

# Library copying under fire in Digital Agenda review

## Colette Ormonde, ALIA copyright advisory service

*'Libraries are preventing Australian publishers from taking advantage of digital markets.'*

*'Libraries are discouraging the production of digital Australian content.'*

*'Since everyone is now engaged in life-long learning, the fair dealing purpose of study or research now has too broad a scope and should be done away with in the digital age when so much information is freely available.'*

These are some of the reasons advanced by the Australian Publishers' Association, the Copyright Collecting Agency, the Australian Society of Authors and other representatives of copyright owners in their calls for:

- The definition of libraries in the *Copyright Act* to exclude corporate libraries, even if non-profit; and
- The contraction of the ss. 49 and 50 library exceptions to exclude their operation in reproducing and communicating digital material.

Copyright users pointed to the difficulties of dealing with non-text format, particularly with music which was covered by

a number of collecting societies, making it extremely difficult to get permissions for quoting small sections of recorded music in presentations for students. The cost of licences to cover musical quotation in student online lectures was characterised by one music teacher as prohibitive; as much as \$1000 per student.

These were some of the points made at a forum on the review of the Digital Agenda amendments to the *Copyright Act*, held at the State Library of New South Wales by the review consultants Phillips Fox on 4 September.

Also up for debate are the definition of a work and the present ability of libraries to digitise unpublished works in their collections.

Under present law, libraries and users may copy ten per cent of a copyright work, or a chapter, or an article from a journal issue, or an excerpt from an anthology without copyright owner permission or royalty.

Copyright owners at the forum argued that in the digital environment the market should be the arbiter for what a work is, and any portion of a work should be remunerable. Publishers were looking at chapters as saleable works. This reflects the intention behind s.50, that libraries cannot lend to other libraries material commercially available at an ordinary commercial price within a reasonable time. With the widespread use of digital object identifiers attached to pieces of information, the size of a work may well shrink to a paragraph.

The concerns of publishers at the lack of security of their work once it reaches e-mail or a website is understandably fuelled by the casual lack of concern of domestic users in their copying and sharing of digital information. However, libraries, which fulfil their obligations under copyright law and pay large amounts by direct purchase or through licences to publishers and authors are being targeted as obvious candidates for further profit.

Libraries who have or who are digitising collections for their websites may wish to comment during this review on the role of commercial publishing in these projects and the economics of such publishing as a profit-making venture.

Meanwhile, ALIA is grateful for the response to our survey of libraries, available on our website, to assist us in gathering evidence for what promises to be a hard-fought campaign on retaining the present definition and limited library exceptions under our *Act*, which is being compared unfavourably by publishers with United States and European laws.

Although we have set a closing date of 23 September for our own survey (so that we can include library data in our submission to the *Copyright Act* Digital Agenda review), we do not want to discourage people from returning our survey after the closing date. If you do put in a later survey, we ask that you identify the amount of Australian content (as a percentage of your acquisitions), perhaps adding it in the final comment question. Thank you for your support, which as you can see, is greatly needed. ■

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## Outback Summit 2003

Earth, fire, water and spirit are the themes of the *Outback Summit* to be held in Broken Hill on 22–26 October 2003. The *Outback Summit* will bring together the Environment Institute of Australia and New Zealand, the National Environmental Law Association and the Regional Cultural Alliance in a conference focusing on charting a sustainable future for regional and rural environments and communities.

The Regional Cultural Alliance, an alliance of five national peak bodies that are committed to a common agenda for creative cultural communities in remote, rural and regional Australia, will be formally launched at the *Outback Summit*. The members of the Regional Cultural Alliance are: Australian Library and Information Association; Australian Council of National Trusts; Federation of Australian Historical Societies; Museums Australia; Regional Arts Australia.

The conference program and registration brochure for the *Outback Summit* are at <http://www.eianz.org>.

For more information about the Regional Cultural Alliance see <http://alia.org.au/governance/committees/external/rca/>. ■