(ii)

s 22(1)(a)(ii)	s 22(4)(a)(ii)	Executive Officer Copyright Adviser	14/10/2013	Canberra	Meeting	IP	Provided update on copyright and enforcement issues from recent negotiating meetings talked about timing of ALRC copyright review and noted their positions remained the same on no extension to copyright term, no new criminal sanctions and not reducing current policy flexibility especially on limitations and exceptions	Nil	s 22(1)(a)(ii)
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s 22(1)(a)(ii)

s.22(1)(a)(ii)

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Bassi, Morna

From: Brodrick, Lloyd
Sent: Friday, 9 November 2012 10:13 AM
To: [Redacted]
Cc: [Redacted] s 22(1)(a)(ii)
Subject: Trans-Pacific Partnership negotiations: intellectual property [SEC=UNCLASSIFIED]

s 22(1)(a)(ii)

Dear [Redacted]

Apologies for not getting back to you sooner, after our conversation last week. I was waiting for some text that we had been developing to be ready, but we are still working on that and I did not want to delay my reply any longer.

s 22(1)(a)(ii)

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[Redacted] We will also not accept an outcome that pre-judges the results of our own domestic reviews, including the current inquiry into copyright and the digital economy by the Australian Law Reform Commission (ALRC). The Government is making significant efforts to work closely with stakeholders to develop balanced copyright provisions that are good for Australia.

s 22(1)(a)(ii)

[Redacted]

The consultation in Sydney will give you a chance to get an update on the negotiations and a preview of the next round, in Auckland next month; our lead IP negotiator, s.22(1)(a)(ii) will be present. If you can't make it, [Redacted] would also be happy to talk to you over the phone.

s.22(1)(a)(ii)

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I hope this information is of assistance. Please let me know if you have any further queries.

Sincerely

Lloyd Brodrick
Acting Assistant Secretary
Trade Policy Branch
Office of Trade Negotiations
Australian Department of Foreign Affairs and Trade

[Redacted]

§ 22(1)(a)(ii)

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T-23

FOREIGN AFFAIRS AND
TRADE

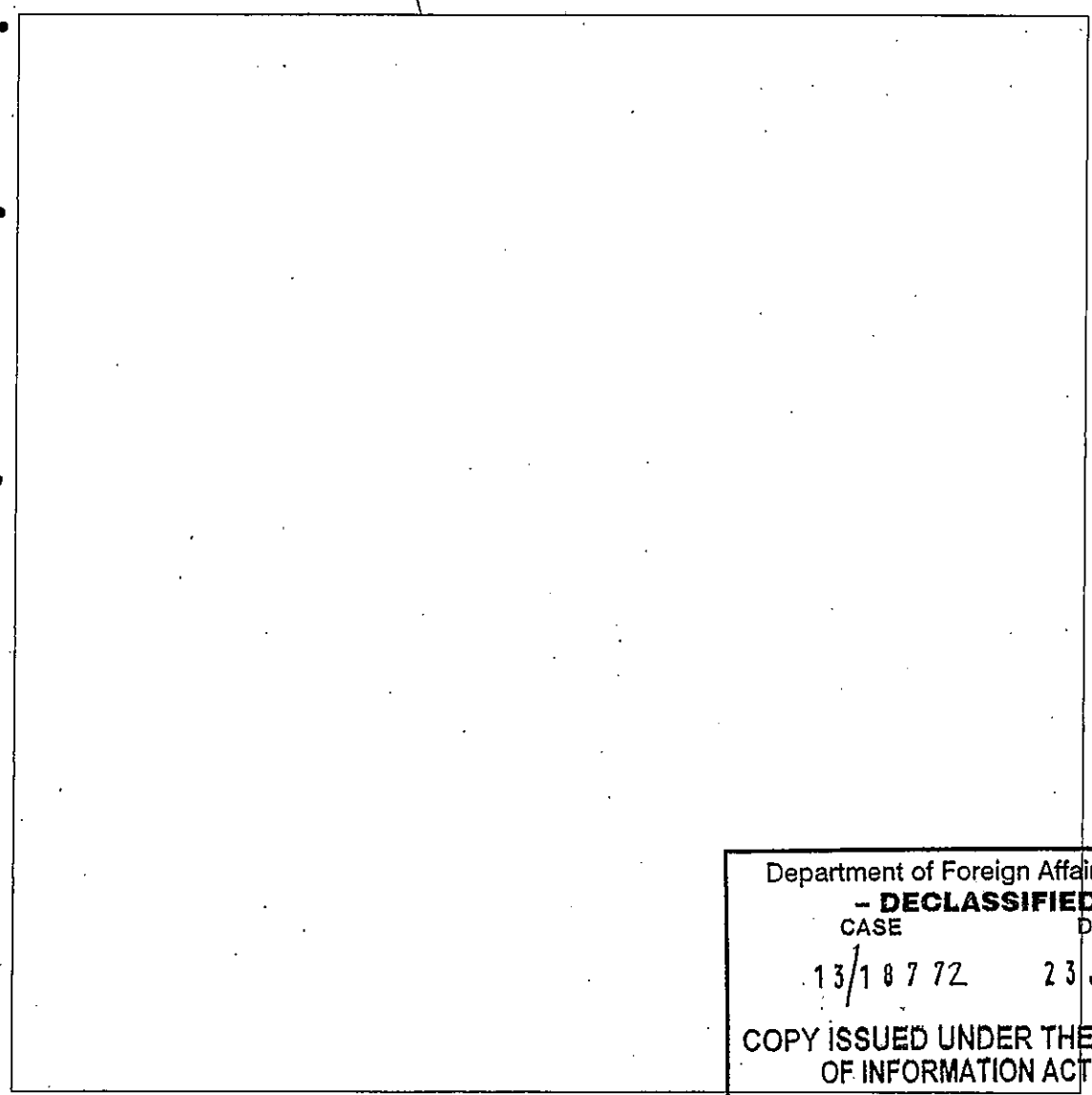
**Trade: TPP: Leaked Text on Copyright Limitations and
Exceptions**

Possible Question

Can the Government comment on the alleged leaked copyright text in the
Trans-Pacific Partnership (TPP)?

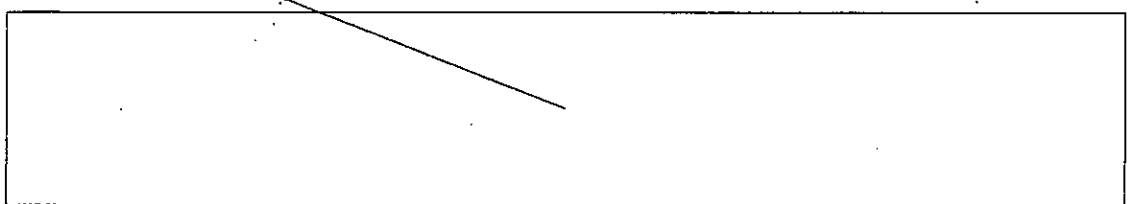
Talking Points

s 22(1)(a)(ii)



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s 22(1)(a)(ii)



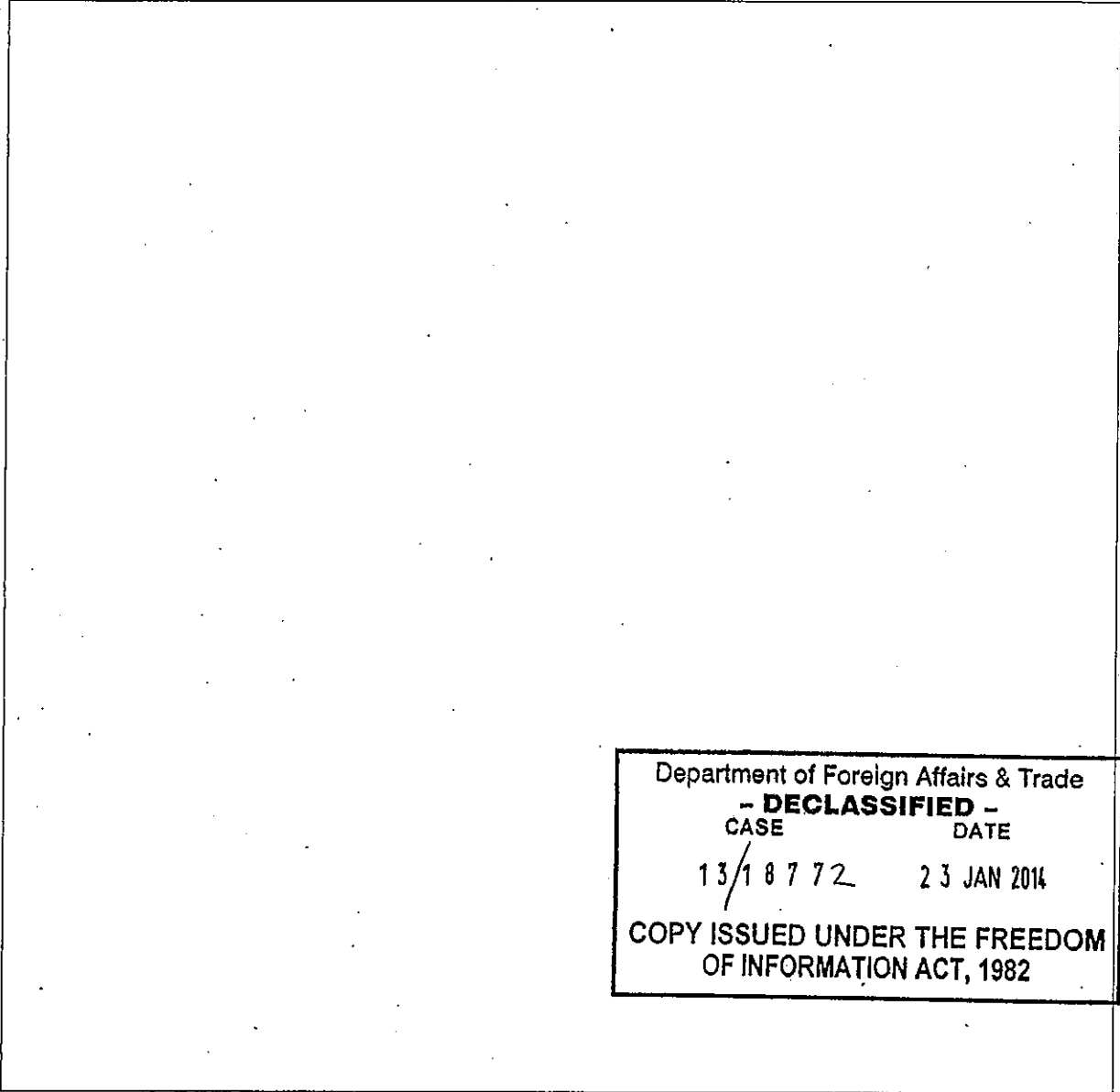
If asked: Is Australia's position in the TPP seeking to prejudge the outcome of the ALRC's Inquiry into Copyright and the Digital Economy?

- No. Australia would not support provisions in the TPP that prejudged the outcomes of our own domestic reviews
 - including our present flexibility to enact copyright limitations and exceptions in relation to the digital environment.
- Australia's positions in the intellectual property chapter have been, and continue to be, informed by a wide range of relevant stakeholder views and perspectives.

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Background

s 22(1)(a)(ii)



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Australia is still developing its final position on copyright limitations and exceptions, taking into account our existing international obligations, stakeholder views and perspectives, and domestic developments. We are aware of the Australian Law Reform Commission's Inquiry into Copyright and the Digital Economy, and would not accept an outcome in the TPP that prejudices the outcome of this or any other domestic review.

Prepared By:

[Redacted]

s 22(1)(a)(ii)

Cleared By:

Elizabeth Ward

Executive Officer
OTN/SSB/IPS
Phone:
Edit Date: 9 August 2012 12:08:56 PM

s 22(1)(a)(ii)

Assistant Secretary
OTN/GIB/
Phone:

s 22(1)(a)(ii)

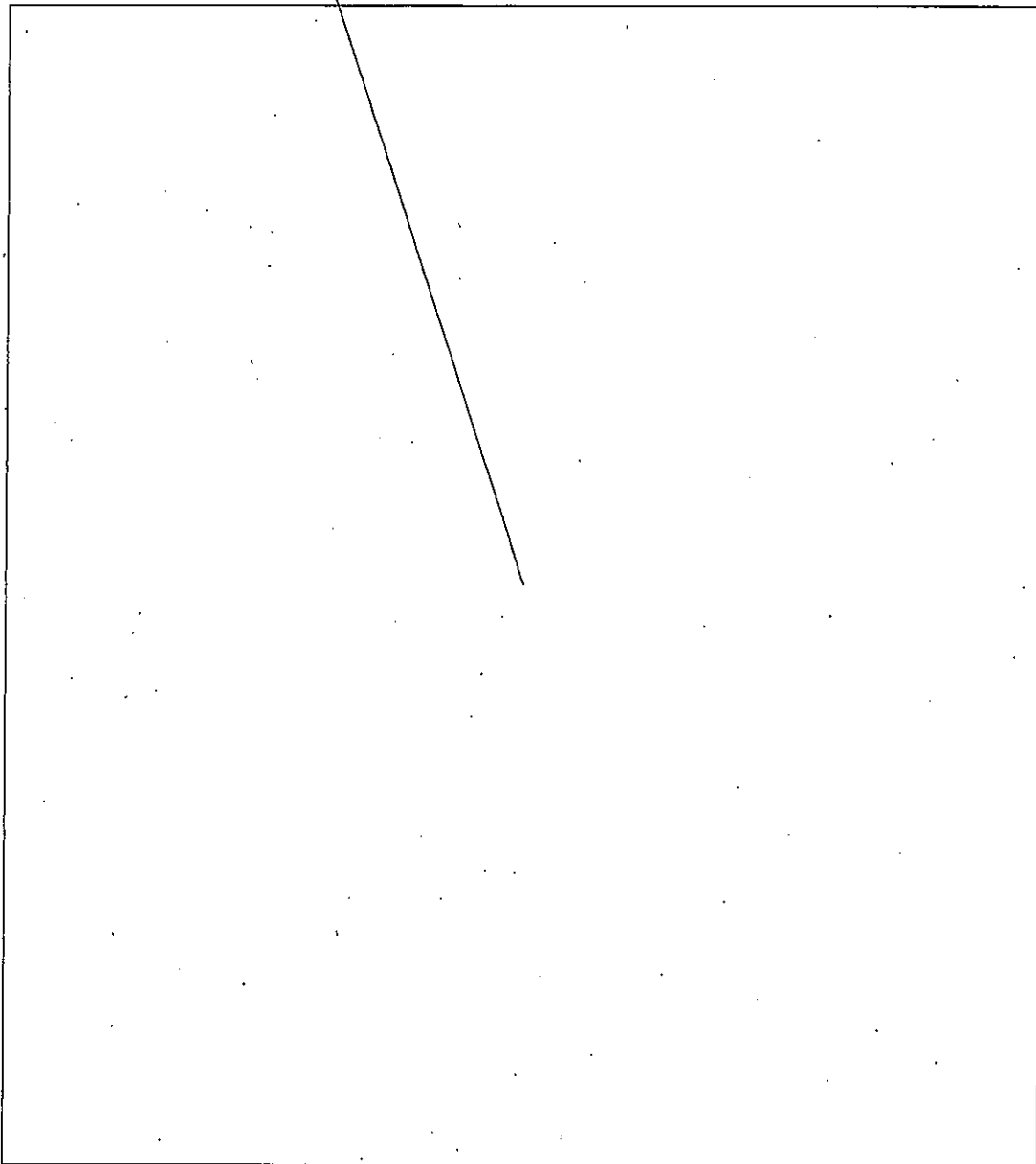
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**TRANS-PACIFIC PARTNERSHIP AGREEMENT: STATE OF
PLAY**

14th round, 6 - 15 September 2012, Leesburg USA

Pages 1 to 11 of this document deleted under section 22 (1)(a)(ii) - Irrelevant material

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If raised - Is Australia's position in the TPP seeking to prejudge the outcome of the ALRC's Inquiry into Copyright and the Digital Economy?

No. Australia would not support provisions in the TPP that prejudged the outcomes of our own domestic reviews

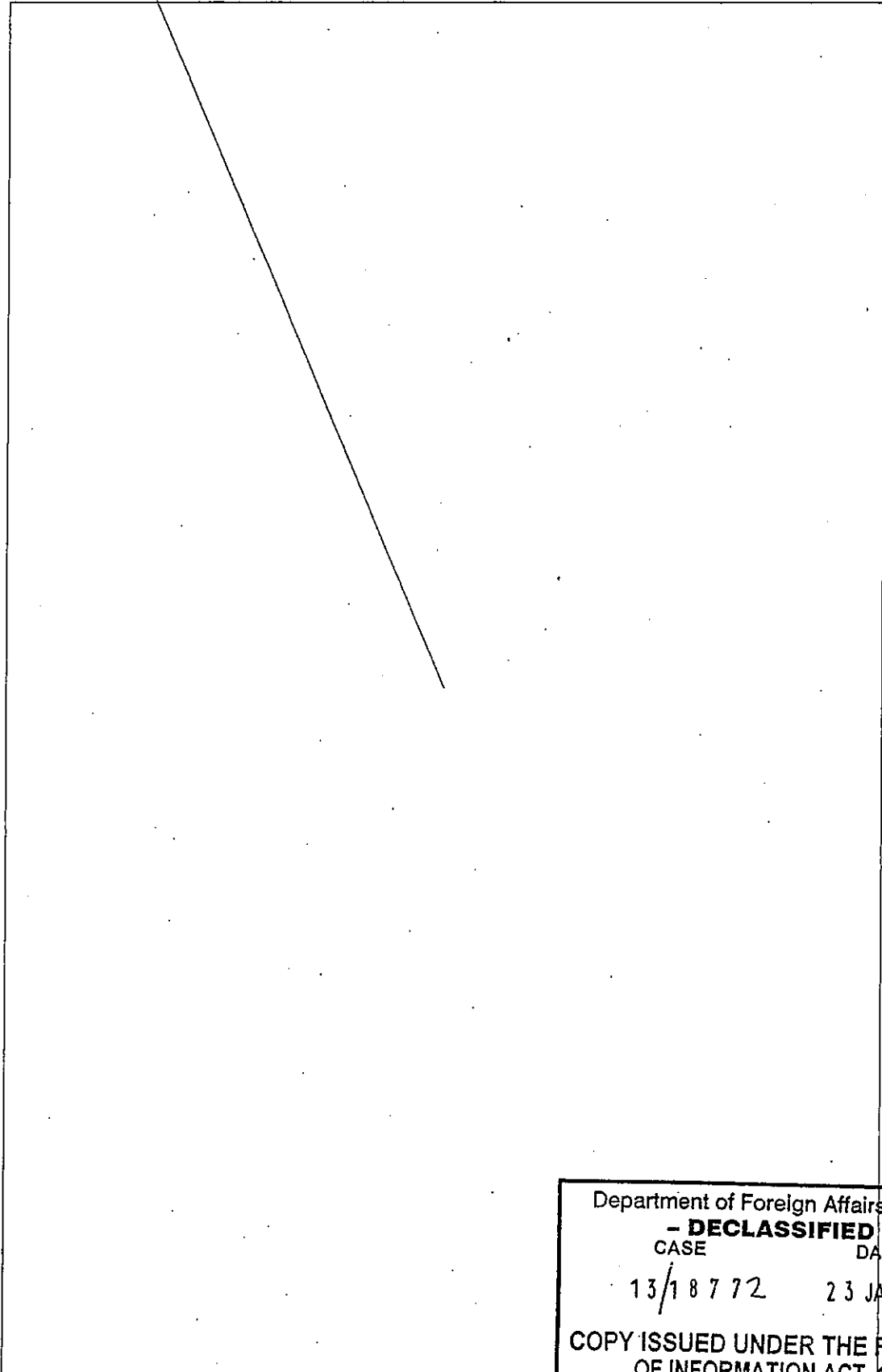
- including our present flexibility to enact copyright limitations and exceptions in relation to the digital environment.

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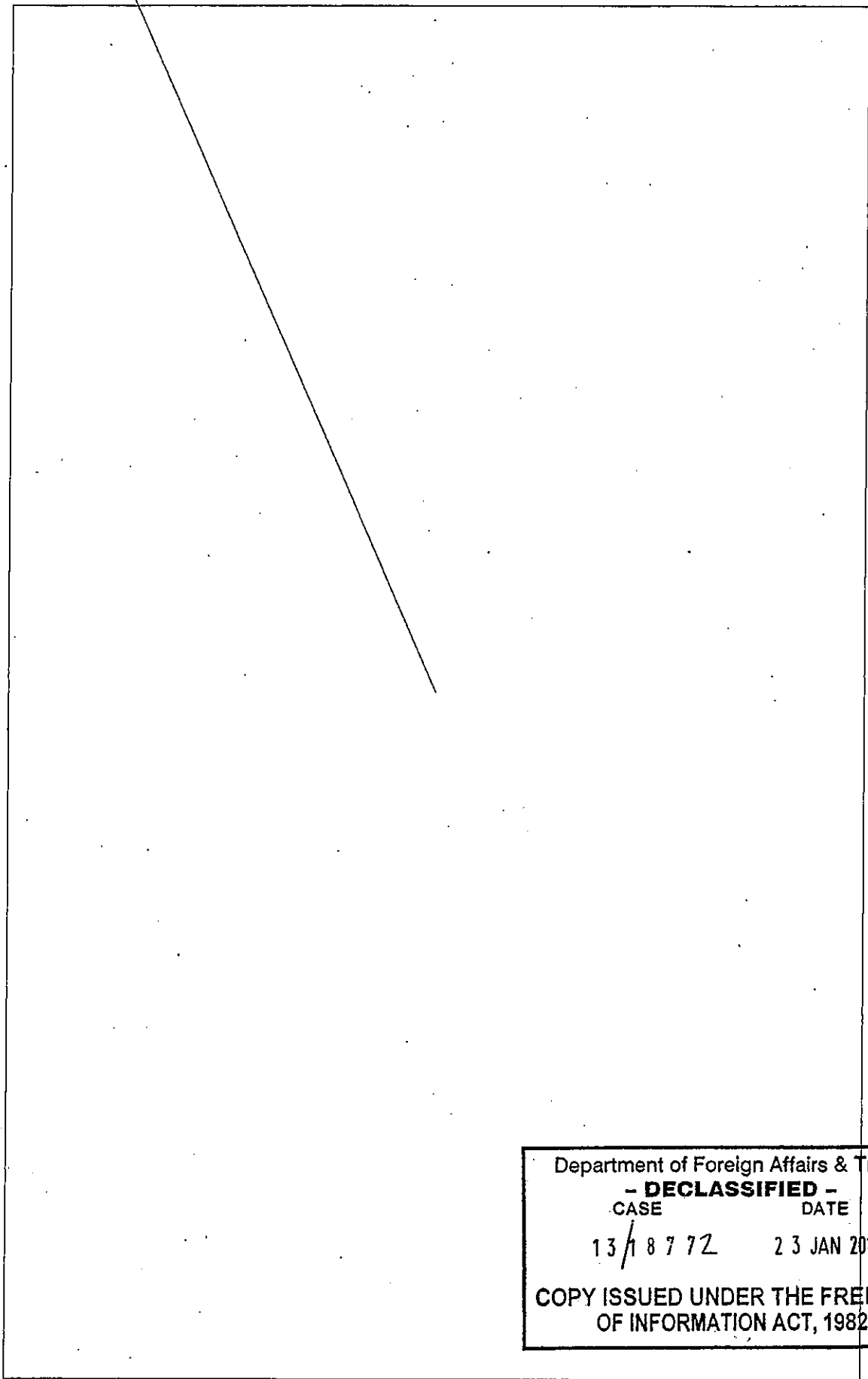
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5.2



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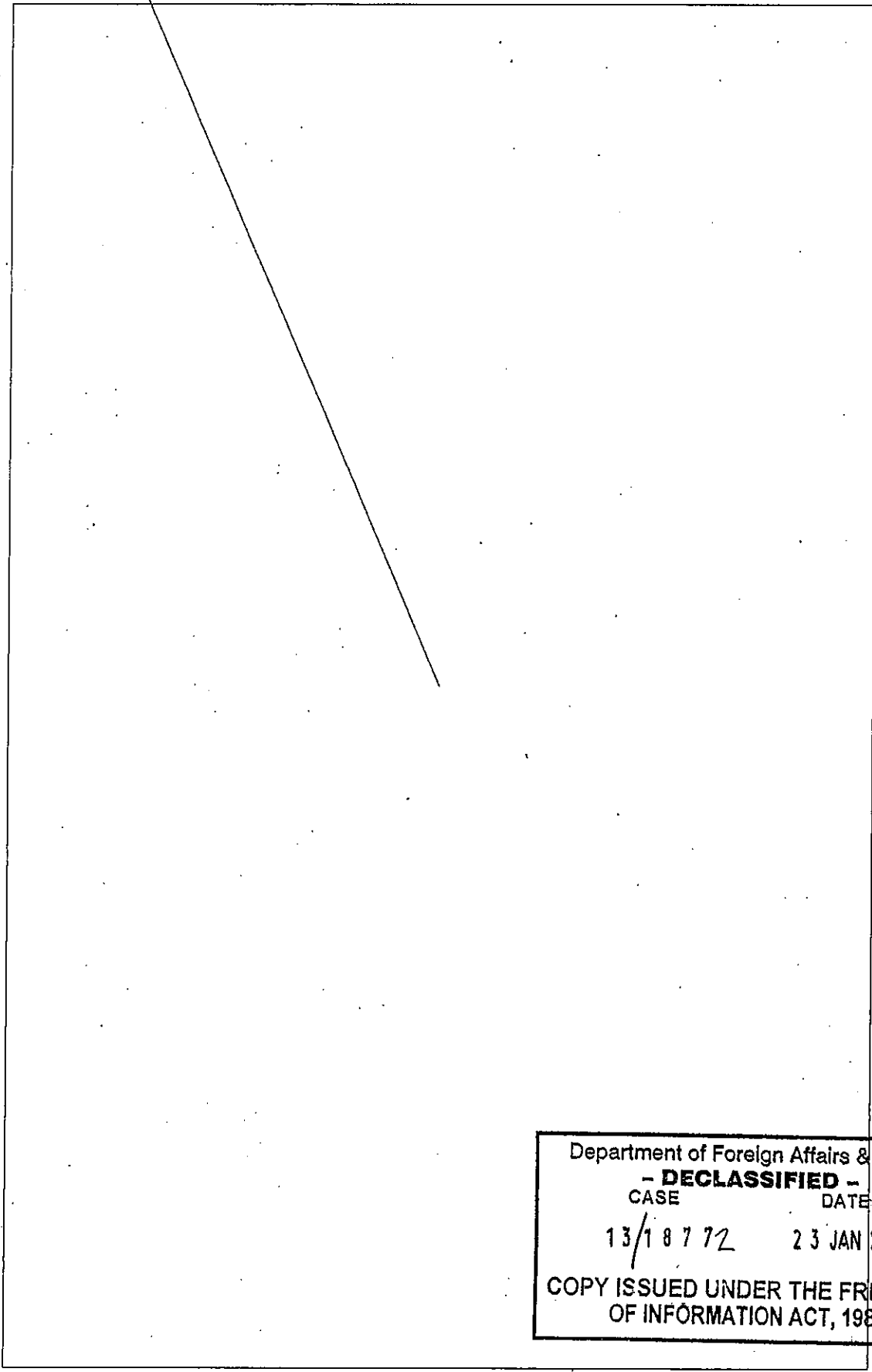


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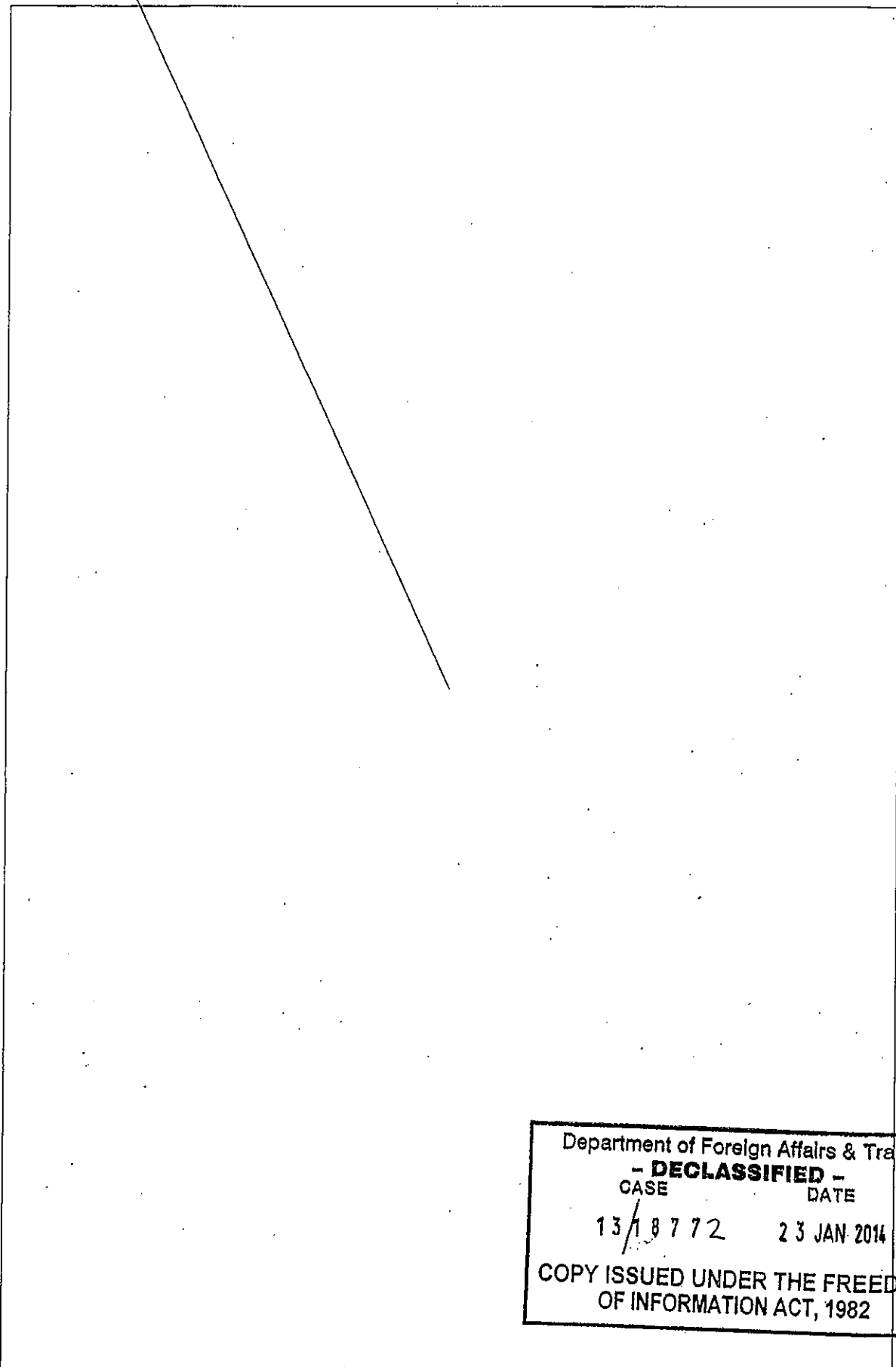
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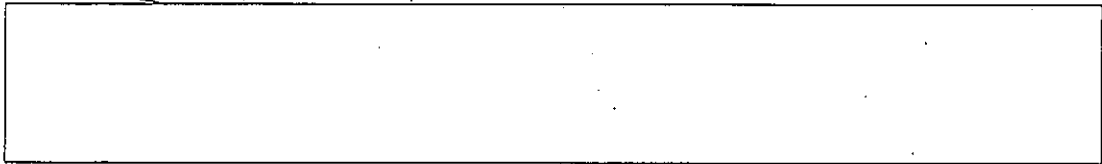
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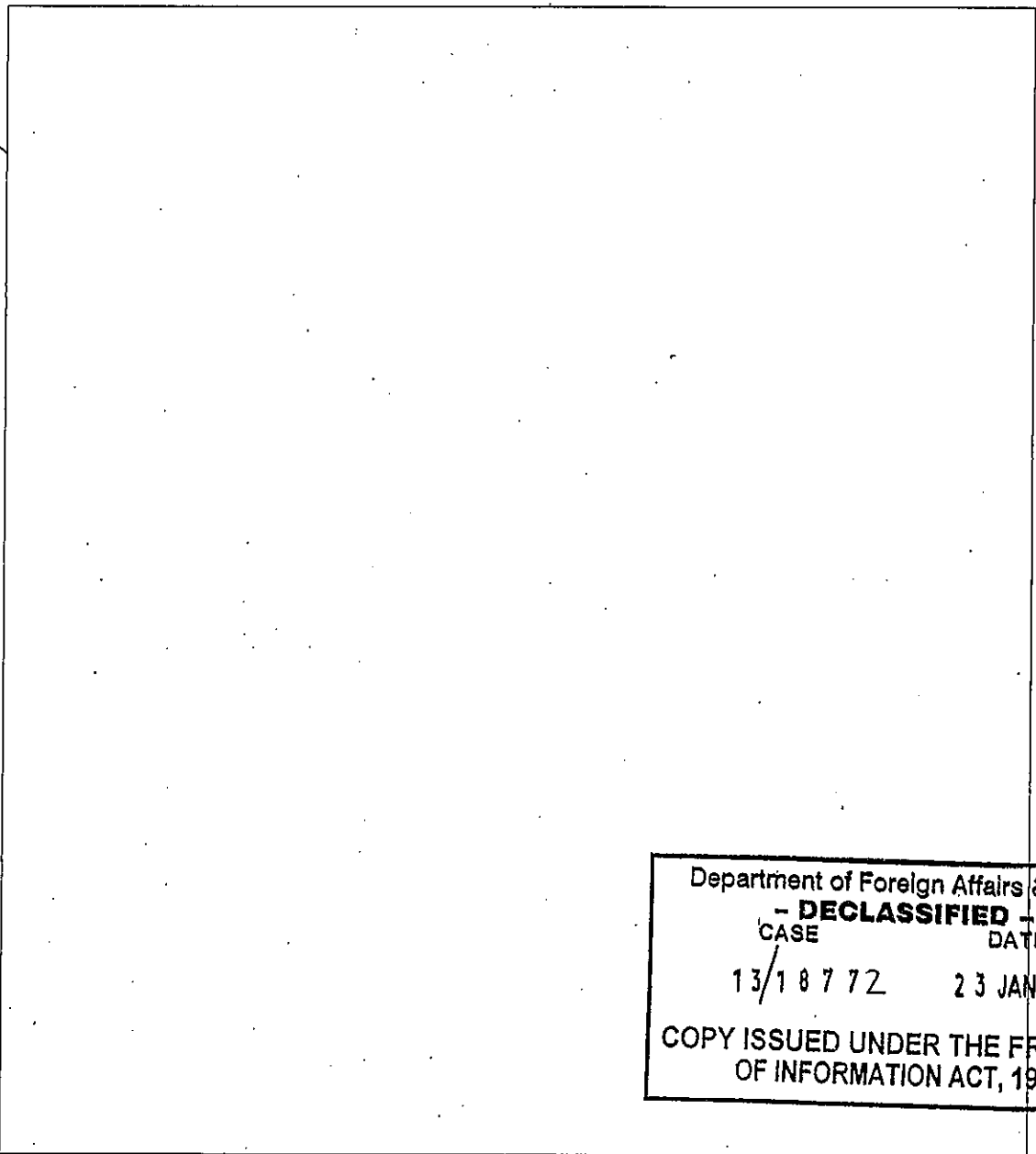
s 22(1)(a)(ii)

5.2



Australia is a party to several international treaties, including the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) and relevant WIPO treaties, which provide for copyright limitations and exceptions. Australia supports these provisions and is not proposing to reduce the capacity for copyright limitations and exceptions (including for the digital environment) in the TPP. We would not accept an outcome in the TPP that prejudged the outcome of our domestic reviews, including the Australian Law Reform Commission's Inquiry into Copyright and the Digital Economy.

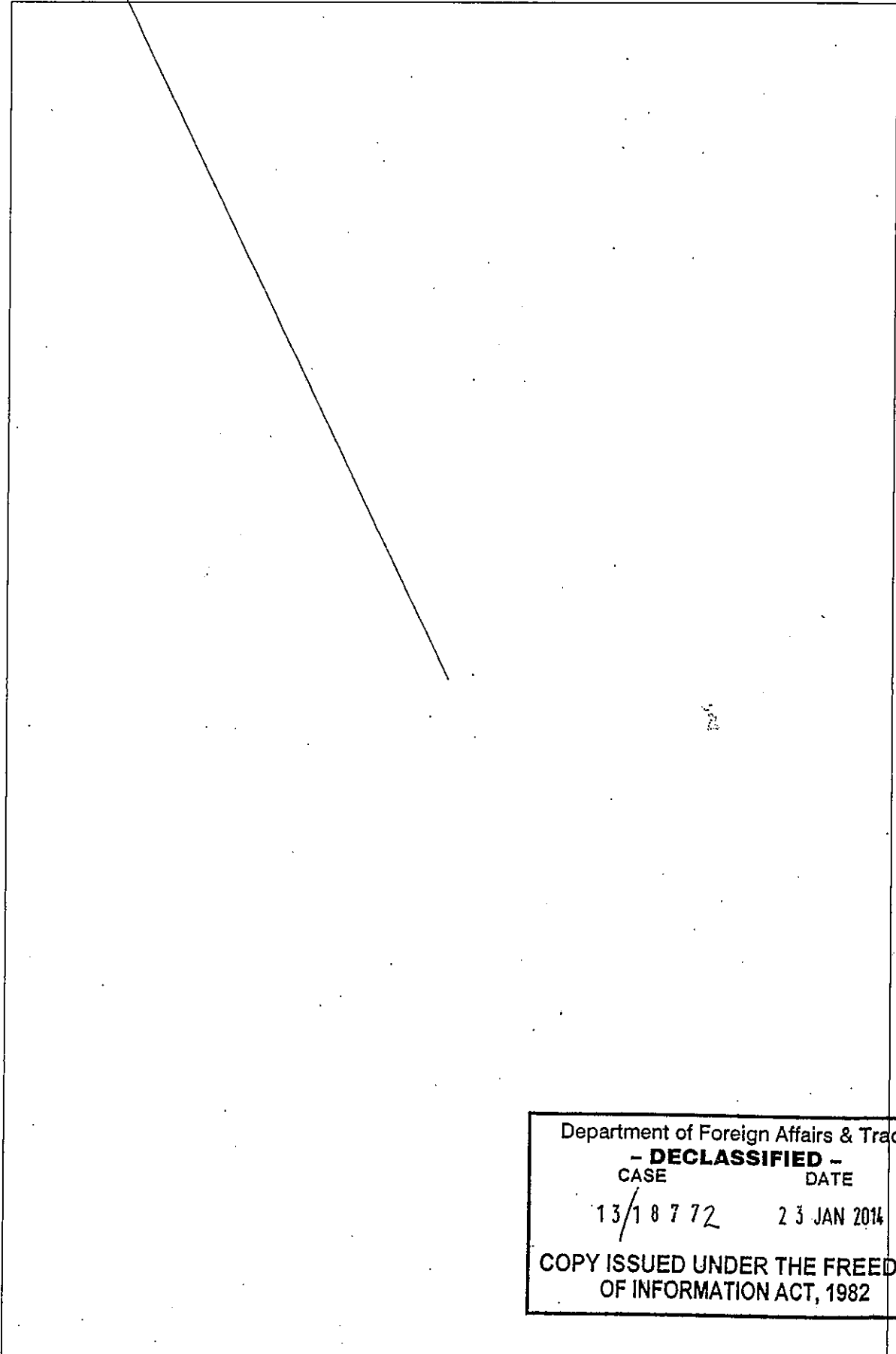
s 22(1)(a)(ii)



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s 22(1)(a)(ii)

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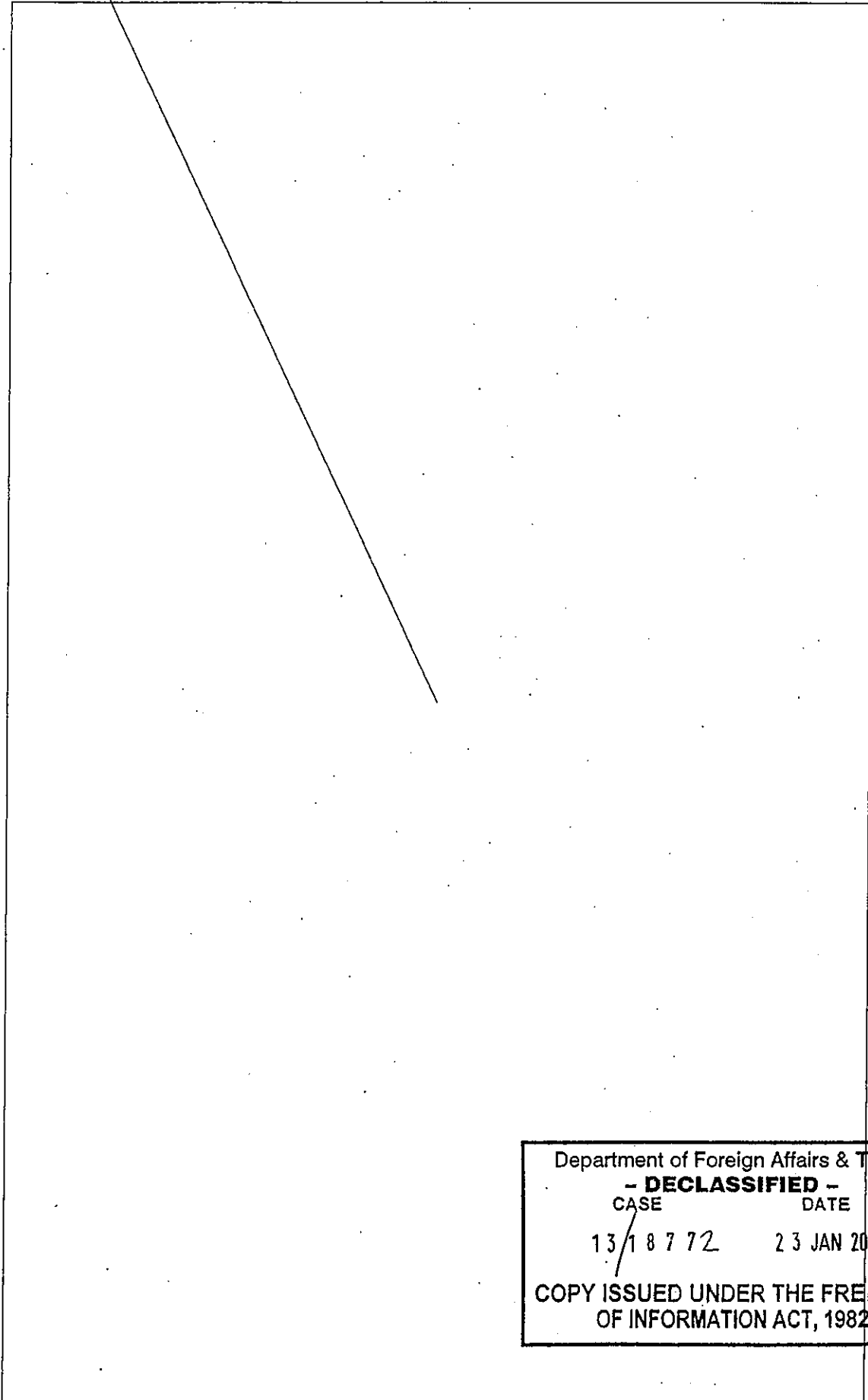


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s 22(1)(a)(ii)

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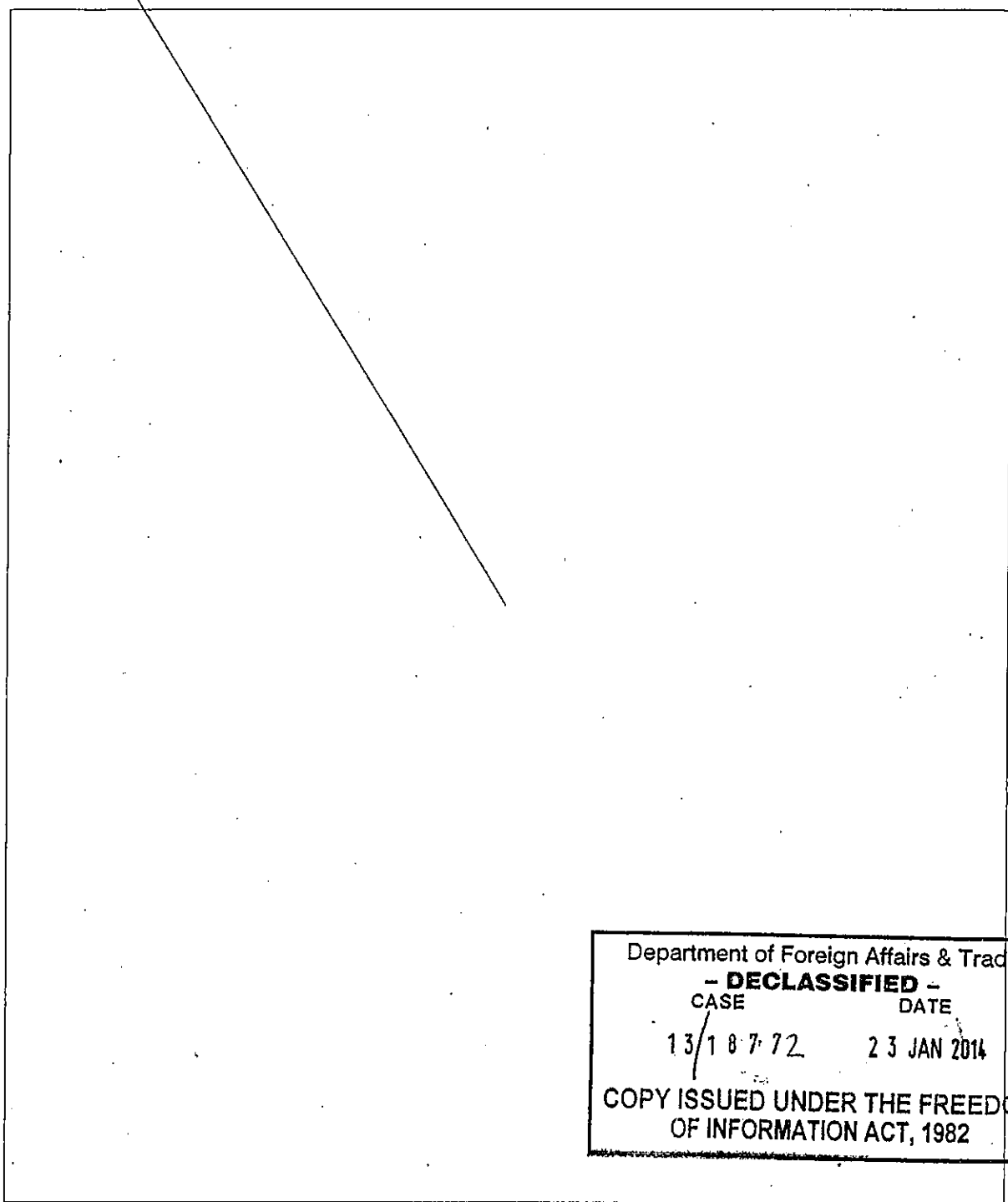


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5.2

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Prepared by:	Cleared by Branch Head:
s 22(1)(a)(ii)	Elizabeth Ward
	Ext: Mobile: s 22(1)(a)(ii)
Date: 18 October 2012	Date: 18 October 2012

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s.22(1)(a)(ii)

-----Original Message-----

s.22(1)(a)(ii)

From: [redacted]
Sent: Tuesday, August 07, 2012 01:18 PM AUS Eastern Standard Time
To: Mina, George
Cc: Stylianou, Helen
Subject: FW: Australia pushes for restrictive copyright in TPP [SEC=UNCLASSIFIED]

Greetings,

s.22(1)(a)(ii)

Please see questions below

[redacted]

s.22(1)(a)(ii)

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s.22(1)(a)(ii) [Redacted]

The reports say Australia is opposing this proposal put forward by New Zealand and others:

"US/AU oppose: Paragraph 1 permits a party to carry forward and appropriately extend into the digital environment limitations and exceptions in its domestic laws."

I am keen to know whether this is true, and why.

Australia's Law Reform Commission is inquiring into Copyright and the digital economy right now. It is considering these issues. It is not due to report until 30 November 2013.

s.22(1)(a)(ii) [Redacted]

Why is the Minister (or his department) taking this position at the TPP negotiations when Australia is in the process of developing a position?

s 22(1)(a)(ii)

[Redacted]

Would the minister be able to ring me? I am on [Redacted] and [Redacted]

Thanks [Redacted]

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Kind regards, [Redacted]

s 22(1)(a)(ii)

Peter

Peter Martin
Economics Correspondent
The Age | The Sydney Morning Herald

Parliament House
Canberra ACT 2600

[Redacted]

s 22(1)(a)(ii)

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Ms Belinda Robinson
Chief Executive
Universities Australia
GPO Box 1142
CANBERRA ACT 2601

Dear Ms Robinson

Thank you for your letter of 6 March 2013 about the Trans-Pacific Partnership (TPP) negotiations and copyright issues of concern to the education industry.

I understand your concerns about the potential impact of the TPP on the future reform of Australia's copyright law, arising from the current inquiry by the Australian Law Reform Commission (ALRC) on Copyright and the Digital Economy.

The Australian Government is seeking provisions on copyright in the TPP that are consistent with our existing laws and policy settings, and that retain our present flexibility to enact copyright limitations and exceptions. The Government would not support provisions that prejudged the outcomes of our own domestic reviews, including the ALRC's inquiry.

There is currently no agreed position on copyright between TPP members, as negotiations are ongoing. Revised proposals have been tabled by different parties at recent negotiating rounds and the Government is carefully considering all proposals. Australia's positions on copyright have been, and continue to be, informed by a wide range of relevant stakeholder views and perspectives.

I have asked officials from the Department of Foreign Affairs and Trade to contact you to discuss this issue further with you.

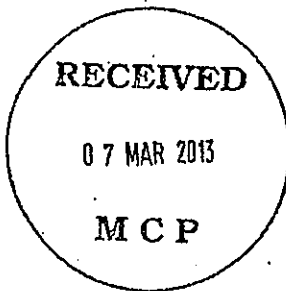
Thank you once again for bringing your concerns to my attention.

Yours sincerely

Craig Emerson

Department of Foreign Affairs & Trade	
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UNIVERSITIES AUSTRALIA
DISCOVER LEARN LEAD

Chief Executive:
Belinda Robinson

Our Ref: E-01-001

6 March 2013

The Hon Dr Craig Emerson MP
Minister for Trade and Competitiveness
Parliament House
Canberra ACT 2600
Craig.Emerson.MP@aph.gov.au

MINISTER FOR TRADE & COMPETITIVENESS
(DFAT / AUSTRADE)

- Reply by Minister within one/two weeks
- Reply by Adviser/CoS

Date Received 06 MAR 2013

- Departmental reply NF
 - Prepare brief advising Minister
 - Referral to
- Comments

Dear Minister

Trans Pacific Partnership Agreement – copyright issues of concern to the education sector

I am writing regarding the next round of negotiations for the Trans Pacific Partnership Agreement (TPPA), which I understand are due to be held in March 2013. Universities Australia has two main concerns about the agreement that may arise during the course of negotiations – the proposed wording in a section of the Intellectual Property chapter; and possible conflicts with the Australian Law Reform Commission's (ALRC) review of copyright in the digital economy. This letter summarises these two concerns.

Universities Australia is aware of media reports of leaked drafts of the TPPA suggesting that Australia supports the proposed wording relating to copyright exceptions included in the Intellectual Property chapter. The higher education sector has serious concerns if the wording (below) were to be supported.

With respect to this Article (Article 4 on copyright) and Articles 5 and 6 (which deal with copyright and related rights) each party shall confine limitations or exceptions to exclusive rights to certain special cases that do not conflict with a normal exploitation of the work, performance or phonogram, and do not unreasonably prejudice the legitimate interests of the right holder.

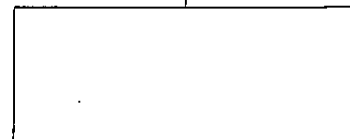
This clearly refers to the so-called three-step test, which is included in both the Berne Convention and the WIPO Copyright Treaty and in Article 13 of the World Trade Organisation (WTO) Agreement on the Trade Related Aspects of International Property (TRIPS Agreement).

One Gills Court
Deakin ACT 2600

GPO Box 1142
Canberra ACT 2601
AUSTRALIA

Department of Foreign Affairs & Trade
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s 22(1)(a)(ii)



www.universitiesaustralia.edu.au

s.22(1)(a)(ii)

The Australian education sector has had particular experience with an exception that expressly incorporates the language of the three-step test – s 200AB of the *Copyright Act (the Act)*. Section 200AB was introduced in 2006 to provide a flexible exception to enable copyright material to be used for certain socially useful purposes. It was designed to provide more flexibility than is available under existing exceptions and statutory licences in the Act. Six years after it was introduced, there is a widespread view in the education sector that s 200AB has been a failure. In their submissions to the ALRC's review of Copyright and the Digital Economy, the higher education sector, the schools sector and the TAFE sector have each highlighted the unintended consequences of incorporating the three-step test into a domestic exception, and the ways in which this has led to the exception being virtually unworkable in practice. Universities Australia urges you to consider this in the course of negotiating the terms of the TPPA.

Universities Australia welcomes public assurances from the Department of Foreign Affairs and Trade that the Government does not intend to agree to anything in the IP chapter of the TPPA that would require a change to Australian law. We are, however, concerned by the possibility that Australia may agree to provisions in the TPPA that while not requiring any changes to existing Australian law, may impose constraints on possible future reforms to the Act. Of particular concern is the fact that the TPPA is being negotiated at a time when the Government has asked the ALRC to consider possible reforms to the Act. Along with other education sector bodies, Universities Australia has urged the ALRC to recommend reforms that would introduce greater flexibility for Australian educational institutions to use copyright works for publicly beneficial purposes. These reforms are necessary in order to ensure that Australian universities remain internationally competitive. Universities Australia urges you to consider this reform process in the course of negotiating the TPPA.

Additional detail is available in our recent submission to the ALRC review and we are happy to provide more information or meet with you to discuss these matters.

Yours sincerely

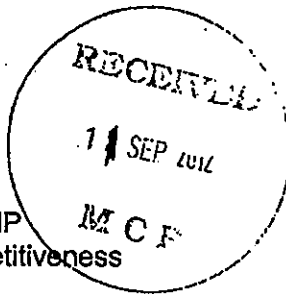


Belinda Robinson
Chief Executive

Department of Foreign Affairs & Trade
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COPYRIGHT ADVISORY GROUP
STANDING COUNCIL ON SCHOOL
EDUCATION AND EARLY CHILDHOOD

03 September 2012



The Hon Dr Craig Emerson MP
Minister for Trade and Competitiveness
Parliament House
Canberra ACT 2600

Craig.Emerson.MP@aph.gov.au

Dear Minister

MINISTER FOR TRADE & COMPETITIVENESS
DFAT/AUSTRADE

- Reply by Minister within one two weeks
- Reply by Adviser/CoS

Date Received 06 SEP 2012

- Departmental reply NFA
- Prepare brief advising Minister
- Referral to
- Comments

Trans Pacific Partnership Agreement – Copyright issues

I am writing to you in my capacity as Chair of the Copyright Advisory Group (CAG) to express our concern regarding the draft Intellectual Property (IP) Chapter of the draft Trans Pacific Partnership Agreement (TPPA), currently under negotiation between Australia, the United States, New Zealand, Chile, Singapore, Canada, Malaysia, Mexico, Peru and Vietnam.

The education sectors have raised concerns regarding the current Australian copyright framework over a number of years (described further below) and are concerned that Australia's position on TPP negotiations may negatively impact on Australia's education system.

In his context, CAG requests that the negotiators of the TPPA consult with the education sector and not agree to language that could restrict Australia's ability to reform its copyright law to better fit the digital environment. We also request that the relevant negotiators take into account the position of the education sector as outlined below and ensure there is adequate consultation on the position to be adopted by the Australian negotiators concerning copyright law as the negotiations progress.

Background to CAG and SCSEEC previous copyright reform position

CAG is a committee reporting to the Standing Council on School Education and Early Childhood (SCSEEC). CAG ensures co-ordination and co-operation between the states and territories in relation to copyright, as it relates to education, as a national issue. CAG represents almost all primary and secondary school educational authorities in Australia. Its members include the State and Territory Departments of Education, all Catholic Education Offices, the Independent Schools Council of Australia, and the great majority of TAFE colleges. CAG is included on the list of key stakeholders identified on the website of the Federal Attorney-General's Department.¹

In recent years, SCSEEC (formerly known as MCEECDYA), principally through its advisory group CAG, have pursued various law reform issues relating to copyright, including:

- a new educational use exception for publicly and freely available internet material (formally raised e.g. in AEEZYOC submission to the Attorney General dated 18 September 2008 and 21 October 2009, and letter from the Chair of MCEECDYA to the Federal Attorney General of 5 May 2011)

¹ <http://www.ag.gov.au/Copyright/Pages/default.aspx>

National Copyright Unit, Copyright Advisory Group
 Standing Council on School Education and Early Childhood (SCSEEC)
 Level 1, 35 Bridge Street, Sydney NSW 2008. GPO Box 33 Sydney NSW 2001

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 s 22(1)(a)(ii)

s.22(1)(a)(ii)

Of particular concern to the education sector would be any TPPA provisions which might limit Australia's ability to reform and, where appropriate, extend exceptions and flexibilities in copyright law to account for these and other copyright issues (many of which may not yet have arisen). For example, the current inquiry being conducted by the Australian Law Reform Commission (ALRC) into Copyright and the Digital Economy will be critically important to the development of Australia's copyright law, and it is important that international negotiations not compromise its ability to implement any resulting recommendations.

Current TPP text

On 3 August, Knowledge Ecology International (KEI) published text that claims to reflect US and other country proposals for language relating to copyright exceptions for inclusion in the IP Chapter of the TPPA.²

s 22(1)(a)(ii)

There are aspects of the proposal that the education sector supports. There are however a number of areas where the language of those proposals may limit Australia's ability to reform copyright exceptions, particularly in the digital environment, and hence restrict the current ALRC process and efforts to address copyright issues such as those identified above.

s.22(1)(a)(ii)

Conclusions

CAG is encouraged that a spokesman for the Department of Foreign Affairs and Trade has been quoted as saying that Australia will not accept an outcome in the TPP that reduced its ability to enact copyright limitations and exceptions under Australian domestic law.³

CAG's concern – in its role as the body representing the Australian schools and TAFE sector on matters relating to copyright policy – is to see the Australian copyright framework retain the flexibility necessary to ensure the necessary copyright balance can be maintained in years to come, in the face of changing social and technological trends.

As the above discussion makes clear, ensuring that Australia has appropriate flexibility to reform and, if appropriate, extend copyright exceptions will depend on matters of detail in the text of the TPPA. We would therefore respectfully request that you ensure that the Australian negotiators take into account the points above, and, as negotiations continue, the Copyright Advisory Group be kept informed of developments in this regard via Delia Browne, the National Copyright Director.

² 'Leak of TPP Text on Copyright Limitations and Exceptions', Knowledge Ecology International, 3 August 2012, available at <http://keionline.org/node/1516>

³ 'Govt Rejects Copyright Limit Claims in TPP Talks', IT News 7 August 2012, available at http://www.itnews.com.au/News/311182_govt_rejects-copyright-limit-claims-in-tpa-talks.aspx

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Delia Browne, National Copyright Director
 National Copyright Unit
 Level 1, 35 Bridge Street, Sydney NSW 2000

s 22(1)(a)(ii)

If you have any questions or we can provide any additional information in relation to this letter, please contact Delia Browne, the National Copyright Director

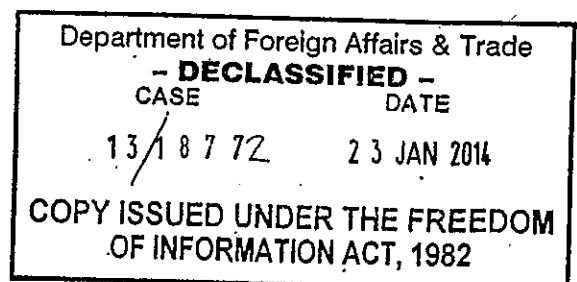
Yours sincerely



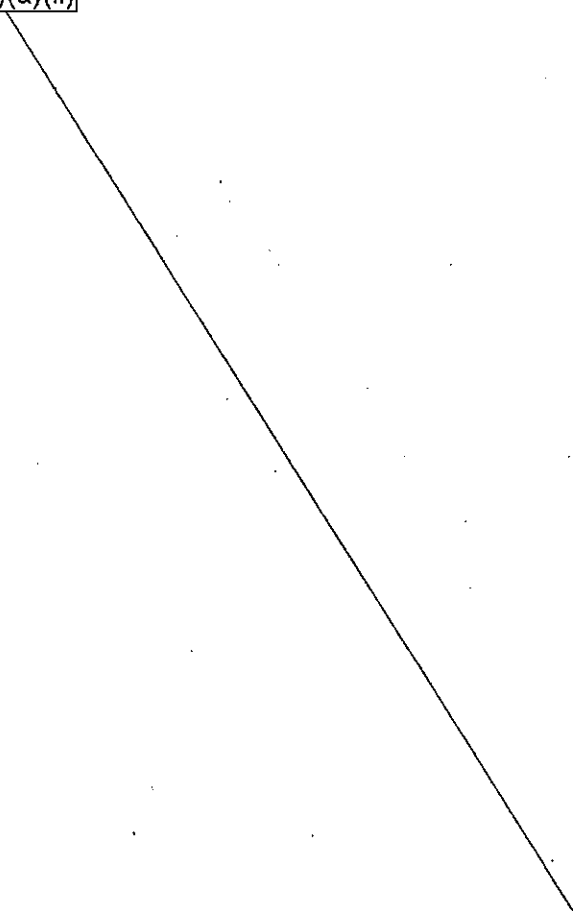
Susan Mann
 Chair – Copyright Advisory Group
 Standing Council on School Education and Early Childhood
 C/- National Copyright Unit
 Level 1, 35 Bridge Street
 Sydney NSW 2000

cc: The Hon Nicola Roxon MP
 Attorney-General
 PO Box 6022
 House of Representatives
 Parliament House, Canberra ACT 2600

cc: The Hon Peter Garrett AM, MP
 Minister for School Education, Early Childhood and Youth
 PO Box 6022
 House of Representatives
 Parliament House, Canberra ACT 2600

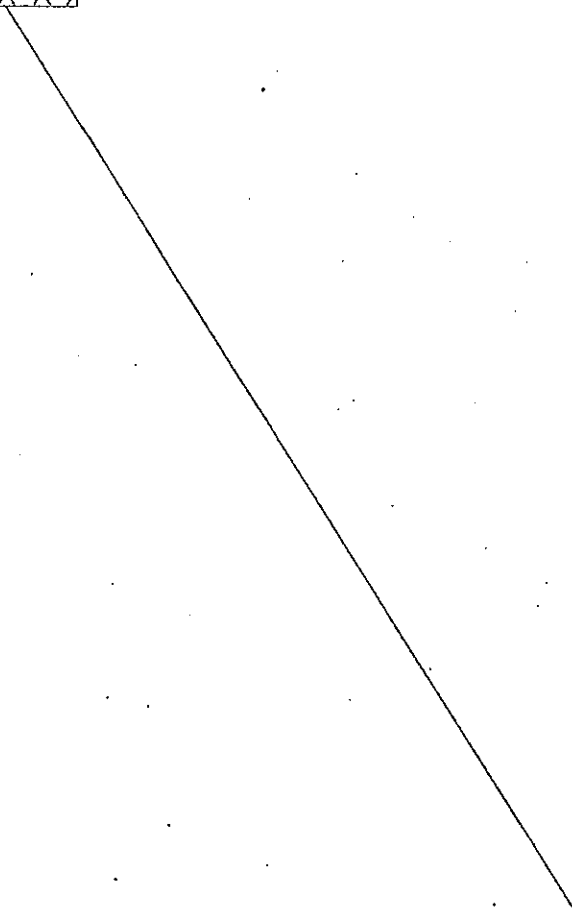


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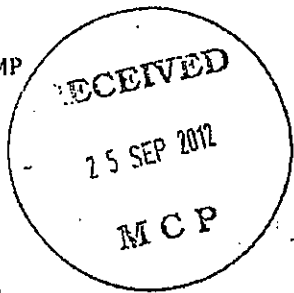


AUSTRALIAN DIGITAL ALLIANCE

MINISTER FOR TRADE & COMPETITIVENESS
DEPT / AUSTRADE

19 September 2012

The Hon Dr Craig Emerson MP
Minister for Trade
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600



- Reply by Minister within one/two weeks
- Reply by Adviser/CoS

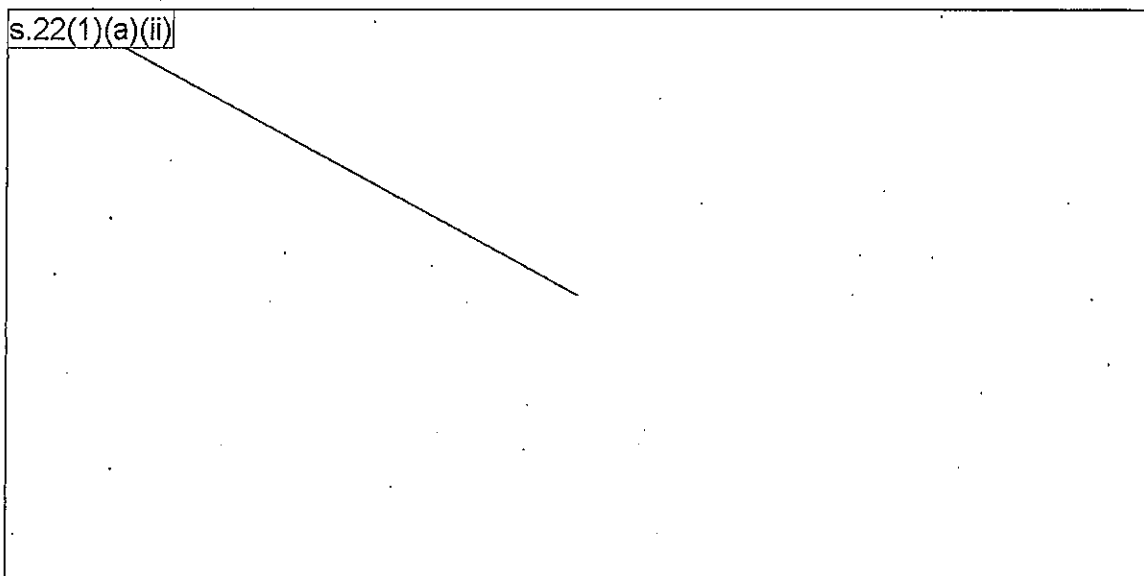
Date Received 20 SEP 2012

- Departmental reply NFA
- Prepare brief advising Minister
- Referral to

Comments ... Info / action as appropriate
Reports online

Dear Minister Emerson,

For your information: New economic research indicates potential \$600M annual economic boost from copyright reform



We have enclosed a copy of the reports for your information.

These reports come at a crucial time for copyright law reform, as the Australian Law Reform Commission proceeds with its Inquiry into copyright exceptions in the digital economy and while negotiations of the Trans Pacific Partnership Agreement continue at an international level. It is essential that Australia's participation in trade negotiations like the TPP preserve sufficient flexibility for Australia to implement domestic copyright law reform that supports digital innovation.

If you have any questions about the reports, or the ALRC's inquiry, please do not hesitate to contact Ellen Broad, Executive Officer, ADA at [redacted] s 22(1)(a)(ii)

Kind regards,

Derek Whitehead

Derek Whitehead
Chairman
Australian Digital Alliance

s 22(1)(a)(ii) [redacted] www.digital.org.au

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