



ACT

• **1/11 ACT Branch. PEARLS** — calling all retired librarians for coffee and chat at the High Court café, 2:30pm. Contacts: Margaret Aston, ph 02 288 7563 or Jean Geue, ph/fx 02 6251 1601, jean.geue@alianet.alia.org.au

• **3/11 ACT Library Technicians section. Sonja Street (NLA) on 'Ephemera, is it really just nostalgic junk?'** Nominations needed for 2000 Committee. NLA theatre. 5:30–7pm. Contact Marion Boyd, ph 02 6270 6912, mboyd@hcourt.gov.au

• **4/11 ACT Special Libraries section. Science lunch.** Dr Alan Arnold from ADFA will speak on MetaChem. Alanya Restaurant, Style Arcade, Manuka, starting at 12:30pm, cost \$15. RSVP by 2/11 to: Jeanette Regan, ph 02 6286 2737, jeanette.regan@anu.edu.au

• **8/11 ACT UCRLS. Reference services in the digital age.** Roxanne Missingam on NLA's international initiatives and the forthcoming reference forum. NLA, 4th floor Conference Room, 12:30pm, bring your lunch, all welcome. Inquiries: Nancy Clarke, ph 02 6209 1117, n.clarke@signadou.acu.edu.au

• **9/11 (Note change of date) APSIG. Travellers' tales.** NLA, 4th Floor Conference Room, 12:30–1:30pm, bring your lunch. Enquiries: Marie Sexton, ph 02 6262 1519, msxton@nla.gov.au

• **11/11 ACT Special Libraries section. Librarians' Libations at the Yacht Club,** from 5:30pm. A great way to keep in touch. Contact Julie Phillips, ph 02 6208 5112, j.phillips@nma.gov.au

• **16/11 ACT Branch and FLIN seminar. Digital Libraries: topics include digital copyright, consortia, access and purchasing.** Demonstrations by vendors. NLA, National Library Theatre, Lower Ground 1. (Note change of venue) Registration: \$60 ALIA/FLIN members, \$70 non-members, closing date 10/11. Contact: Roxanne Missingham, ph 02 6262 1604, rmissingham@nla.gov.au

• **17/11 ACT Branch. Council meeting.** NLA, 4th Floor Conference Room, 5:30pm. Contact: Sally-Anne Leigh, Branch secretary, ph 02 6201 5522, sal@isd.canberra.edu.au

• **21/11 ACT Library Technicians section. Christmas function.** Lunch cruise on the lake, 12:15–1:45pm, \$25. Departs Southern Cross Yacht Club, Alexandrina Drive, Yarralumla. Book/pay by 3/11 to: Dorothy Amey, ph 02 6249 7687 (ah), (pay at NLA meeting).

• **26/11 ACT Special Libraries section. Breakfast and AGM (last event for the year).** Parkroyal Capital, 18 Binara Street, Canberra City, 7:15 for 7:30am, \$15. RSVP by 19/11 to: David Bradley, ph 02 6265 5876, david.bradley@cbr.defence.gov.au

• **3/12 ACT UCRLS. Annual festive breakfast at Chats.** Brief AGM, then Bob Barnes on Ancient Alexandria and the dream of a universal Library. ANU Institute of the Arts, 7:30am, cost \$10. RSVP essential. Con-

The Digital Agenda hits the house

Jamie Wodetzki, senior associate, Minter Ellison Lawyers, Melbourne

Updating Australia's copyright laws for the digital age was never going to be easy. But now, after some years of debate, the 'digital agenda' copyright changes have finally landed in Parliament. Whether these changes are good or bad for libraries will depend in many respects on the details of the final Act. For the most part, the *Copyright Amendment (Digital Agenda) Bill 1999* is a reasonable outcome for libraries. However, there are a few problems with the Bill which, if not fixed, could throw a fairly large spanner into the current system of inter-library document supply.

The Bill, which was introduced in the House of Representatives on 2 September 1999, is based largely on proposals in the 1997 discussion paper *Copyright reform and the digital agenda* and an exposure draft Bill released in February 1999. Although representatives of the government had consistently asserted that the exposure draft was only being 'fine tuned' during the months leading up to the release of this Bill, the Second Reading Speech now states that the Bill has been 'extensively revised'. Some of those revisions are not good news for libraries.

A significant number of issues are addressed in the Bill, including:

- Replacement of the current broadcast and cable diffusion rights with a broad right of communication to the public (which will also incorporate the right to make copy-right material available online).
- Confirmation that fair dealing applies to material in digital form and to the new communication right.
- Confirmation that exceptions for libraries and archives apply to digital copying and communication technologies and to material in digital form, and clarification of the scope of these exceptions.
- Changes to the definitions of libraries and archives (that is, by excluding private sector libraries, and by including certain galleries and museums).
- Confirmation that the statutory license scheme for educational copying of print material applies to digital copying and communication technologies and to material in digital form.
- Introduction of exceptions for certain temporary copies made in the course of online communications (which, apparently, is intended to cover browsing), but not other temporary copies.
- Introduction of new provisions to cover

technological protection measures. For example, a ban on the manufacture of and various dealings in circumvention devices, and the provision of circumvention services. There are also specific provisions against making and dealing in unauthorised subscription broadcast decoders.

- Introduction of new rights management information provisions. For example, a ban on the intentional removal of or tampering with electronic rights management information.
- Clarification of Internet Service Provider and carrier liability for directly infringing and for authorising infringements of copyright.
- Codification of liability for 'authorising' copyright infringement generally.
- Introduction of a statutory license scheme for the retransmission of underlying works including in broadcasts, for example, by subscription television providers. Broadcasters will also have the right to control retransmission of their broadcast signals.
- Implementation of various outstanding recommendations from the Copyright Law Review Committee's report on *Computer software protection*.

In many ways, the Bill should be welcomed by Australian libraries. It reflects a general commitment on the part of the Government to the creation of balanced copyright laws for the digital age. Most of the library and archives exceptions set out in the Act will be carried forward so that the rights of libraries and their users are preserved online. The Bill will confirm that, subject to existing limitations, digital technology can be used for interlibrary document supply and for preservation purposes. It will also allow libraries to make material available for browsing by people using terminals installed at library premises.

There are, however, some problems with the Bill that are the cause of serious concerns in the library community.

The biggest problem is the proposal to change the definition of 'library' in a way that excludes libraries in the private sector from relying on the library exceptions in the Act. This change is completely unexpected and has never been part of 'digital agenda' discussions. It is also completely inconsistent with the Government's claims that the exposure draft was only being 'fine-tuned'. For these reasons, it is difficult to understand the basis on which it has been included.

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The most-likely explanation is that the government did not realise that this would have significant negative consequences for Australian libraries and researchers. The change would split the library system in half and create all sorts of unnecessary administrative and other problems. For example:

- Not-for-profit libraries could no longer request documents from specialist private sector library collections under section 50, and vice versa.
- Scientists and researchers in the private sector could no longer make copying requests of their own internal libraries under section 49, even though they may have a right to make copies themselves under fair dealing. This would be a particular problem for employees carrying out research in remote and regional areas.
- All other library exceptions (for example, copying for preservation purposes) would no longer apply to corporate libraries.
- The provision of library services to collaborative private/public-sector research projects (for example, under the Co-operative Research Centre program) will become far more complicated and costly to administer. This is a set-back that Australian research could well do without.

The best way of dealing with this 'library' issue would be for the government to remove it from the Bill pending further inquiry into the likely consequences of the proposed change. The proper context for consideration of this issue is the Copyright Law Review Committee's report on *Simplification of the Copyright Act* (which specifically recommends that private-sector libraries *not* be excluded). It is not a 'digital agenda' issue.

There are a number of other problems with the Bill, including:

- The restrictive and uncertain scope of the library-to-library exception (section 50) when copying from electronic source material. The Bill includes a requirement to check the commercial availability of a work no matter how small the 'portion' requested. This would greatly undermine the effectiveness of section 50 for electronic materials and is not consistent with the stated goal of technological neutrality.
- The possibility that section 51A might not permit digital preservation, replacement or 'administrative purpose' copies to be made available online within library premises to anyone other than 'library officers'. What is the point of making these copies if they cannot, at the very least, be made available to any user at a terminal on the library's premises?
- The fact that circumvention devices will only be available for certain specific 'permitted purposes', which does not include fair dealing nor some of the library exceptions (for example, sections 48A, 51, 51AA, 51A). Thus, if technological protection measures are used 'lock' access to material held in a library's collection, the making of preservation copies may become a technical impossibility some years down the track.

All libraries, particularly those in the private sector, should get involved in the debate over this Bill as a matter of urgency. The House of Representatives Standing Committee on Legal and Constitutional Affairs is already in the middle of an enquiry and is expected to report to Parliament early in December. Now is the time to fix any problems with the Bill, and to make sure that new problems are not created. If this is done, we might just find ourselves with a *Copyright Act* that works for everyone in the digital age. ■

tact: Nancy Clarke, ph 02 6209 1117, n.clarke@signadou.acu.edu.au

• **3/12 ACT Library Technicians section.** *AGM, election of all office bearers for 2000.* CIT Reid, D Block, 5:30-7pm. Contact: Marion Boyd, 02 6270 6912, mboyd@hcourt.gov.au

• **8/12 ACT Branch.** *Council meeting.* NLA, 4th Floor Conference Room, 5:30pm (unless otherwise advised). Contact: Sally-Anne Leigh, Branch secretary, ph 02 6201 5522, sal@isd.canberra.edu.au

• **8/12 APSIG.** *Christmas lunch.* Chairman and Yip, 108 Bunda Street, Civic, 12:15pm. *RSVP essential.* Contact: Dorothea Polonyi, ANU Library, ph 02 6249 5652.

NSW

• **2/11 NSW Special Libraries section.** *Melbourne Cup lunch.* Wentworth Hotel, 61-101 Phillip Street, 12.30-3.30pm, \$55.00pp, includes buffet lunch/selected beer/wine/softdrinks. Cheques made payable to: ALIA NSW Branch, Special Libraries section. Forward to: Robin Shelley-Jones, 37 Kooloona Crescent, West Pymble NSW 2073, ph 02 9498.5048, robinsj@ihug.com.au *RSVP by 22/10.*

• **9/11 NSW Branch.** *Awards presentation and end of year celebration.* Jubilee Room, Parliament House, Macquarie Street, 6 for 6:30pm. \$30 (discount for bookings of 10 or more), members and friends welcome. *RSVP & prepayment essential by 5/11 to:* Jo-anne Fuller or Heather Black, ph 02 9906 6000, jojo1@ozemail.com.au

• **10/11 NSW Library Technicians section.** *1999 AGM, including tour.* Australian Society of Genealogists, Richmond Villa, 120 Kent Street, Sydney, 5:30pm, refreshments provided. Dinner at the Lord Nelson, 19 Kent Street, the Rocks, Sydney, 7:30pm. *RSVP by 5/11 for restaurant booking by contacting Stephen Coppins, ph 02 9715 8316, spcoppins@bigpond.com*

• **11/11 NSW CYSS section.** *Committee meeting* — everybody welcome. Burwood Library, 5:30pm. For further information, please contact: Mylee Joseph, ph 02 9777 7900, fx 02 9413 2038.

• **15/11 NSW Library Technicians section.** *Mid North Coast Library Technicians Group meeting/end of year celebrations.* Coffs Harbour Fishing Club, Coffs Harbour Jetty, 6:30pm. Contact Jill Baker, ph 02 6659 3232, jlbaker2@chec.scu.edu.au

• **16/11-14/12 NSW Branch.** *Council meeting.* State Library of NSW, Sumitomo Room, Level 11, Macquarie Street, Sydney, 6pm, observers welcome. 1999 meeting dates: 16/11, 14/12. *RSVP to:* Jo-anne Fuller or Heather Black, ph 02 9906 6000, jojo1@ozemail.com.au

• **20/11 NSW Library Technicians/ CYSS sections.** *Children's storytime & activities workshop.* Speakers: Heather Fish-

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