

“The effect of copyright on library services”
LIASA Western Cape Higher Education Libraries Interest Group
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PASA Views

Context

1. Copyright today is inevitably being managed within the context of the electronic information revolution. Today, more people have easier access to more information than ever before.
2. In addition, copyright should be managed with a profound understanding of the developmental requirements of the South African context. This context includes the promotion of literacy and reading as foundation of education and knowledge acquisition.
3. SA is part of a worldwide network of countries bound by international expectations and agreements.

Balancing rights and needs

4. There should be a balance between the rights and needs of both copyright holders and users.

Access

5. Copyright management is often seen as a mechanism to prohibit or limit the use of intellectual property. This is wrong. Copyright management is both about providing access to intellectual property and about determining under what conditions the intellectual property may be used by others. Without copyright provisions the intellectual property (IP) would have remained accessible only to the author.
6. The theme of this conference, “The effect of copyright on library services” centres around one basic issue: May multiple copies be made for instructional purposes without approval from the copyright holder?
7. The answer to this question is no. Essentially, such copying is incompatible with the so-called “three-step test” of the Berne Convention and TRIPS agreements: exceptions and limitations of the exclusive rights of the copyright holder must be confined to (1) certain special cases, (2) that do not conflict with the normal exploitation of the rights by the rights holder (3) and do not unreasonably prejudice the legitimate interests of the withholder.
8. By contract permission can be given for multiple copies, usually against a fee.
9. In order to manage access to materials, PASA supports the principle of the collective administration of intellectual property rights (IPRs) by means of collective licensing societies that subscribe to good corporate governance, and act in a transparent and efficient manner in their dealings with users and rights holders (publishers and authors) alike.

Non-core issues

10. Related issues often enter into discussions about library use of copyright materials. These issues are e.g. the costs of books, the misuse of copyright by copyright holders, contracts between publishers and authors, the impact of modern technology, access to knowledge issues, developmental issues and ownership of

intellectual property created through publicly funded research. These matters influence one another, but we need to keep clear foci in discussing them.

Publisher – librarian relationship

11. How are publishers and librarians related? In answering this question, one should avoid the simple dichotomy which puts the two groups on different sides. Authors are the creators of intellectual property and original holders of copyright. Copyright gets ceded to publishers who are the managers and custodians thereof in the process of disseminating the intellectual property. Librarians carry a double responsibility: that of assisting the users of the intellectual property to access the property and that of acting as a custodian of the intellectual property on behalf of the author. Within this scheme, publishers and librarians are therefore much closer than in the simple dichotomy above.
12. If we accept this view, the common driving value among publishers and librarians might be that of providing access to knowledge
13. Apart from the above issues, librarians, publishers and authors have a common interest in: the long-term preservation of cultural heritage and languages (deposit issues); access to information by special interest groups, e.g. visually impaired persons; freedom of expression and information and the fight against censorship, and the abolition of taxes on books and ingredients of books (VAT, import duties etc).

The publishing industry

14. The distribution and contestation of local, relevant knowledge and information are better served by a strong local publishing industry than by supposedly free supply of information through generous copying arrangements.
15. Publishers run business undertakings that must survive financially, that require capital investments and that are subject to ethical principles.
16. The interests of all stakeholders will be best served by a healthy rights management environment which supports the sustainable development, dissemination and interrogation of knowledge and access to it.
17. PASA is in favour of clear legislation and regulations. However, we do not believe in making legislation the ultimate arbiter. We favour negotiations within the legislative framework over the equitable access to and management of IPRs, rather than relying on inflexible copyright provisions
18. PASA supports continued dialogue based on sound information among rights owners and rights users with the involvement of the relevant government departments.