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GRAHAM GREENLEAF

AustLII Australasian Legal Information Institute, Australia

The Obligations of Public Authorities Responsible for Originating Legal Materials

What should be the obligations of public authorities responsible for originating legal materials? This presentation argues that their main obligations should be (i) to ensure free access to all such materials; and (ii) to permit and facilitate re-publication of the data, thereby encouraging competition in value-adding. Self-publication of the materials by these originating authorities will often facilitate these ends, but must not be allowed to obscure or obstruct them (as it sometimes does). Along the way, governments must take reasonable and appropriate steps to ensure that accurate versions are provided, and privacy protected, but should not use these values as an excuse for self-serving monopolisation. Other elements of monopolisations such as special privileges for one 'authorised' publisher or their methods of citation, should also be avoided. A government monopoly over legal information is still a monopoly, and has little to recommend it even when it delivers free access. If these values or policies are adopted, then the legal mechanisms by which they can be achieved are various. Copyright becomes a secondary consideration, and legislation which sets out government policies is desirable.