

# Copyright in Nonbook Materials

For more than ten years, the Audiovisual Services Committee of the LAA has been advocating amendments to the Copyright Act as it affects the ability of libraries to fulfil their responsibilities in satisfying the nonbook information needs of users promptly and with reasonable convenience.

Motion pictures, video recordings and sound recordings form an integral part of the total network of information sources which libraries need to make available to the community. Existing provisions of the Copyright Act severely restrict libraries in their attempts to make nonbook items available to users for study and research. Libraries in turn hamper users who need to make use of items for legitimate purposes.

While there have been improvements in the Copyright Act in relation to some nonbook materials such as slides, photographs, maps and transparencies, restrictions placed on 'audiovisual items', named in Section 100A of the Act, ie sound recordings, cinematograph films, sound broadcasts and television broadcasts, hinder reasonable use of these materials.

In late 1987 the Audiovisual Services Committee made a submission to the Commonwealth Attorney-General's Department recommending further amendments, particularly relating to 'audiovisual items'.

## Fair dealing

Fair dealing with audiovisual items is a necessary and normal practice. However, Sections 103A and 103B permit fair dealing only for the purpose of criticism, review or reporting news. Persons engaged in research or study may often require a part of an audiovisual item for intensive analysis or for inclusion in a presentation (which often itself takes the form of an audiovisual item, reporting the results of study or research).

The Copyright Act should be amended to permit fair dealing with audiovisual items for the purpose of research or study, providing appropriate recognition of the source is given where portions are used in another item prepared as a result of the research or study.

Lending materials to users is an essential function and it is important that the Act makes it clear that the lending of audiovisual items by libraries to their users is not contrary to the Act.

## Public performances, copying

The Copyright Act should allow a user to listen to a sound recording or view and listen to a film or video recording owned by a library within the library. Such an activity should not be considered a public performance. Libraries should also be permitted to transmit sound or video recordings within the library to individual users or groups of users.

To meet the research and study needs of users, provision should be made in the Copyright Act for libraries to be able to make copies of whole audiovisual or portions of items under conditions which do not reasonably diminish the rights of copyright owners.

To ensure that an audiovisual item owned by a library may be preserved in its original condition and thus be available for use virtually indefinitely, a library should be permitted to make a back-up copy of an item in its collection. Section 43A of the Act already provides for making a back-up copy of a computer program. Similar provisions for audiovisual items are required.

A library should be permitted to make a copy of the whole or more than reasonable part of an item for supply on interlibrary loan to a requesting library. This would be subject to a declaration being made by the requesting library that reasonable investigation had been made and that an unused copy of the work could not be obtained within reasonable time at an ordinary commercial price, and that the copy supplied would either be retained for use by the requesting library or destroyed.

## Broadcasts

Broadcasts are the source of much valuable information. At present, libraries are severely limited in their ability to record broadcasts. The transitory nature of broadcasts limits their usefulness in providing information unless recordings can be made. The Committee has recommended to the Attorney-General's Department that if the statutory licensing scheme relating to recording broadcasts is introduced — at present it is proposed for educational institutions — it should be extended to include libraries. Libraries would

then be able to record broadcasts which were considered valuable for the information needs of their clientele while at the same time remunerating copyright owners.

A problem which often confronts libraries is the incompatible or obsolete nature of some media formats. Modern technology has provided libraries with the means of changing an unusable format to a usable format, but this is not provided for in the Copyright Act. The Audiovisual Services Committee has recommended that a library should be permitted to transfer audiovisual items in its collection from an unusable format to a usable one.

In making its recommendations to the Commonwealth Attorney-General's Department, the Audiovisual Services Committee has sought changes to the Copyright Act which will assist libraries to meet the reasonable needs of library users while protecting the reasonable interests of copyright owners.

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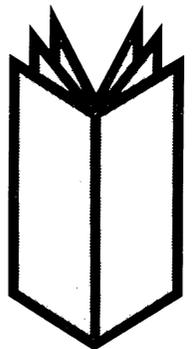
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