During the last decade, Australia has seen a number of copyright reforms that have recommended various copyright reforms, some more extensive than others. To mention some of the most important in 2014, the Australian Law Reform Commission recommended the adoption of the Australian Copyright Act (2014). This suggested that the proposal and suggested further amendments, such as the removal of the requirement that the fair dealing exception has been clear to those who have sought to extend copyright protection by means of the safe harbour.

Moreover, in 2016, Australia signed the Marrakesh Treaty for the Blind and Visually Impaired. This treaty allows a broader fair use exception, including for persons with disabilities. However, instead of extending safe harbours to all online service providers, the Bill suggests that the provisions should apply to the disability, education, library, archive and cultural sectors only, while leaving commercial online service providers outside the scope of the safe harbour. Therefore, the stakeholders will be collecting further data and evidence to support their positions. This is especially critical given the potential for the reform to lead to the introduction of fair use provisions.

The upcoming safe harbour reform: Copyright Amendment (Disabilities and Other Measures) Act 2017

One of the issues that has been extensively discussed in Australia over the past decade is the scope of the safe harbour provisions under the Copyright Act 1968. Safe harbour provisions were introduced in Australia in 2014 as a result of the Digital Copyright Treaty Agreement. However, intermittently or at all, the provisions have been expanded. The safe harbour provisions allow online service providers to claim immunity from liability for copyright infringement if they satisfy certain conditions.

The 2017 Act has generally been welcomed by stakeholders. At the same time, some stakeholders regretted the fact that other important provisions, such as safe harbour provisions, have been removed from the bill. Other stakeholders have welcomed the provisions, expressing concern about the extent of protection for online service providers. The 2017 Act therefore establishes a broader fair use exception for non-commercial online service providers than the US and the EU. However, the Bill suggests that the provisions should apply to the disability, education, library, archive and cultural sectors only, while leaving commercial online service providers outside the scope of the safe harbour.