



# Crown copyright: some issues

Kerry Smith, Department of Information Studies,  
Curtin University, and ALIA past-president (1997)

### ACT

• **5/8 ACT Special Libraries section.** *Librarians Libations at the Hyatt Hotel.* For August and September we go back to the Hyatt. Come and relax with library colleagues. For details contact: Julie Philips, ph 02 6208 5112, j.philips@nma.gov.au

• **11/8 ACT Health Libraries section meeting.** *Guest speaker: Suzanne Hannan* from NSW Health Dept, on the Southern Area Health Service, CIAP and distance library services in health. 12:30pm, National Library. Contact: Sandra Henderson, ph 02 6262 1523, shenders@nla.gov.au

• **18/8 COLUG presentation on multimedia with Vickie Richardson from NetImpact.** The Santamaria Room (ground floor), 38 Sydney Avenue, Forrest, 12:30pm. *RSVP to:* Karna O'Dea, ph 02 6271 1939, karna.odea@dcita.gov.au

• **18/8-8/12 ACT Branch Council meeting.** 4th Floor Conference Room of the NLA, commencing at 5:30pm (unless otherwise announced). 18/8, 15/9, 13/10, 17/11, 8/12. Contact Branch secretary: Sally-Anne Leigh, ph 02 6201 5522, sal@isd.canberra.edu.au

• **30/8 ACT UCRLS section.** *Dr Jerry Campbell,* chief information officer, Uni of Southern California, on *Information Strategies for the 21st Century.* McDonald Room, Menzies Library ANU, 12:30pm, all welcome, bring your lunch (tea/coffee provided). Contact Nancy Clarke, ph 02 6209 1117, n.clarke@signadou.acu.edu

• **31/8 ACT Branch.** *Mid-winter dinner and presentations by Warren Horton.* Details in August issue of *proActive.* Contact: Branch secretary Sally-Anne Leigh, ph 02 6201 5522, sal@isd.canberra.edu.au

• **2/9 ACT Special Libraries section.** *Librarians Libations at the Hyatt Hotel.* Come and relax with library colleagues. For details contact: Julie Philips, ph 02 6208 5112, j.philips@nma.gov.au

• **8/9 APSIG.** *An Indian dinner,* with Royce Wiles, well-known library traveller in India. The Blue Elephant, 29 Lonsdale Street, Bradon. 6:15 for 6:30pm, \$20 for 3-course banquet, BYO *RSVP by 6/9 to:* Dorothea Polonyi, ph 02 6249 5652, Dorothea.Polonyi@anu.edu.au

**27/10 Clare Burton Memorial Lecture:** *The beauty therapist, the mechanic, the geoscientist and the librarian: addressing undervaluation of women's work.* The University of Canberra, 5pm. Contact National Office ATN WEXDEV, PO Box 123, Broadway 2007, ph 02 9514 2909, fx 02 9514 2930, jane.clifford@uts.edu.au, URL <http://www.uts.edu.au/oth/wexdev>

### NSW

• **3/8 NSW TAFE section.** *The changing role of librarians: a dinner with Maureen Henninger.* East Ocean Restaurant, 421-429 Sussex Street, Haymarket, 6:30 for 7pm. Cost: \$30 ALIA members; \$36 non-members, note: vegetarians catered for. *RSVP by 30/7 to* Dot

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Crown copyright has emerged relatively unscathed from the flurry of debate and suggestions to do with amendments to the Australian *Copyright Act (1968)*. Why this is so puzzles me, although those who have sought to protect it from scrutiny are probably sitting smugly in their offices. My interest in Crown copyright stems from my time as a geoscience librarian in the corporate sector and my need to obtain vast quantities of information not only produced by government agencies, but also held by them as custodians. What began as an exercise in materials acquisitions ended, and in some cases continues, as an exercise in cheque-book politics. Why?

The Fall 1998 edition of *Copyright & New Media Law Newsletter*, discussed this issue and Annabelle Herd gave an overview of the Australian situation. Essentially: only one Australian state, New South Wales, has waived Crown copyright in legislation and judicial decisions. Otherwise, apart from some exceptions which include educational, judicial and statutory reasons, and the other exemptions already allowed in the *Copyright Act* (for example, fair dealing), 'permission must be sought to use works protected by Crown copyright in which the copyright vests in Australia itself or one of her states or territories'. This is for the ordinary folk like you and me.

When examining the Australian Government use of its own material Ms Herd said that Section 183 of the Australian *Copyright Act* grants 'a form of statutory licence that has the effect of guaranteeing government access to copyright material. Use of copyright materials under this licence is not free as it would be under the fair dealing provisions, as equitable remuneration must be paid to the copyright owner'. The issue is made more complex because such licensing does not cover digital copying.

In order to address the digital arena and other variants of the licence issue, I am aware that Western Australia and Queensland have spend considerable time and energy on policy development. So too, have bodies like the Australian and New Zealand Land Information Council (ANZLIC) and the Commonwealth Spatial Data Committee (CSDC).

We need to separate the issues — which include but are not limited to: Crown production, ownership, custodianship and use — of copyrighted materials, and there is not room in this short article to do so. Australian government libraries would be keen to continue arrangements which permit favourable access and copying of government materials. A number of Australian government agencies would be keen to continue an environment whereby they have strong control over the information they produce, house and manage (at taxpayers expense). This control can also mean the imposition of charges for access to that information which, in the opinion of many, are beyond the 'fair and reasonable' expectations one might have with respect to government information. Many users of this information are hamstrung by the complexities of the interpretations of the law and the burdensome financial and licencing constraints thus imposed.

Why do we have Crown copyright in the first place? The Australian Copyright Council clearly states in *Government and copyright* that 'copyright law is intended to encourage and reward creative endeavour by giving rights to creators and those who produce and disseminate creative and intellectual works.' They argue: 'As a general principle, the Crown in right of the Commonwealth or State is not bound by a statute except by express statement'. The Australian *Copyright Act* is federal legislation, binding both federal and state governments and contains provisions relating to Crown copyright. The concept of the Crown will cover a government department and its dependant bodies, but will often not extend to independent statutory authorities, though such a body which comes under government control could still be considered part of the Crown — and there are a number of factors the Copyright Council describe to determine this. The matter becomes further complicated as you diverge from the federal sphere of government and 'advice should always be sought before copyright dealings are entered into'.

Although we share a common British heritage neither Australia nor Canada appear to be heading down the same route as the British who have recently released a consultation document (green paper) on ac-

► cess to public sector information: *Crown Copyright in the information age* [1998] and its sequel (a white paper): *The future management of Crown copyright* [March 1999, <http://www.hmso.gov.uk/document/copywp.htm>]. This analysis opts for the continuation, in modified form, of the management of Crown copyright to improve and streamline access to government information. Issues of consistency in agency approach to the topic seem to have driven the British government's responses, although some of the recommendations move beyond this. The document is a refreshing start to the removal of the complexities of maintenance of this legal device. Whether it goes far enough is another issue.

This makes me believe that the growing support for the removal of Crown copyright in Australia should be recognised. Crown copyright acts as an unnecessary barrier to the access of government information and this was borne out in a small study I undertook for my masters thesis on access to geoscience information, particularly in the electronic domain. I note that many of the concerns raised in

my study are commented on in Chapter 9, 'Tradeable information and charging', of the British white paper. Some of the explanations are food for thought and point to a loosening of current British practice. There is also a chapter on the 'Role of libraries'.

In the United States of America, much of the material and information produced and distributed by the government is in the public domain. The assumption that anyone can reproduce such materials without obtaining permission is valid in many cases, reports Mattleman in *The Copyright & New Media Law Newsletter*, although there are grey areas in the definition and evaluation of the cogent term a 'work of the United States government' in the American Act. There are also complexities with digital data.

If we are in the business of making access to government information more complicated for citizens, and we live in a global community now, then I believe that Australia is assisting this process. We could learn from the initiatives of our British counterparts, and loosen up what appears to be a restrictive practice. ■

## In brief

# Competition review of Australia's intellectual property framework

**The government has announced a competition review of all Australian intellectual property legislation. The committee appointed to undertake the review will report to the Attorney-General by 30 June 2000.**

**Read the press release at [http://www.isr.gov.au/media/199/June/june99\\_21.html](http://www.isr.gov.au/media/199/June/june99_21.html) for more information.**

Dawson, Blacktown TAFE Library, ph 02 9208 1850, fx 02 9208 1864, dot.dawson@tafensw.edu.au

• **11/8 NSW Library Technicians section. Committee meeting**, everybody welcome! Greenwood Hotel, 36 Blue Street, North Sydney, 5:30pm. *Please RSVP by Friday 8/8 for bookings*. For further details, please contact Stephen Coppins, ph 02 9715 8316, spcoppins@bigpond.com

**11/8 Thesaurus construction.** UNSW, School of Information, Library and Archive Studies. Contact: Maureen Henniger, ph 02 9385 3589, fx 02 9385 3430, M.Henniger@unsw.edu.au

**13/8 Updating your research skills for the internet.** UNSW, School of Information, Library and Archive Studies. Contact: Maureen Henniger, ph 02 9385 3589, fx 02 9385 3430, M.Henniger@unsw.edu.au

• **23/8 Hunter Regional Group meeting** *Copyright seminar presented by Trevor Gerdson*, Information and Education Services Division, Uni of Newcastle. Trevor is the author of the book *Copyright: a User's Guide* RMIT 1996. University of Newcastle 2-5pm, \$25 ALIA members, \$30 non-members. Contact: Greg Anderson, ph 02 4921 6465, fx 02 4921 5833, uigwa@dewey.newcastle.edu.au

• **24/8 NSW Library Technicians section. Mid North Coast Library Technicians group meeting.** Greenhouse Tavern, Bray Street Complex, Corner Pacific Highway and Bray Street, Coffs Harbour, 7:15pm. For further information please contact Jill Baker, ph 02 6659 3237, jlbaker2@chec.scu.edu.au

• **24/8-24/11 NSW School Libraries section meeting.** Leichhardt Public School, Joint Council Rooms, Norton Street, Leichhardt (near Shearer's on Norton), 5:30-7:30pm, all members welcome. 1999 meeting dates: 24/8, 26/10, 24/11. Contact the president, Ian McLean, [Ian.McLean@det.nsw.edu.au](mailto:Ian.McLean@det.nsw.edu.au) or the secretary Mary Gibbs, [mgibbs@shore.nsw.edu.au](mailto:mgibbs@shore.nsw.edu.au) for more details.

• **25/8 NSW One Person Australian Libraries SIG** *Tour of the State Library of NSW*. 1-2pm, meet at the Information Desk, Front entrance. Contact: Rosemary Blakeney, ph 02 9888 9600, fx 02 9888 5821, [blakeney@bri.com.au](mailto:blakeney@bri.com.au)

**26/8 Updating your research skills for the internet.** UNSW, School of Information, Library and Archive Studies. Contact: Maureen Henniger, ph 02 9385 3589, fx 02 9385 3430, M.Henniger@unsw.edu.au

• **27/8 NSW School Libraries section. Book Week dinner** (jointly arranged with ASLA) is to held at Gleebooks. Guest speaker, wine and food. Details from Ian McLean, [Ian.McLean@det.nsw.edu.au](mailto:Ian.McLean@det.nsw.edu.au)

• **8/9-11/11 NSW CYSS section. Committee meeting** — everybody welcome, 5:30pm. 8/9 (Parramatta City Library); 22/10 (Management seminar); 11/11 (Burwood Library). For further information, please contact: Mylee Joseph, ph 02 9777 7900, fx 02 9413 2038.

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