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Special Copyright Issue of the AIA Washington Newsletter

Copyright - First Five-Year Review

On January 1, 1983, the Register of Copyrights must report to Congress assessing how effectively the rights of creators and the needs of users are balanced under the library reproduction provisions of the copyright law. This report is required by sec. 108(i) of the Copyright Act of 1976 (PL 94-553) to be undertaken at five-year intervals, hence the names "five-year review" or "108(i) report" by which it is sometimes known.

Whatever it is called, this upcoming review is important. NOW is the time to be thinking about what facts and figures can be marshalled to show whether (and if so, how) the copyright law is affecting library service to the public. The purpose of this special issue of the newsletter is to bring you up-to-date on preliminary steps that have been taken and some suggestions that have been made for making the five-year review productive.

1. Copyright Office

The Register of Copyrights and her staff, including Ivan Bender (formerly of Encyclopedia Britannica) who joined the Copyright Office as a consultant earlier this year in order to work on the five-year review, have now met separately with copyright proprietors and library associations to discuss the review. The first such meeting with library groups was held August 11 at the Copyright Office, with Nancy Marshall, chair of ALA's Copyright Subcommittee, and Washington Office director Eileen Cooke, representing ALA. Other groups attending were American Association of Law Libraries, Association of Research Libraries, Medical Library Association, Music Library Association, and Special Libraries Association. Results of the meeting were inconclusive. The Copyright Office had met with publisher/author groups two days earlier in New York. Additional communications between the Copyright Office and the interested parties will occur in the months ahead.

2. CONTU

The National Commission on New Technological Uses of Copyrighted Works (CONTU) has recently issued recommendations for the five-year review as well as suggestions about the kinds of things CONTU members believe libraries and publishers should be doing to help bring about the intended statutory balance between the rights of creators and the needs of users. These recommendations are included in the Final Report of the National Commission on New Technological Uses of Copyrighted Works, dated July 31, 1978, and available now from CONTU, Washington, D.C. 20558. The report will also be available later through GPO.

While the text of the CONTU report is not altogether free of controversy or ambiguity, it does make a number of interesting suggestions, some of which are summarized below. We must emphasize, however, that space limitations do not allow us to do justice to this report which should be in every library collection on copyright. Its treatment of the interrelated economics of publishing and libraries and the impact of copying fees is worth careful pondering.

Among CONTU recommendations are the following addressed to the Register of Copyrights for the five-year review:

- The five-year review should focus on library photocopying and on photocopying performed by for-profit organizations and by individuals, either on publicly available coin-operated machines or through commercial copying services. The Register should examine how the educational and music guidelines have worked out in practice.
- The Register should work with the National Center for Educational Statistics (NCES) to collect data on library photocopying in 1980 and 1981, just as CONTU arranged with NCES for collection of photocopying data for the years 1978-79.
- The Register should obtain and publish data for 1978-1981 on the operations of organizations such as the Copyright Clearance Center, National Technical Information Service, University Microfilms International, and Institute for Scientific Information, which license or supply authorized photocopies of copyrighted works.
- Recent studies completed for CONTU on library photocopying and on the economics of libraries and scholarly journals should be updated and refined to measure the impact of the law's photocopying provisions on libraries and journal publishing.
- The Register should carefully follow the evolution of plans for the establishment of non-profit periodicals copying centers, such as the National Periodicals Center proposed by NCLIS. (In this context, CONTU states its opinion that such centers probably would not be entitled to the library reproduction rights provided in sec. 108 of the copyright act because they would not seem to be "libraries" within the meaning of the statute even though "libraries" are nowhere defined in the statute.)
- Research should determine whether the imposition of copying fees contributes to the viability of individual journal titles, and to the health of the publishing industry overall.

3. ALA

ALA's Copyright Subcommittee has been considering the five-year review in recent months and will continue to do so. A number of the Association's recommendations for this review have already been sent to the Register of Copyrights in the form of a resolution passed by the ALA Council in June. (See July 14, 1978, newsletter for text of resolution.) Among other things, ALA has offered to assist the Register in collecting the data needed for the review.

Copyright, Media, and the School Librarian

The enclosed guide to multimedia copying in schools, "Copyright, Media, and the School Librarian," was prepared by an ad hoc committee of the American Association of School Librarians working closely with the ALA Washington Office. The guide suggests approaches to typical situations encountered by school librarians. The new law did not settle all media copying questions, and clarifications will undoubtedly emerge. If you have further questions or copyright problems, let us know.

The guide was published in the Spring 1978 issue of School Media Quarterly, and reprints are available for \$2 each from American Association of School Librarians, 50 East Huron Street, Chicago, IL 60611. ALA members ordering in quantity receive the following discount: 10-50 copies, 10% off; 51-250 copies, 20% off; 251-1000 copies, 30% off; 1001-5000 copies, 40% off; 5001 up, 50% off. All orders under \$5 must be prepaid.

Enclosure