RESOLUTION ON FAIR USE STATEMENT

WHEREAS, The statement, "Fair Use in the Electronic Age: Serving the Public Interest," is an outgrowth of discussions among a number of library associations regarding intellectual property, and in particular, the concern that the interests and rights of copyright owners and users remain balanced in the digital environment; and

WHEREAS, The purpose of the statement is to outline the lawful uses of copyrighted works by individuals, libraries, and educational institutions in the electronic environment; and

WHEREAS, The statement is intended to inform ongoing copyright discussions and serve as a reference document for users and libraries, to be circulated widely, to spark discussion on these issues, and to provide feedback to the library associations; and

WHEREAS, The statement will, for these reasons, continue to be a work in progress; now, therefore, be it

RESOLVED, That the American Library Association support in principle the working document, "Fair Use in the Electronic Age: Serving the Public Interest."

ATTACHMENT

Adopted by the Council of the American Library Association
Philadelphia, Pennsylvania
February 8, 1995
(Council Document 20.10)
The primary objective of copyright is not to reward the labor of authors, but "[t]o promote the Progress of Science and useful Arts." To this end, copyright assures authors the right to their original expression, but encourages others to build freely upon the ideas and information conveyed by a work... This result is neither unfair nor unfortunate. It is the means by which copyright advances the progress of science and art. —Justice Sandra Day O'Connor


The genius of United States copyright law is that, in conformance with its constitutional foundation, it balances the intellectual property interests of authors, publishers and copyright owners with society's need for the free exchange of ideas. Taken together, fair use and other public rights to utilize copyrighted works, as confirmed in the Copyright Act of 1976, constitute indispensable legal doctrines for promoting the dissemination of knowledge, while ensuring authors, publishers and copyright owners appropriate protection of their creative works and economic investments.

The fair use provision of the Copyright Act allows reproduction and other uses of copyrighted works under certain conditions for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship or research. Additional provisions of the law allow uses specifically permitted by Congress to further educational and library activities. The preservation and continuation of these balanced rights in an electronic environment as well as in traditional formats are essential to the free flow of information and to the development of an information infrastructure that serves the public interest.

It follows that the benefits of the new technologies should flow to the public as well as to copyright proprietors. As more information becomes available only in electronic formats, the public's legitimate right to use copyrighted material must be protected. In order for copyright to truly serve its purpose of "promoting progress," the public's right of fair use must continue in the electronic era, and these lawful uses of copyrighted works must be allowed without individual transaction fees.

Without infringing copyright, the public has a right to expect:

- to read, listen to, or view publicly marketed copyrighted material privately, on site or remotely;
- to browse through publicly marketed copyrighted material;
- to experiment with variations of copyrighted material for fair use purposes, while preserving the integrity of the original;
- to make or have made for them a first generation copy for personal use of an article or other small part of a publicly marketed copyrighted work or a work in a library's collection for such purpose as study, scholarship, or research; and
- to make transitory copies if ephemeral or incidental to a lawful use and if retained only temporarily.

Without infringing copyright, nonprofit libraries and other Section 108 libraries, on behalf of their clientele, should be able:

- to use electronic technologies to preserve copyrighted materials in their collections;
- to provide copyrighted materials as part of electronic reserve room service;
- to provide copyrighted materials as part of electronic interlibrary loan service; and
- to avoid liability, after posting appropriate copyright notices, for the unsupervised actions of their users.

Users, libraries, and educational institutions have a right to expect:

- that the terms of licenses will not restrict fair use or other lawful library or educational uses;
- that U.S. government works and other public domain materials will be readily available without restrictions and at a government price not exceeding the marginal cost of dissemination; and
- that rights of use for nonprofit education apply in face-to-face teaching and in transmittal or broadcast to remote locations where educational institutions of the future must increasingly reach their students.

Carefully constructed copyright guidelines and practices have emerged for the print environment to ensure that there is a balance between the rights of users and those of authors, publishers, and copyright owners. New understandings, developed by all stakeholders, will help to ensure that this balance is retained in a rapidly changing electronic environment. This working statement addresses lawful uses of copyrighted works in both the print and electronic environments.

January 18, 1995

[This statement was developed by representatives of the American Association of Law Libraries, American Library Association, Association of Academic Health Sciences Library Directors, Association of Research Libraries, Medical Library Association, and Special Libraries Association.]