Copyright — more than meets the eye

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As the digital environment in which our libraries now function has taken shape, so has the level of concern about legal and regulatory issues associated with the use of digital material. This level of concern is encompassed by debates on copyright, and the issue of copyright law reform.

This is of course not a new issue for libraries. In their role of bringing together the creators of content — authors and publishers — and the users of that content — readers — libraries are bound to be caught in whatever contention arises in the economic balance between the interests of producers and consumers. This was dramatically illustrated a generation ago, when Frank Moorhouse copied a larger than permissible amount of his own work in publicly accessible facilities available at the University of New South Wales and then took legal action.

Copyright is about the protection of forms of expression. For authors and publishers, as long as those forms of expression were reasonably controlled — the method of their production was confined to techniques and inputs which were unlikely to be easily duplicated — there was not a significant issue. But authors and publishers have long seen the advent of photocopying as a major subversion of their protection. During the last fifteen years, the advent of other pervasive technologies for copying (videotape and magnetic disk) has greatly complicated the scene. Naturally owners and producers have been pushing to see that forms of copying which are available in electronic environments can be controlled by regulation and law.

While libraries and those who work in them understand this view, and indeed are often sympathetic to it, they are equally concerned that any legal and regulatory changes are at best logical and enforceable, and at worst not so absurdly drafted as to make the ordinary business of providing service to users impossible to conduct. We have only to remind ourselves of the widespread misconceptions when the 1981 regulations which reformed the *Copyright act* in respect of a number of areas of library operation were introduced.

There are two essential themes in the debate about copying in the digital environment. The first is to understand what the scope of that digital environment is, in particular the extent to which it *is* different from previous environments. The second is to comprehend the rapidly changing possibilities of technology, which in turn offer prospects for control and regulation hitherto regarded as impossible.

The digital environment

The problem with contrasting the notion of the digital environment with that of 'the world of text', or 'the book' is that conceptually they are not directly comparable. For text is but a subset of the range of media that can be brought to the reader, viewer or listener by the digital environment. New services and possibilities capable of delivery on the Internet are announced every day. The digital environment can not only include image and sound as well as text, but also services not previously thought of as deliverable. Examples include volatile information such as geographic information systems, and interactive media that may not have meaning without that interactivity. Those whose unenviable task it is to consider the regulation of the digital environment need to be aware of all forms of 'information' deliverable in such an environment.

Keeping tabs

In the general despair that many producers have felt as they watch the development of the Internet, particularly in terms of the extraordinary ease with which multiple and instantaneous reproduction of material can be facilitated, a new prospect has emerged, that of monitoring copying. One can readily see why this offers such attractions to those whose world is otherwise spinning out of control. But apart from those reactions which might be summed up as concerns with privacy and civil liberty, the other issue emerging for libraries and their administrators is the clear evidence that the act of copying itself, is no longer the only issue. For, in the same way that the digital environment itself is simply a form of expression for other forms of expression, so too do the boundaries between an act of copying and an act of doing or listening become less clear.

It is the contention generated by these merging boundaries that comprises some of the greatest complexity and difficulty with which libraries must grapple in coming to terms with the regulation of copying activity in the digital environment. One example of these diminishing boundaries, is the threat to library activity inherent in the recently aired concept of the broad 'right of transmission'. Vigilance and resources are needed to ensure fair and equitable outcomes for the users of library services in Australia. The cross-sectoral work represented by the efforts of ACLIS and the Libraries Copyright Committee must be sustained to support such outcomes. ∎