

Strictly Legal: Toeing the Copyright Line

An overview of the UKSG seminar held at the British Library, London, 7 June 2005

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One of the papers from the seminar is published in full on the pages following this report and a further paper will be published in the March 2006 issue of 'Serials'.

Strictly Legal: Toeing the Copyright Line – Copyright and legal deposit in a changing environment

Under this striking headline UKSG issued an invitation to a special theme day on 7 June at the British Library in London. As far as we know, this was the first such arrangement of its kind, so we decided to make the trip from Denmark to the UK.

36 participants from publishers and libraries had made their way to London to take part in the event.

Head of British Collections, *John Tuck* started off with a brief introduction to the day's programme.

Charles Oppenheim, Loughborough University, described the background for the most recent amendments to the British Copyright Act. The copyright owners wish to maintain and guarantee their right to the material, and the users want unlimited possibilities for use.

But the electronic media have created problems for the rights owners – a lot of problems. Copying is easy, easily made available and copying is very cheap indeed.

The EU directive was implemented in late 2003. It has the following effects:

- reduces fair dealing and library privilege (now only allowed for non-commercial purposes)
- new civil/criminal offences to by-pass or deactivate copyright management information or to by-pass or deactivate Technological Protection Systems (TPS), with the intention of infringing, or concealing infringement
- new restricted act of 'communicating information' (e.g. placing on intranets/Internet).

The conclusion was that the libraries are caught up in a war between users and rights owners.

Charles Oppenheim asked us to remember:

"Copyright is less to do with the law than it is to do with management of risk."

(Article based on this paper published in this issue.)

Helen Bartlett, HERON–Ingenta, spoke about practical details in connection with copyright. Is permission really necessary?

A scholar cannot just submit an article in order to make it available to the public. Availability depends entirely on the contract between author and publisher. Helen Bartlett thereby stressed the fact that one does not only have to consider copyright law but, in equal measure, the contracts in question.

It is also important to realize that a translator has the same rights as an author and that a translation should not be undertaken unless agreements have been entered into with the original author.

Helen drew attention to some common permission problems and stressed that it is not going to get any easier. Over the years it may become difficult to identify the copyright owner, particularly if the publication has been subjected to a change of publisher, sale, etc. Permission might also prove too expensive, or not be forthcoming, or it might take too long to obtain it.

She finished with the following sound advice:

- Make sure that your proposed use is permitted
- Make sure you have the relevant permissions in place
- Ask people for help!
- Keep accurate records
- Make sure that usage stays within terms and conditions
- Be patient
- Don't lose your sense of humour!

John Byford, The British Library, who has been involved in the work on evaluation of the law, related the history of legal deposit in England.

Legal deposit and copyright were previously dealt with in one single act, but were separated in 1996. Originally there were 11 legal deposit institutions in England, but with the revision of the act this number was reduced to six.

Cliff Morgan, John Wiley & Sons Ltd, gave us *his* thoughts on what the new legislation entailed for the publisher.

In the paper-based world, legal deposit was completely straightforward. There were exact guidelines, deadlines and the financial aspect was likewise straightforward.

In an interim period the media were CD ROMs, DVDs and other non-electronic formats. These were not subject to legal deposit if the content was a copy of something which had already been legally deposited in paper format.

The new legal deposit act raises the question whether everything must be preserved in any country in which the material is available via a licence agreement.

Cliff Morgan ended with the following mantra:

- Deposit is about description and delivery – this is what we've published, and this is how we get it to you

- Not about convergence and conversion
- Publishers cannot take on costs of converting electronic material purely for the purpose of deposit
- We can't solve the rather intractable long-term preservation issues by means of deposit protocols.

The last and very interesting contribution of the day came from *Erik Oltmans*, National Library of the Netherlands.

The Netherlands is a land of publishers, with traditions for legal deposit, and it was therefore most illuminating to be invited to consider the Dutch angle.

The National Library of the Netherlands has the mission of securing permanent access to electronic products. It is not a question of statutory legal deposit, but deposit on a voluntary basis which also obliges one to be on good terms with the publishers.

The National Library of the Netherlands is building up an archive, based on archival agreements with the publishers. All the library's patrons have access to the electronic archive, also via remote access. The licence agreements determine to whom, and to what, access is given. (*Watch out for this paper in the next issue.*)

The day finished with a very interesting tour of the British Library where we got the chance to see not only the incredibly beautiful old book collections, but also to observe the practical side of things from the time the user requests a book, via the transport of the book through the system until the book is ready for collection. A striking man-sized atlas and George III's book collection were probably the highlights of this very enjoyable tour.