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Burning issue: How does copyright affect you as librarians, researchers, teachers?

One would like to think that in today's "knowledge society" the plethora of information available, in a vast array of formats, would either be in the public domain or at least easily accessible to librarians, teachers, researchers, literacy trainers, and other users of information. Unfortunately, this is not the case as copyright laws, technological protection measures and licence conditions (particularly in the digital environment) determine what may or may not be accessed or reproduced.

What is copyright?

It is a category of intellectual property and a statutory monopoly given to authors and creators (known as rights owners) to control certain activities relating to the use and dissemination of their original works (including literary, musical and artistic works, cinematographic films, sound recordings, published editions and computer programs). It provides rights owners with an incentive to create works and benefit financially from them.

What laws govern copyright in South Africa?

South Africa has a Copyright Act No 98 of 1978 (as amended). It is also a signatory to various international agreements and is therefore obliged to give recognition and protection to copyrighted works of authors from signatory countries. In general, these copyright laws are restrictive towards libraries, education facilities and persons with sensory disabilities. They do not include legal flexibilities (known as limitations and exceptions), which are allowed in international copyright agreements and which would benefit development.

How long are works protected by copyright?

Subject to exceptions, works in South Africa are protected for the lifetime of the author plus 50 years from the end of the year in which the author dies. Publishers also have copyright in published editions for 50 years from the end of the year in which the edition is first published. When the term has expired, works go into the public domain and may be used and reproduced freely.

May teachers copy for research and teaching purposes?

Yes, indeed. There is a great deal of free information (that is in the public domain or not protected by copyright) in the print and electronic environments. By doing an internet search on Google or any other search engine, hundreds of thousands of items can be found under "free books", "free journals", "free images", "free photographs", "free graphs" and "free posters". Also, "Fair Dealing", in Section 12 of the Copyright Act, allows anyone to make a reasonable portion of a work available (with proper acknowledgement), for the following purposes, without having to apply for copyright permission:

- for research or private study,
- for personal or private use,
- for criticism or review,
- for reporting current events (such as in a newspaper or broadcast),
- for using the work for judicial proceedings, or for a report of such proceedings,
- for quotation,
- by "way of illustration" for teaching purposes (such as placing an extract of a work on an overhead projector or in a PowerPoint presentation, to highlight aspects of a lecture or training session).

In terms of Section 13 (Copyright Regulations), a teacher may give a number of separate handouts to learners in a classroom situation without having to get permission. The copies, however, may not be included in compilations (such as study or course packs) or handed out with other copyrighted material.

May a librarian make copies for teachers or library users?

A librarian may make a single copy of a reasonable portion of a work for a teacher or other library user, as long as it is for research or private use. A librarian may also obtain a "fair dealing" copy for a teacher or library user via interlibrary loans. However, they may not make multiple copies for a teacher or other library users.

Section 3 of the Copyright Regulations (Section 13) have some other provisions for reproduction by libraries.

What are some examples of copyright infringement?

Without prior copyright permission, or unless specifically permitted by the rightsowner, one MAY not -

- copy a whole book or journal, or major portion of a book or journal (including an out-of-print book),
- copy sheet music,
- copy artworks,
- copy commercial audiotapes, videos, CDs, DVDs, films or other original works,
- translate, adapt, modify or convert material into alternative formats (even for persons with sensory disabilities),
- make copies, beyond 'fair dealing' and the Section 13 Regulations, as mentioned above,
- scan, digitize or place material on WebCT, other e-learning systems, digital repositories, or on the Web,
- download multiple copies of material from electronic databases or the internet,
- play music or perform a musical for a public audience,
- perform a play or drama, or show a video, film or DVD to a public audience,
- create, replace or substitute anthologies, compilations or collective works,
- make copies of, or from, works intended to be ephemeral, including workbooks, exercises, standardized tests, test booklets and answer sheets, or similar ephemeral material,
- make copies to substitute for the purchase of books, publishers' reprints or periodicals,
- leave copies of copyrighted works for learners to copy from,
- make a backup copy of a computer program or an authorized copy, other than for personal or private purposes.

Infringement has a direct financial impact on rights owners, affects production of publications and ultimately increases prices of publications. It can result in institutional disciplinary action and rights-owners may also institute civil or criminal action against copyright infringers.

How to apply for copyright permission?

Requests for copyright permission for print and electronic media must be sent directly to the rights-owners, or in the case of photocopies to DALRO, the Dramatic, Artistic and Literary Rights Organization in Johannesburg – Tel. 011-489-5000 or Fax no. 011-403-9094 or via email to dalro@dalro.co.za.

The SA Copyright Act No. 98 of 1978 (as amended) and Section 13 Regulations can be found at www.buys.co.za (click on 'downloads', then legislation SA')

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(Source: www.wits.ac.za/library - Services - Copyright)

Why is it necessary for the South African Copyright Act to be amended?

In recent years, the Department of Arts and Culture, together with the Department of Trade and Industry and the National Council for Library and Information Services (NCLIS) have held workshops and seminars to establish how the current Copyright laws affect access to information, and particularly how they impact on other legislation which promotes access, e.g. the SA Library for the Blind Act, The National Library of South Africa Act and the Legal Deposit Act, to name a few. The general consensus at these workshops/seminars was that the Copyright Act is outdated and needs to be amended to address digitization and to incorporate as many limitations and exceptions as possible to facilitate access to knowledge, particularly in the context of a developing country.

http://www.ibls.com/internet_law_news_portal_view.aspx?s=sa&id=1259

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