

**NATIONAL POLICY MAKING:
ADVOCATING FOR FAIR COPYRIGHT LAWS**

International v. national policy making

Most national copyright laws are based on international copyright treaties. This means that when a state signs an international treaty, it commits itself to internationally binding obligations, as set out in the text of the treaty. The majority of countries, including developing countries, are probably bound by two main treaties:

- 162 countries have joined the Berne Conventionⁱ, the bedrock of international copyright law. Some countries, such as Norway joined as early as 1896 and others, such as the US, as recently as 1989;
- 149 countries have joined the World Trade Organization (WTO) which means that they are bound by the 1995 Agreement on Trade-Related Aspects of Intellectual Property Rights, known as TRIPSⁱⁱ. Three quarters of WTO members are developing or least-developed countries, the latter have an implementation deadline of July 2013.

Some countries have taken on extra responsibilities, in particular developing and transition countries. Of the sixty states that have joined the WIPO Copyright Treaty (WCT) since 2002, fifty-three are developing or transition countries. Some countries entering into bi-lateral trade agreements may also be required to join the WCT as part of the "package". (See Copyright and Trade Agreements).

Any new treaty obligation typically requires the state to amend their copyright law. This means that many countries, especially developing and transition countries, are in the process of amending their copyright laws. International treaties usually contain a degree of flexibility as to how the provisions should be implemented so that different national legal traditions are taken into account. Librarians must ensure that any flexibilities in copyright are availed of when the law is being implemented nationally.

Librarians as stakeholders

Copyright law regulates the ownership, control and distribution of information and knowledge goods. Libraries enable people to find, access and use information and knowledge. Copyright is therefore a major concern to libraries because it governs the core library business.

Copyright law directly affects library services providing access to learning resources, scientific and research information, critical to education and training in every country. Librarians and their representative organisations, are important stakeholders in any national debate and must be consulted when the law on copyright, related rights or enforcement is being discussed. This means that library representatives should maintain regular contact with government copyright officials and should be kept informed of any national developments. Librarians can submit position papers, attend hearings and put forward suggestions for amendments.

In particular, librarians should ensure that:

- exceptions and limitations are sufficient to meet the needs of a modern information service and learning environment;
- existing exceptions and limitations are extended to the digital environment and new exceptions appropriate for the new digital opportunities are introduced;
- the public domain is protected from encroachment;
- new rights on digital information are resisted;

- technological protection measures do not hinder libraries from availing of lawful exceptions or from preserving our global cultural heritage;
- contract terms in licences cannot override statutory copyright exceptions.

Librarians as advisors

Everyday librarians are managing information and responding to requests from students, academics and members of the public. Librarians work at the interface between information and technology, and have acquired a sound understanding of the realities and implications of the knowledge society. As well as copyright, they can provide practical advice to policy makers on related issues e.g. open access publishing, orphaned works and other issues arising from the changing information landscape.

Librarians as allies

Networking and co-operation is an integral part of a librarian's work. Forming strategic allies with other like-minded groups to achieve common goals is an aid to success. Examples of other sectors are academia and education, disability groups, consumers, digital civil liberties, free software advocates. There may be others, depending on the issue.

Support is also available from the international library community. The IFLA Committee on Copyright and other Legal Matters (CLM) has members from almost twenty countries. Members of the consortium, Electronic Information for Libraries, can avail of advice through its copyright programme. The national library association, or that of a neighbouring country, may have expertise to share.

Library position statements

IFLA Committee on Copyright and other Legal Matters (CLM)
<http://www.ifla.org/III/clm/copyr.htm>

Electronic Information for Libraries (eIFL.net) <http://www.eifl.net>

References

WIPO member states: contact information for national copyright offices
<http://www.wipo.int/members/en/>

ⁱBerne Convention (1886) <http://www.wipo.int/treaties/en/ip/berne/>

ⁱⁱ http://www.wto.org/english/tratop_e/trips_e/trips_e.htm