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WHY ARCHIVISTS NEED TO KNOW ABOUT COPYRIGHT

ARCHIVES: BRIDGING THE GAP

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Outline

1. Why do archivists need to know something about copyright?
2. What is copyright and how it works (nationally and internationally)
3. Importance of exceptions
4. Evaluating your copyright law
5. ICA at WIPO
6. Why must archivists know about copyright?

Abbreviations

IP = Intellectual Property (patents, copyright, trade marks, etc.)

IFLA = International Federation of Library Associations

ICOM = International Council of Museums

LAMs = libraries, archives, and museums

WIPO = World Intellectual Property Association

1. Why do archivists need to know about copyright?

Much of what archivists do involves copying, e.g.,

- Making copies for researchers or exhibitions
- Copying fragile documents to preserve them
- Migrating proprietary digital formats to open-source formats
- Digitizing documents to make them available online

Making copies is subject to national copyright law.

Your copying might infringe copyright.

Therefore, archivists must know something about copyright to fulfil their mission without infringing copyright.

2. What is copyright?

Copyright is the exclusive legal right to copy a work (e.g., a book, letter, article, diary, photo, map, video, etc.), and includes rights to publish, perform, distribute, post on the Internet, and adapt or modify a work.

What is copyright? (con't)

- Copyright law is the means by which creators of works control the use of their works and are rewarded for their creative efforts.
- However, the law also limits the rights of copyright owners in certain situations by providing access to works for the benefit of society as a whole.

Copyright is a Balancing Act



http://1.bp.blogspot.com/_mqQDH9k2WJk/TH8g26bAdTI/AAAAAAAAA68/f0UtsdQLc3w/s1600/Chair-Bicycle+pyramid.jpg

A National Regime

Copyright is also a national regime, i.e., each country has its own copyright law, which does not apply beyond the borders of that country

One country's copyright law often differs from the copyright laws of its neighbours.

International Copyright

So what happens when works cross borders?

There is no international copyright law.

Addressed through international agreements such as treaties and trade agreements.

How Copyright Works – An Overview

AUTHORS create **WORKS**

PERFORMERS/ MAKERS/ BROADCASTERS produce
PERFORMANCES/SOUND RECORDINGS/BROADCASTS

in which they hold certain **RIGHTS**

for a specified **TERM**

EXCEPTIONS permit certain uses without authorization or
payment

INFRINGEMENT incurs **PENALTIES**

3. Importance of Exceptions

Archivists Need Exceptions!

- Archives must make copies to preserve their collections and serve their users.
- But making copies without the permission of the copyright owner likely infringes copyright (unless the copyright has expired).
- Archives depend on exceptions if they are to avoid copyright infringement.

Exceptions

- Many countries include specific copyright exceptions for libraries and archives, although archives may not always be explicitly mentioned.
- Prof. Kenneth Crews' [Study on Copyright Limitations and Exceptions for Libraries and Archives \(2017\)](#) sets out the exceptions for libraries and archives in the copyright laws of WIPO's Member States.

4. Evaluating your copyright law

- [Copyright Exceptions for Archives: A Checklist](#)
- The [Crews study](#) provides model wording for key provisions, particularly for countries with recently updated copyright laws (e.g. Australia, Germany, and Portugal).
- Countries that have amended their laws since 2017 (e.g., Singapore) may provide useful guidance in addressing current issues.

5. ICA at WIPO

- World Intellectual Property Organization (WIPO)
 - UN agency where treaties are negotiated and administered
- Standing Committee on Copyright and Related Rights
 - 193 Member States
 - ~ 250 Observers (incl. ICA, IFLA, ICOM)

Exceptions for LAMs

- Separate agenda item since Nov. 2011
- Preservation has emerged as a priority, i.e., copying for preservation and sharing copies across borders
- LAMs Coalition has drafted text of a Preservation Treaty
- Preservation Toolkit (in process)

Advocacy is needed nationally and internationally

- Start with the national IP office. See WIPO's [Directory of Intellectual Property Offices](#)
- The archival community must ensure that the national IP offices are equally aware of the need for copyright exceptions for archives and their allied institutions.
- Lobbying will be more effective working in collaboration with libraries and museums.

Advocacy is needed nationally and internationally

- The National Archives of each country has a clear interest in better copyright laws, but may be prohibited from lobbying the government sponsor.
- The advocacy work may have to be undertaken by the professional archival associations.

Advocacy is needed nationally and internationally

- Without robust exceptions in national copyright laws, archivists lack the means to make legal copies to preserve their collections and make them available for research.
- Advocacy is needed at the national and international levels.
- Before archivists can advocate, they must be familiar with their national copyright law.

Why do archivists need to know about copyright?

1. Making copies is part of our daily professional practice. Our copies must be compliant with copyright law.
2. We must advocate for better copyright laws

Each requires a working knowledge of copyright law.

Thank you!

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