

Purpose: to inform the audience about the context for exceptions and limitations for libraries, integral to enhancing the culture of reading and books, to achieve important public policy goals.

Key message is that exceptions and limitations to copyright are reasonable and support the culture of reading – AND READERS MUST HAVE THEM.

Enhancing the culture of reading and access to books in the digital age; this is what libraries are all about.

I want to provide a context for libraries in relation to access to copyright works and highlight the importance of exceptions and limitations to copyright for libraries.

The library context is complex. Libraries are the market; libraries create readers; and libraries exist to achieve public policy goals¹. Libraries both safeguard intellectual property rights and advance users rights of access to information products that are fundamental to the culture of reading and the growth of knowledge. Libraries are on the cusp of the dichotomy between the rights of authors and the rights of users.

Libraries are the largest and most stable market sector for publishers. Library budgets are not discretionary; the budgets exist expressly to buy books and other information products².

In addition to being this enormous, dynamic market, libraries provide the broadest possible access to the greatest array of books, unrivalled in scope. Integral to the provision of access, libraries provide publishers with access to readers.

Libraries are a vital part of a county's public policy infrastructure. They have a public mission, are governed by statute, are publicly funded, and enable the advancement of knowledge essential to education, research, and preservation, as they are authorized through national information policy. Libraries must continue to fulfill their public mandate in the global digital environment³.

The international library community believes there is an immediate and pressing need for a new understanding of the role of copyright exceptions and limitations in the 21st century. This new understanding is central to advancing the culture of reading and this culture of reading is predicated on access to books through libraries.

The library community asserts that exceptions and limitations which maintain the longstanding function of copyright law in society should be viewed as a balance between private rights and public rights to information, both of which are granted in copyright laws.

¹ Fister, B. *Publishers & librarians: two cultures, one goal*. Library Journal v.134, no.8, 2009 p.22.

² Ibid.

³ <http://www.ifla.org/files/clm/statements/statement-of-principles-sccr20.pdf> accessed Dec 18, 2009

Preservation

Exceptions and limitations for libraries must protect their preservation role. A library should be permitted to make copies of published and unpublished works in its collections for purposes of preservation, including migrating content to different formats.

Libraries should be allowed to preserve proactively copyrighted works in all media and formats that are at risk of deterioration, damage, theft or loss.

A vast amount of digital information currently being created is not being systematically collected or preserved. The world faces a digital blackout in the historical record and in the progress of research, scholarship and culture.

Preserved works are accessible and integral to the culture of reading.

Education and research

Libraries require an exception to permit access to works for education and research purposes. Copying individual items for or by individual users should be permitted for research and study and for other private purposes in a manner that does not unreasonably prejudice the rights holder.

This is one of the most widely established exceptions and limitations to the right of reproduction in national copyright laws.

Exceptions must keep pace so that the informed citizenry in the digital age benefit in the same way as their counterparts in the paper age.

As a timely example of this connection between access to reading material and education, last week, it was announced that a Canadian won the Nobel Prize. He accounted his home learning environment, replete with science books, as critical to his success. He had his own books, but not everyone does. A library is the gateway to equality of access.

General free use exceptions applicable to libraries

General exceptions such as fair use and fair dealing should extend to library activities as a complement to specific library exceptions. In some nations, general free use exceptions are limited to purposes such as research and study, criticism or review, news reporting, parody or satire, and judicial proceedings.

Nations must continue to rely on the role and responsibility of libraries to uphold long-standing public policy goals and principles of access that remain applicable in the digital world. Copyright law, through exceptions and limitations, has long upheld the essential functions of libraries, such as preservation, education and research, and general free use consistent with fair practice.

All of the foregoing should have provision for access for persons with disabilities. A library should be permitted to convert material from one format to another to make it accessible to persons with disabilities, as an exception to copyright.

However well established these principles are, the digital age brings with it barriers to access.

Libraries play an important public policy role in society. As libraries are crucial to access to readers, it is necessary to ensure that the exceptions and limitations enjoyed in the print environment extend to the digital world. Digital barriers to access will negatively impact readers and affect the market.

Care must be taken to ensure barriers do not limit permitted uses. Chief among the threats to access are digital locks.

Technological protection measures often prevent lawful uses and they interfere with the library's performance of its core functions that copyright law has long supported.. It must be permissible for libraries and their users to circumvent a technological protection measure for the purpose of making a non-infringing use of a work.

Exceptions and limitations are policy-based legal principles, with nuances and complexities that reflect national public policy. The use of technological protection measures reduces information policy to zeroes and ones, either on or off, and with the toggle of an electronic switch, abolishes important national policies that were created for public benefit.

Contracts pose a second significant barrier. Most digital products acquired by libraries are accompanied by licenses that override statutory exceptions and limitations supporting library activities.

In fact, private licensing of information very frequently prevents lawful uses of copyrighted works, undermining the services of libraries, and hindering intellectual and creative activity. License terms that seek to undermine copyright exceptions and limitations should not be enforceable against libraries. The goals and policies providing for exceptions are important statements of national and international principle and must not be varied by contract.

While not a digital barrier, extending copyright term limits access to works. The international standard term of protection for a literary work as set out in the Berne Convention and the TRIPS Agreement is life of the author plus 50 years. Term extensions mean that information remains under private ownership for longer, at the expense of libraries and the public interest.

Libraries and publishers have very different purposes and therefore different points of view. Libraries spring from a country's public policy as it relates to the public interest in education, culture, access to knowledge, national heritage, and preservation. The responsibility of libraries is to represent its role and ensure that the nation's information policy is in harmony with these important public policy objectives.

Publishers are a recognized part of the access continuum. Libraries need publishers to deal with the complexity of libraries in a thoughtful, strategic and constructive manner. Libraries need publishers to acknowledge the important public policy role of libraries in education, research, access to knowledge and preservation. Publishers cannot dismiss the crucial role of exceptions and limitations for libraries in the culture of reading.

The international library community invites publishers to recognize the complexity of the library's role in national information policy, understand the inherent ambiguity and embrace our mutual dependency.

Thank you.

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