# Directline

## Content regulation and copyright

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This issue of *inCite* provides a directory of individuals and services which might assist to our members in the coming year. It also seeks to highlight some of the key issues of concern to the library community in the current political and technological environment. What follows are extracts from a speech I gave at the recent national conference of the Institute of Public Administration Australia which cover two of the important matters with which we are currently dealing. Content regulation and copyright have emerged as complex and emotive issues in the digital context. There is little doubt that they will continue to be the focus of our attention during 1998 and the years beyond.

### Regulation of online content

Sometimes we could be forgiven for believing that the only resources available on the Net relate to bomb making and pornography. In response to lobby groups seeking bans on certain classes of information an attempt was made in the United States to regulate access through what is popularly called the *Communications Decency Act*. In June this year the United States Supreme Court declared the *Act* unconstitutional because it violated First Amendment freedom of speech rights. Subsequently, Family Friendly Libraries and other similar organisations in the United States of America have lobbied for other methods to restrict Internet access in public libraries.

The Singapore government is attempting to filter every packet of information transmitted along its two cables to the Internet, but Singaporeans can bring in banned content via ordinary phone connections to outside Internet service providers. [Censorship cannot stop material getting on Net, *The Australian*, 14 August 1997]. The Sri Lankan government has a similar problem with a proliferation of sex-tour advertisements attracting paedophiles [reported ABC News 20 October 1997].

Our Association adopts the position that the user or, if a minor, the user's parents or guardians must be responsible for the information that is accessed in a library. Where possible libraries will assist this process.

Filtering devices are already available to help regulate access to information where it is necessary. These involve keyword blocking, host or site blocking and protocol blocking. As these become more sophisticated they will be more successful but some experimentation with some devices has produced interesting results: keyword blocking eliminated information on breast cancer and the county of Essex; host blocking resulted in the filtering out of whole sites dealing with environmental concerns and with women's issues, including the National Organization for Women (NOW) site;

and protocol filtering blocked entire domains such as FTP, a protocol that could theoretically enable access to blocked sites.

The American Library Association rightly asserts that censorship of online material is no different in principle from other forms of censorship. It has launched a parent education campaign about the Internet which encourages parents to help their children be 'Webwise'. The *Librarian's guide to cyberspace for parents and kids* has been made available on a toll-free number in the United States of America and is also available on its website (www.ala.org/parentspage/greatsites). [Internet censorship: free speech victory fires filtering row, *Library Association record*, August 1997, v. 99 (8): 408] However filtering programs such as CyberPatrol and NetNanny have been introduced into at least 130 libraries.

ALIA, like its North American counterpart, has a proud history of supporting freedom to read. In protecting minors, it is important not to block adults' access to legitimate information. The Minister for Communications and the Attorney-General have instructed the Australian Broadcasting Authority to develop with Internet service providers new codes of practice for online content regulation. These codes will cover procedures to enable parental supervision of minors and our Association is participating in this development.

### Copyright

In Ireland, in the sixth century, Saint Columba copied a Psalter. The arbiter required that the copied article be given up with the remonstrance that 'as the calf belongs to the cow, so the copy belongs to the book' [Okerson A, *Whose article is it anyway? Copyright and intellectual property issues for researchers in the 90s*, Notices of the AMS, January 1996]. The legal complexities of copyright laws of today are a far cry from this simple expression of ownership. Essentially these laws seek to establish a balance between the rights of the creators of information to receive fair recompense for the use of their works and the public interest in maintaining fair access to copyright works for the purposes of research and study.

There is a general acceptance that this regime is satisfactory to all parties in the hardcopy medium. However, it is little wonder that copyright reform bodies are grappling with the problem of applying existing laws to the new digital media. Technically speaking the copyright law is a nonsense when applied to material which is copyright protected on the Internet. The very process of downloading such material to the computer screen may represent a breach. Even more absurd is the circumstance which occurs when a librarian transmits a facsimile of a part of a copyright protected

work to a remote user. While the librarian may be acting legitimately in copying the work for the user under fair dealing provisions, the act of facsimile transmission creates a second and thus illegitimate copy.

As we enter the world of digital communications the attempts to suit current legislation to the new environment are floundering. The inimitable and verbally flamboyant John Perry Barlow, founder and chairman of the Electronic Frontier Foundation (but better known to many of us as a lyricist for the Grateful Dead), says 'we are sailing into the future on a sinking ship. This vessel, the accumulated canon of copyright and patent law, was developed to convey forms and methods of expression entirely different from the vaporous cargo it is now being asked to carry. It is leaking as much from within as from without'. [Barlow, John Perry, The economy of ideas, *Wired*, March 1994, http://wwww.wired.com/wired/2.03/features/economy.ideas.html — complete with online copyright notice!].

It is unrealistic to expect that all information on the Internet will be in the public domain so solutions must be found to ensure that the basic principle of remunerating content creators for their intellectual property is supported. The growth in electronic commerce will assist in the provision of technical solutions for this very different problem and they are already beginning to emerge. New encryption technologies can give copyright holders and information providers unprecedented control over what happens to their information. There are problems with these technologies but they have already demonstrated a capacity to serve as a device to ensure that access to information is paid for. The library and information profession is fighting for the maintenance of the right of fair dealing in cyberspace. How that might be achieved technically is yet to be demonstrated. However what is required is a public policy position that supports the right of fair dealing in the digital environment. To fail to do this raises serious equity concerns for those unable to pay for information and undermines the basic human rights of free access to information. If we can browse in a bookstore or library we must be able to browse in cyberspace. It is in the public interest for copyright of digital information to recognise the same social goods as the copyright of other material. ∎

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