

But Are They Grateful? Educating Online Users About Copyright

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This paper reports on the findings of a two-part research study that investigated the ways in which American archives attempt to educate their online users about copyright, and users' reaction to the copyright information provided. While archivists believe that educating users about copyright is their duty, actual practice ranges widely. The findings of the user study suggest that archives' efforts to educate their users about copyright may not have been fully effective. The overall findings suggest that repositories must critically examine their copyright education efforts to ensure that they better reflect their own needs and those of their users.

Introduction

Libraries have traditionally seen it as their role to educate users about copyright, particularly users' responsibilities relating to copyright compliance. However, copyright is a very complex matter, and it is difficult to convey its intricacies in a clear and concise way. This paper reports on the findings of a two-part research study¹ that investigated the ways in which American archives attempt to educate their online users about copyright as it applies to digitized archival holdings, and users' reaction to the copyright information provided.

Although copyright education can be broadly understood to include such issues as providing rights information (e.g., identifying the copyright owner or indicating that the copyright has expired) and explaining institutional terms and conditions of use, for the purposes of this paper, "copyright education" is defined as efforts to acquaint users with the relevant provisions of copyright law and their copyright responsibilities when using online sources for purposes other than personal research.

This article reports first on an investigation of repository practices in providing copyright education, followed by the findings of an exploration of users' reactions to information intended to educate them about copyright. The study addressed the following research questions:

- What copyright education information do archival institutions provide online and why?
- What do users of online archival holdings want to know about copyright and why?

Literature Review

While some studies have looked at libraries' efforts to educate their users about copyright, few have investigated the copyright issues particular to archives. Tony Horvára's investigation of the policies and strategies used by Canadian universities to educate the campus community regarding copyright revealed a wide range of practice.² Alexandros Koulouris and Sarantos Kapidakis, and Melanie Schlosser examined copyright statements for digital collections; in both studies, the authors found great diversity in the copyright infor-

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mation provided to users.³ Jean Dryden investigated the copyright information that Canadian archives provided online for users of their digital collections. She found that only 11% of the repositories in the study provided users with information about their copyright responsibilities.⁴ A study of the employment of fair use in academic and research libraries revealed that librarians often assume the task of educating users about copyright, even though their own understanding of copyright may be somewhat shaky.⁵

While there are a number of studies of the behavior of users of online content, particularly in relation to the downloading of music,⁶ studies of the extent to which researchers deal with copyright issues in their uses of archival material are sparse. The available studies of information-seeking behavior of archives users generally do not address their actual uses of primary sources and related copyright issues. Dryden, in an investigation of how users of archival holdings deal with the copyright-like restrictions that archives place on further uses of their holdings, found that users are not necessarily keen to engage with copyright in the ways that archivists think they should.⁷

Method

The present study employed four different sources of data (website content, a survey, and two sets of interviews) to address the research questions. For the investigation of repository practices, the study population was a purposive sample of ninety-six repositories drawn from some 500 institutional members of the Society of American Archivists (SAA). Data about copyright information for users were found in three sources: a sample of the content of the ninety-six repository websites, a mail survey sent to the ninety-six repositories, and eighteen telephone interviews with archivists from those repositories.

For the purposes of this paper, the website content that was of interest obviously included information clearly identified as copyright basics, copyright FAQs (Frequently Asked Questions), and the like. However, relevant data were also found in the policies and procedures for ordering copies, and in the rights metadata that accompanies images. Given the wide variations in size, organization, and structure of the ninety-six websites, it was possible to examine only a sample of the digital resources, so what is reported here is not an exhaustive review of all the digital content of these websites.

Responses to a mail survey sent to the ninety-six repositories in October 2010 constituted the second source of data. Of the ninety-six surveys sent, sixty-six were returned, a response rate of 69%. The survey was also used to recruit interviewees; the final question asked respondents to indicate if they were willing to participate in an interview. Telephone interviews with eighteen archivists were conducted between January and March 2011 to explore in more detail the copyright practices of their particular repositories. The interviews lasted between forty and sixty minutes each, and followed a semistructured script of open-ended questions. The interviews were recorded and later transcribed and verified.

The research population for the user study comprised seventeen genealogists and historians who use the holdings (both online and onsite) of archival institutions as the raw material for their research, and who have reproduced archival documents in the products of their research. Historians and genealogists were chosen because they are experienced users of archival materials. They were recruited through flyers distributed electronically on the genealogy and H-Net listservs, and posted in history departments at universities and in the reading rooms of selected archival institutions in the Washington, DC, area. Telephone interviews with nine genealogists and eight historians were conducted between May and October 2010. The interviews lasted between twenty and forty minutes each, and followed a semistructured script of eleven open-ended questions. The interviews were recorded and later transcribed and verified. For reporting purposes, each interviewee was assigned a category code (A for archivists, G for genealogists, and H for historians) and a number (e.g., A18, G2, H5).

Findings

As noted, this paper reports on the findings of a two-part research study. The first part of the paper describes repository practices when it comes to copyright education of their users. The second part discusses the findings of the user study, which explored users' views on archives' measures to education them about copyright matters.

Repository Practices

The survey sent to archival repositories asked respondents to state their level of agreement with a series of statements on a five-point Likert scale ranging from

Strongly Agree to Neutral to Strongly Disagree. In response to the statement “It is our professional duty to educate our patrons about copyright,” 82% of participants indicated that they agreed or strongly agreed. Only 6% disagreed, and 12% were neutral. Based on this response, one might expect to find extensive “educational” copyright information on the websites in question. However, further exploration of this issue in other data sources revealed a more nuanced view.

The survey included a multiple choice question: “What guidance, if any, does your repository provide to visitors to your website regarding copyright?” Respondents were asked to check all that apply. The responses are presented in Table 1.

| Type of Guidance | Number of Institutions | Percentage |
|---|------------------------|------------|
| Terms and conditions on further uses of archival holdings | 34 | 53% |
| Rights metadata about individual documents (e.g., whether copyright has expired, name of copyright owner, etc.) | 25 | 39% |
| Information about copyright law | 21 | 33% |
| E-mail link specifically for copyright inquiries | 14 | 22% |
| Link to information about copyright law (e.g., to the statute, copyright FAQs, and the like) | 14 | 22% |
| Other ¹³ | 12 | 19% |
| None | 7 | 11% |

The shaded rows are of particular interest in terms of copyright education.⁸ Compared with the high level of agreement with the statement about educating patrons, one might have expected higher numbers for copyright information or links thereto.

The websites themselves provided another source of data. Not surprisingly, the websites of the ninety-six institutions (and the 1,554 digital resources sampled)⁹ represent a wide range of practice, and it was not easy to define precisely what constituted information in-

tended to educate users about copyright. Content such as FAQs about copyright or links to the copyright statute or other useful websites are clearly intended to provide users with information about copyright to assist them in fulfilling their responsibility for compliance with the law. However, the websites also contain copyright warnings, disclaimers, and repositories’ terms and conditions governing further uses of digital content. Such information is often provided in association with reproduction order forms or policies on copying for users, and is intended to convey the repository’s conditions for reuse of its digital images and, in many cases, to limit its liability for claims of copyright infringement.

After a careful examination and analysis of the institutions’ website content, it was decided that the copyright education information could be divided into two mutually exclusive categories based on the presentation of the information. Thirty-eight institutions (40%) fall into the first (“educational”) category: their copyright information is provided separately from the digital resources themselves, with the express purpose of informing website visitors about copyright law and individual responsibility regarding the use of copyrighted materials. Thirty-two institutions (33%) are in the second (“institutional”) category: their copyright information is part of the presentation of online material or part of a repository’s terms and conditions for further use. Twenty-six institutions (27%) provide no such information at all.

The thirty-eight repositories in the “educational” category dedicate a section of their website to copyright, links to external sources of copyright information, or some combination of the two. The copyright section of the site is separate from the digital content and policy pages, and might include such things as FAQs about copyright and further use of copyrighted material, and explanations of how copyright law applies in certain situations. In many cases, such copyright pages have been developed in-house (often by the university library).¹⁰ External links include the US copyright statute, the US Copyright Office (in the case of fifteen of the repositories), and university websites known to have reliable copyright information (for example, the University of Texas’s “crash course” in copyright, Cornell University’s copyright term chart, and the like). Other sites link to the copyright pages of professional associations such as the American Library Association or the Association of Research

Libraries. Of the thirty-eight repositories in this category, eleven provide links to in-house copyright information; twenty-one provide links to up to three external sites, and seven provide links to at least five (and as many as fifteen) external sites.

The thirty-two repositories in the “institutional” category provide copyright information to advise potential users of online archival materials what they can and cannot do with it, but such information is also presented by the institution to protect itself against potential claims arising from misuse or third parties. Generally, this type of presentation is accompanied by certain disclaimers and a statement warning that the user is responsible for compliance with copyright law and for securing usage rights from third parties. Furthermore, the expectation that the user is responsible for compliance suggests that it is up to the user to sort out the copyright issues; the institution itself is providing only basic copyright information, such as an explanation of fair use, or a straightforward notification that copyright law is applicable. These notices or warnings are often incorporated into a form used for requesting copies of archival material.

For the most part, the copyright information is relatively easy to find. For sites with dedicated “educational” copyright information pages, there is usually an easy-to-find direct link having the word “copyright” in the title. Table 2 indicates the number of mouse clicks required to reach “educational” copyright information on those sites. The majority require three or fewer clicks.

| Number of Mouse Clicks | Number of Institutions |
|-------------------------------|-------------------------------|
| 1 | 9 |
| 2 | 8 |
| 3 | 10 |
| 4 | 9 |
| 5 | 1 |
| 6 | 1 |

For sites without direct links, the information is usually highly visible in the form of copyright warning notices, and disclaimers incorporated into forms or information pages related to reproduction of images.

The question of educating users about copyright was further explored in the interviews. Interviewees were asked about their role (if any) in educating users about copyright. Of the fourteen interviewees who provided a response, eight (57%) felt that they did have some responsibility to educate their users about copyright; however, six (43%) expressed the opinion that it was not their role to educate their users about copyright, owing to lack of resources, the challenge of keeping up-to-date (as A3 said, “I don’t want to write something because I’m afraid it’s going to become outdated. And I don’t want to be responsible for disseminating inaccurate material”), or because they think “it’s a slippery slope to start giving legal advice” (A11). Others who said they feel it is not their responsibility to educate their users about copyright nonetheless provide some copyright information because they place responsibility for figuring out the copyright issues on the users. As A4 said, “we certainly don’t see it as our job to educate users about copyright particularly... [but] we try to put prominently on everything we build a very short permissions and copyright notice that basically explains what they can do and what they can’t do without asking.”

Interviewees who felt that they *have* a role in educating users about copyright do so in a range of ways. Three of them currently offer a lot of copyright education onsite as part of reference interviews, but they are planning to provide more copyright education online, specifically as it pertains to their digital collections. Participant A5 reported that staff at her institution are revising its copyright education content because they think it is “overly cumbersome.” Some participants are available as a resource or to respond to specific questions from researchers. Two interviewees noted that copyright education extended beyond users: A12 commented that it was just as important to educate staff, and A10 felt strongly that it was part of the archivist’s job to explain copyright to donors as well as researchers.

For eighteen of the repositories, there are data from three different sources: the websites, the survey, and the interviews. Comparison of findings from multiple sources is an important means of verifying the validity of the findings. In this study, the findings are reasonably consistent across all sources of data. For nine (half) of the interviewees, interview data are entirely consistent with the website data and the survey responses regarding the extent to which it is

the archivist's duty to educate users about copyright. Furthermore, although online copyright information has been categorized as educational or institutional, it is clear that the study participants do not necessarily make this distinction. The data from four other repositories are also entirely consistent if "institutional" copyright information is considered "educational." Thus thirteen repositories (72% of those for which there are data from multiple sources) are consistent in their views and actions. However, inconsistencies appear in the other five cases. In three of those cases, the survey and interview data are inconsistent in that these repositories do not see a role in educating users about copyright, nor do they provide copyright information on their websites, yet survey respondents agreed with the statement that it is the archivist's professional duty to educate users about copyright. In the two remaining cases, the website and interview data are consistent, but the survey is not: A3 thinks that institutions should educate users about copyright, but there is no such educational information on her website; and A11 thinks it is not the institution's job to educate users, but the website in question does contain extensive copyright information. The latter explained the seeming discrepancy this way: "The only thing we've done is we've put up a guide to copyright resources on our website. We give people a prominent link to it and ask them to use it to answer any questions they might have. But we don't really take a proactive role, and I think generally we don't feel that that's necessarily part of our mission."

Possible explanations exist for these seeming inconsistencies. In cases where an institution thinks that it should educate users but does not, it may be that the institution lacks the resources or expertise to develop online copyright education content at this time. In other cases, the archives is part of a larger institution, and while the archives' staff may not think it is their role to educate users about copyright, the archives must display the copyright content of its parent institution.

User Study

The second part of the study discusses findings about the copying practices of users of archival holdings, both online and onsite. The detailed findings of the study are reported elsewhere;¹¹ however, for the purposes of this paper it is important to examine users' reaction to archives' efforts at copyright education.

As noted, seventeen genealogists and historians were interviewed; the last questions in the interview script focused on copyright knowledge and explored the sorts of copyright information (if any) participants would like to see archives provide.

Users are generally aware of copyright matters, but their knowledge is often muddled and not entirely correct. Many think of copyright largely in terms of citing sources. Three historians noted that they value the copyright information provided in handouts during onsite visits to archives or available on the Library of Congress website. However, while twelve participants (six genealogists and six historians) thought that some copyright information would be useful in theory, only two (one of each) were unequivocal in their support. Two genealogists had serious doubts about whether people would read it. Two historians noted that it would have to be clear and concise ("no more than five bullets" (H10)) or would need to include some standard language about terms and conditions; however, one genealogist more familiar with the complexity of copyright acknowledged that providing a concise summary of copyright law would be comparable to "writing a two-page synopsis of the history of US foreign policy" (G13).

Users are unlikely to search for copyright information, so any copyright information that archival repositories do provide must be readily encountered. Furthermore, any general information about copyright law must be concise; otherwise, users are unlikely to read it, and some may not read it anyway, no matter how concise it is.

Participant G8 frankly admitted that he was "not eager to get that involved in copyright law. If I can go about doing what I can without having to worry about copyright law, I'd be just as happy." Participant G4, who teaches classes on genealogical research, reported that the topic of copyright elicits groans from her students because "it's a barrier to them getting where they want to get, and it's just an encumbrance.... they don't want to know about it because then they're going to have to feel guilty about it, and they don't want to do any more work." Yet another genealogist (G2) questioned the value of attempting to educate users about copyright, saying, "I'm not sure there's anything you can do about it ... If someone wants to take it [a digital image from a website], they're usually going to figure out a way."

Despite these reservations about the value of copyright information, further probing revealed that

users nonetheless would welcome information about what can be freely used and what is subject to copyright protection (and what steps must be taken to use it). As H17 said, “I would like to know who the rights holder is, and I would also like to know the origins of when it was donated, or whether or not the copyright is still applicable, and also more information about whether or not it’s possible to reproduce it or if it’s possible to even just print it out for academic use, not just for reproduction.” Two historians thought it particularly important that students be made aware of copyright issues, and the genealogist who teaches other genealogists noted that an understanding of copyright was an important aspect of information literacy. Participant G13 stated, “It wouldn’t hurt to have more of an education in it, because I think we’re going to start stepping on more and more toes as more and more stuff gets online.” In sum, while some support archives’ efforts to provide copyright information, others see little need to get involved with copyright, and they are not interested in any sort of educational efforts that will slow their research.

Discussion

While archivists strongly believe that educating users about copyright is their duty in principle, how this takes place in practice ranges widely, from placing all responsibility for copyright compliance on the end user to providing links to various external copyright resources to developing more detailed in-house resources. However, the findings of the user study suggest that archives’ efforts to educate their users about copyright may not have been fully effective. The overall findings suggest that repositories must critically examine their copyright education efforts to ensure that they better reflect their own needs and those of their users.

A number of issues must be considered if a repository is going to provide copyright education for its online users. A key consideration is the scope of copyright education. Is it sufficient to simply inform users about the policies and practices of one’s institution? If the repository is going to place responsibility for copyright compliance on the user, is there some obligation to at least point the user to reliable sources that will enable them to apply the complexities of copyright to their particular situation? Or is it even more incumbent on the repository to provide at least basic information about copyright matters to start the user off on the right foot?

If a repository wishes to “educate” users about copyright beyond providing links to the statute or the US Copyright Office, it must consider the level of in-house expertise¹² and the difficulties in summarizing an extremely complex law in accessible language. It is not easy to discern where education ends and legal advice begins. Furthermore, many repositories may well be concerned about the risk of liability; such fears may prompt an archives to limit the copyright information it provides to so-called “institutional” copyright information, intended to convey to the users their responsibilities in order to protect the repository. As well, once one embarks on an educational program, it is important to consider the resources needed to keep up-to-date with case law and statutory amendments, and to keep the educational part of the website current.

The findings of the user study suggest that the needs of end users must also be considered. It is not evident that users have ever been consulted when repositories decide what copyright education information goes online. It is clear that the user community is not of one mind about what (if anything) they want to know about copyright, so it would seem sensible for a repository to consult with its particular user group(s) to discern needs and preferences. Such a consultation should consider issues such as the content (e.g., purely institutional rules or broader educational information), the location of the copyright information (separate or integrated with the digital content), and the level of detail (how concise it can be while still being useful). Such a consultation might involve users in an evaluation of the copyright education features of specific websites.

To answer the question posed by the title of this paper, are online users grateful for the copyright information provided? The answer appears to be “not really.” Perhaps gratitude is too much to expect; however, this exploratory study raises a number of important issues that merit further investigation, and it signals that much more work is needed by repositories before they get copyright education right, both for themselves and for their users.

Notes

1. The author wishes to acknowledge the Institute of Museum and Library Services’ Laura Bush 21st Century Librarian Program, which provided the research grant that funded this study.

2. Tony Horvara, "Copyright Communication in Canadian Academic Libraries: A National Survey," *Canadian Journal of Information and Library Science* 34, no. 1 (2010): 1–38.
3. Alexandros Koulouris and Sarantos Kapidakis, "Access and Reproduction Policies of University Digital Collections," *Journal of Librarianship and Information Science* 37, no. 1 (2005): 25–33, doi: 10.1177/0961000605052157; Melanie Schlosser, "Unless Otherwise Indicated: A Survey of Copyright Statements on Digital Library Collections," *College and Research Libraries* 70, no. 4 (2009): 371–85, <http://crl.acrl.org/content/70/4/371.full.pdf+html> (accessed 14 December 2012).
4. Jean E. Dryden, "Copyright in the Real World: Making Archival Material Available on the Internet" (PhD diss., University of Toronto, 2008), 214–27, <http://hdl.handle.net/1807/11198> (accessed 14 December 2012).
5. Prudence Adler, Brandon Butler, Patricia Aufderheide, and Peter Jaszi, *Fair Use Challenges in Academic and Research Libraries* (Washington, DC: Association of Research Libraries, 2010), 9–10, 20, http://www.arl.org/bm~doc/arl_csm_fairusereport.pdf (accessed 14 December 2012).
6. For a systematic review of current literature on digital consumer behavior and attitudes toward digital piracy, see Peter Williams, David Nicholas, and Ian Rowlands, "The Attitudes and Behaviours of Illegal Downloaders," *Aslib Proceedings* 62, no. 3 (2010): 283–301.
7. Jean Dryden, "Cavalier or Careful? How Users Approach the Rights Management Practices of Archival Repositories," *Journal of Archival Organization* 10, no. 3&4 (2012) (in press).
8. The question was designed to collect data about other practices in addition to copyright education.
9. For the purposes of this study, a digital resource is defined as "a grouping of archival documents presented together on the repository website because of some relationship among them." The digital resources identified in this study included 807 virtual exhibits, 556 single collections, 131 "illustrative essays," and 60 searchable databases.
10. Two-thirds of the repositories in the research population were located in universities.
11. Dryden, "Copyright Practices of Archival Repositories and Their Impact on Users."
12. See, for example, Jean Dryden, "What Canadian Archivists Know About Copyright and Where They Get Their Knowledge," *Archivaria* 69 (2010): 77–116. The author found that Canadian archivists acquire their copyright knowledge from a variety of sources, not all of which are authoritative or current. See also Natasha Simons and Joanna Richardson, "New Roles, New Responsibilities: Examining Training Needs of Repository Staff," *Journal of Librarianship and Scholarly Communication* 1, no. 2 (2012): eP1051, doi: 10.7710/2162-3309.1051. Simons and Richardson found that copyright knowledge was a priority skill needed by managers of institutional repositories in Australia and New Zealand.
13. The 'other' category included such things as: "Instruct researchers to contact the library for information;" two institutions reported that they provide copyright information in the online finding aids.