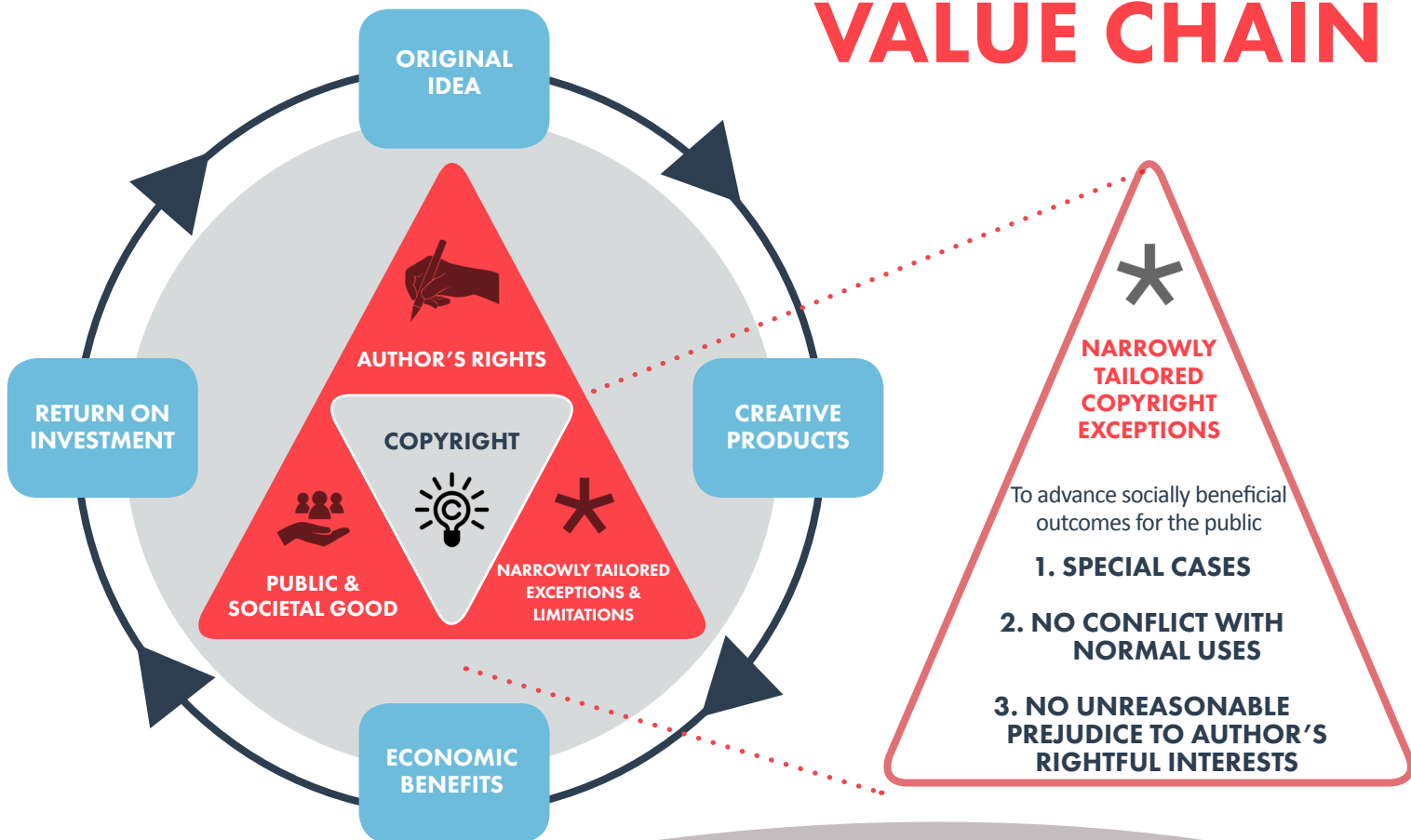


THE CREATIVITY & COPYRIGHT VALUE CHAIN



THE FILM & TV INDUSTRY IN AUSTRALIA GENERATED:

2015 AUSTRALIAN HOME ENTERTAINMENT MARKET SALES **>1 BILLION**

5.8 BILLION IN GDP

1,976 MILLION IN TOTAL TAX REVENUE

46,600 FULL TIME EQUIVALENT JOBS

Source: Australian Home Entertainment Distributors Association (AHEDA)

Source: Deloitte Access Economics February 2015

presto MOVIE TIME, ANYTIME.

Stan.

NETFLIX

LEADING SUBSCRIPTION VIDEO ON DEMAND (SVOD) SERVICES



NETFLIX NOW IN

>1 MILLION HOMES



2.7 MILLION AUSTRALIANS AGED 14+ SUBSCRIBE TO NETFLIX

Source: Roy Morgan Research November 2015

INNOVATION, CREATIVE OUTPUT & A VIBRANT DIGITAL ECONOMY REQUIRES **STRONG COPYRIGHT**

IMPORTING FAIR USE FROM THE U.S. IS...



1) UNSUITABLE

While the thrust of the cases may promote a sound principle of copyright law – to allow uses without permission where the use promotes the purposes of copyright and does not unduly undermine the value of the copyright work – the principle is largely reliant on the limiting precedents from the U.S. courts.

There is a danger that other jurisdictions adopting fair use factors may not apply the factors in such a limited way: so far, there is very little precedent outside the U.S. regarding the application of fair use factors, but where there has been case law, the results have been problematic.

2) UNCERTAIN

Interpreting whether an act is “fair use” is not as simple as deciding whether the use seems “fair” or “just”. Fair use is defined only by the U.S. statute and the thousands of cases in which it has been interpreted.

The U.S. Supreme Court has noted that no precise definition of fair use is possible. The U.S. Copyright Office has deemed it necessary, because of the complexity and uncertainty of the jurisprudence, to catalogue decisions made under Section 107, an ongoing and lengthy process that will not result in clear rules.

3) UNNECESSARY

Civil law and fair dealing jurisdictions already have copyright exceptions that serve balancing purposes within those countries’ individual legal frameworks. There is no reason to upset these countries’ legal systems to take on board sui generis U.S. law.

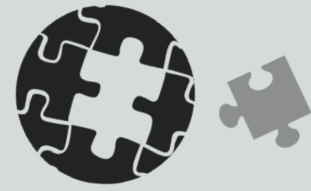
AUSTRALIA’S FAIR DEALING adequately accommodates permissible uses while preserving predictability and certainty.

“ If you value the idea of an Australian literature, of books being written in this country, of songs being written in this country, of bands surviving, then you have to think seriously about this regime of copyright that is enabling that.

LINDA JAIVIN
Author



MANY COUNTRIES HAVE LEGAL SYSTEMS DERIVED FROM CIVIL LAW TRADITION...



**INCOMPATIBLE
WITH FAIR USE**

“ A major problem with fair use (outside the U.S.) is that different courts have come to widely different decisions, encouraging constant litigation. By contrast Australia’s system is clearer and less prone to litigation. Despite this, some advocate that we adopt a fair use approach here which, according to a new PwC report, could result in a loss of GDP in the order of \$1.3 billion.



ADAM SUCKLING
Chief Executive, Viscopy



>160
BERNE
CONVENTION
COUNTRIES

>150
WORLD TRADE
ORGANIZATION
MEMBERS

HAVE EFFECTIVE
COPYRIGHT REGIMES
WITH EXCEPTIONS
OTHER THAN FAIR USE

FAIR USE EXEMPTION CONSEQUENCES

Annual litigation costs to increase

\$26.6
MILLION **\$133**
MILLION

May send Australian Publishers
out of business

Source: PwC