

A Status Report on a Study of Library Photocopying in the United States

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This paper describes the Copyright Office statistical surveys which are being conducted by King Research, Inc., under contract to the U.S. Copyright Office. The purpose of these studies is to provide the Copyright Office with statistical information on the current status of library photocopying in the United States from the perspectives of libraries, publishers, and library users. In addition to descriptions of the surveys themselves, the major questions which will be addressed during the analysis of the survey data are discussed.

BACKGROUND

In its final report¹ published in 1979, the National Commission on New Technological uses of Copyrighted Works (CONTU) recommended that the surveys of libraries and publishers carried out earlier by King Research² and Indiana University³ be updated prior to the mandated 5-year review of the new U.S. copyright act. The primary purpose of the update was to determine what effects, if any, the new copyright act has had on libraries, publishers, and library users. Accordingly, the Copyright Office in 1980 issued a Request for Proposal (RFP) for a study to address questions such as the following. First, have any changes in library photocopying practices and photocopying volume occurred since 1976? Second, have publishers' practices changed regarding photocopying permission requests and photocopying royalties? And third, have library users noticed any changes in library photocopying and interlibrary loan practices? King Research, Inc., of Rockville, MD, was awarded the contract to conduct the mandated surveys, which were begun in October of 1980. The contract called for completion of the surveys by December of 1981, with delivery of the final report to the Copyright Office being scheduled for March of 1982. The following is a status report as of October 1981 on the progress of the surveys.

STUDY POPULATIONS

Libraries. The Copyright Office Statistical Surveys are concerned with three separate populations, each of which has a stake in the regulation of library photocopying via the copyright law and any associated guidelines and/or regulations which might be agreed to or promulgated by the parties of interest. The first group is composed of the libraries themselves. Libraries are of interest because they may operate their own photocopying services which are available to make photocopies of copyrighted books and serials. In addition, many libraries participate in the exchange of materials in response to requests received from other libraries for materials not held by or available from the requesting library's collection. Many of these "interlibrary loan" exchanges involve the exchange of photocopies of serial articles in lieu of the original issue of a journal in which the article appeared. Since these photocopies usually become the property of the person or library making the original request, the term "interlibrary loan" is a misnomer as far as photocopies of journal articles are concerned. Interlibrary loan is of interest, particularly since its volume may be affected by the increase in online searching of bibliographic data bases and since it may be facilitated by computerized library cataloging networks which allow for electronic exchange of interlibrary loan requests.

For this study, libraries have been classified as public, academic, federal, and special. School libraries and media centers, under terms of the study contract, are not included.

Public libraries include single-facility systems as well as multibranch systems. Academic libraries include large universities with many departmental libraries as well as single-facility 2- and 4-year institutions. Federal libraries include large national libraries as well as the smaller facilities maintained by individual federal departments and agencies. Special libraries include libraries located in for profit as well as non-profit organizations, including state agencies.

Publishers. The second group of interest is composed of U.S. serial and book publishers. Serial publishers for the purpose of this study include publishers of scholarly, scientific, and technical journals, publishers of trade journals and trade magazines, and publishers of newsletters and general-interest magazines, excluding newspapers. In the past, the publishers which have generated the most attention regarding library photocopying were publishers of scholarly, scientific, and technical journals. While these publishers make up only a portion of the population surveyed, they are very important because the library market generates a substantial portion of income for the many small, highly specialized technical journals which are published today. Some of these technical journal publishers may view library photocopying and interlibrary loan as reducing demand for subscriptions. While this perception is difficult (if not impossible) to prove as fact, the existence of library photocopying and interlibrary loan services is a constant reminder that a substantial portion of the duplication and distribution of journal articles is beyond direct copyright owner control.

Book publishers are of interest because libraries form a significant market for books, because books are often exchanged via interlibrary loan and because many book publishers are also publishers of serials.

Library Users. The third group of interest is composed of library users. In the study of library photocopying conducted by King Research in 1976, we concentrated primarily on photocopying by library staff. Librarians are quick to point out, however, that much photocopying takes place on coin-operated and other user-operated machines which are located within the library but which are outside the direct control of library staff. And an additional and difficult-to-measure amount of photocopying of library materials also takes place outside the library, in offices and at public photocopying facilities. Thus, library users are of interest to this study since only they can report on the photocopying which they do themselves.

STUDY METHODS

The basic method employed in the Copyright Office's statistical surveys is the standardized survey. Three survey methods are being employed. The first is the survey via mail questionnaire of organizations selected with known probability. This is the method employed in the publisher survey and in

the first phase of the library photocopying survey. The second method is the collection by library staff of data on library photocopying and interlibrary loan requests during sampled time periods selected to reflect seasonal variation in library activities. This method is being employed in the second phase of the library photocopying survey. The third method is the conduct of a series of standardized, personal interviews with library patrons at 21 selected public, academic, federal, and special libraries.

The common element of all these surveys is that they emphasize the collection of quantitative data. Except for the user surveys, very little qualitative or opinion data are being collected.

Since the types of questions we can answer during data analysis are completely dependent upon the types of questions we ask in the surveys themselves, we describe the questionnaires and data collection forms below.

Library Photocopying Survey—Phase One. The first phase of the library photocopying survey involves a mail survey of 790 libraries, selected from those libraries which were sampled from the libraries which participated in the 1976 King Research study and augmented by update samples selected from the *American Library Directory* and other sources. A 14-page questionnaire was mailed to these libraries, and 554 (70%) responded by supplying data.

The questionnaire includes questions on the following topics: description of the library in terms of its parent organization, membership in the Copyright Clearance Center, users, and photocopying and interlibrary loan operations; expenditures on books and serials, 1976 and 1980; library photocopying volume and equipment (including coin-operated machines); library income from photocopying; description of the library's reserve operations; the library's policy concerning requests for permission to photocopy; payment of photocopying royalties; interlibrary loan requests transmitted and received by the library; use of online bibliographic data bases; copying of audiovisual materials; use of commercial document delivery services; users who are permitted to use the library.

Library Photocopying Survey—Phase Two. The questionnaire used in phase one of the library photocopying survey asked libraries to volunteer for phase two during which they would be asked to record data on library photocopying volume and interlibrary loan request volume. Two forms were used, the *Photocopying Transaction Log* and the *Interlibrary Request Log*. The former was designed to be completed by library staff in charge of making photocopies in response to patron requests. This form included the following data elements for each photocopying transaction monitored by library staff: type of item photocopied, publication year, number of copies, type of requestor (student, teacher, etc.), type of transaction (for local patrons or for interlibrary loan requests), presence or absence of a copyright notice, and the library's claimed copyright status for the transaction.

The Interlibrary Request Log was filled out during the sampled time period each time an item was requested via interlibrary loan by the sampled library. The Interlibrary Request Log included the following data elements: the type of item requested, publication year, whether or not the request was refused, the reason for the refusal, type of requestor, reason for request, whether or not the request was filled, and the presence (or absence) of a copyright notice on the copy.

Publisher Survey. The publisher survey sample, selected from Bowker's *Literary Market Place* and Bowker's international serials data base, was composed of 150 book publishers and 300 serial publishers, 150 of which were positively identified as publishers of scholarly, scientific, or technical journals. Of these 450 publishers included in the sample, approximately 51% had responded by mid-October, 1981.

The questionnaire for the publisher survey asked questions relevant to both serial and book publishers, including number of book titles published per year, price and circulation changes since 1976, number of photocopying permission requests received, membership in the Copyright Clearance Center, number of serial titles published, and amount of the photocopying royalties received.

One of the major distinctions made in the publisher survey was between "scholarly, scientific, or technical journals" and other serials, the objective being to separate out data for a category of publishers and publications which have been of critical importance in many of the issues surrounding library photocopying.

User Survey. Two questionnaires were used in the personal interviews conducted as part of the user survey. The first interview was administered to individuals entering the library during the week at each participating library when interviews were conducted. They were asked about whether or not, during the past 6 months, they had made or obtained photocopies of library materials. They were also asked for details concerning the type of library materials they had photocopied (if any) and for the reasons they had made the photocopies. The second interview was conducted at the user-operated or coin-operated photocopying machine. Similar questions were asked, but more details were gathered concerning the type of item photocopied.

While the 21 libraries which participated in the user survey were not selected according to a random statistical selection procedure, they were carefully selected to insure that a wide variety of sizes, subject areas, and types of public, academic, federal, and special libraries would be represented. As of October 1981, more than 1900 interviews had been conducted as part of this survey.

ANALYSIS QUESTIONS

While the data we are collecting is primarily descriptive in nature rather than analytical, there are several research questions we will be investigating during our data analysis. These are described below.

Library Data Analysis. First, we will want to estimate if there has been any change in photocopying volume since 1976. Since there probably has not been a significant increase in the number of libraries since 1976, any increase in photocopying volume may indicate an increased demand or availability of this service.

Second, we will want to look at the change in the number of photocopying machines in U.S. libraries. We will be particularly interested in observing any changes in the ratio of staff-operated to user-operated machines. This is an interesting question because information obtained separately from this study suggests that some libraries, in response to passage of the new copyright law, may have reduced the availability of staff-operated photocopying services while increasing the availability of coin-operated machines.

Third, we will be observing how many libraries participate in library networks which (a) provide special interlibrary borrowing procedures and (b) participate in coordinated collection development activities. We will be able to relate these two variables to photocopying volume as well as interlibrary loan volume.

Fourth, we want to know how many libraries actually operate a "photocopying service" and how many libraries actually assign permanent staff members to operate such services. This is of interest since we hypothesize that, as demand for photocopies increases, so does the need to assign staff permanently to perform this task.

Fifth, we will want to see how libraries restrict the photocopying they do. We know, for example, that many libraries

will refuse to photocopy the entire copy of a book, or they will refuse to photocopy materials which are not from their library's collection.

Sixth, we will be estimating how many libraries charge for their photocopying services, both in terms of coin-operated machine use and in terms of staff-conducted photocopying. As we found in the library photocopying study we conducted in 1976, any income which libraries derive from photocopying is probably not sufficient to offset all the costs of providing photocopying.

Seventh, we want to know how many libraries have "Reserve Operations", which we define as operations in which photocopies of library or other materials are stored in one location for borrowing or use by library users. Among academic libraries in particular, there may have been many changes in reserve operations to reduce photocopying of individual articles kept on file. For example, some libraries have put increased responsibility on faculty members to obtain photocopying permission from copyright owners before materials are put on reserve.

Eighth, we want to know how many times libraries actually request permission to make photocopies, and how many times they say they have been refused this permission. Difficulty or delay in obtaining permissions has been one of the stated reasons for setting up the Copyright Clearance Center; it will be interesting to see the degree to which traditional permissions channels are still used.

Ninth, and of major importance, is the incoming and outgoing interlibrary loan request volume. It may be hypothesized that interlibrary loan volume has increased since 1976 as libraries have been forced to cut back on their subscriptions at the same time their users are increasingly discovering the advantages of online searching volume. Since we are also collecting data on online computer searching, something we did not do in 1976, we will be able to compare interlibrary loan volume with online searching volume, possibly controlling for library size in the analysis.

Tenth, we will be interested in seeing how often libraries use commercial document delivery services or information brokers in obtaining copies of needed articles. We are hypothesizing that the use of commercial document delivery services will occur most frequently among smaller or special libraries. Use of such services may be significant because many do pay copyright royalties.

Eleventh, we are asking libraries to specify what portion of the copyright law covers their photocopying, either section 107 (fair use), section 108 ("Rule of 5" or the "CONTU" Rule), or whether or not they need permission. This is being done on an individual transaction basis. Interestingly, we have had very few calls on this question.

Twelfth, we are asking whether photocopy requestors are students, teachers, or employees of the organization in which the library is located; this variable is related to the purpose for which information is sought, and we will be able to tell, for example, what types of users use interlibrary loan channels.

User Survey Analysis. For the user survey, we are asking library patrons about their past (last 6 months) and current (what they are photocopying at the occurrence of the interview) photocopying behavior. We are collecting data on the number of different occasions photocopies of library materials have been made, what type of items were photocopied (books, journals, or other), publication date of the items, and number of pages and copies obtained. We are also asking if the items copied bear a copyright notice and are determining if the work is a United States Government publication.

Although the survey is not a probability sample which would allow us to make national projections on user photocopying, the data will allow us to make estimates on the volume and

frequency of photocopying done on user-operated (coin-operated and other) machines within library facilities. We will be able to estimate the ratio of the photocopying of library materials to total, which includes photocopying of personal materials which has been cited as being extensive by some of our participating libraries. In addition, we will be able to estimate the extent of photocopying of copyrighted materials and materials published for the public domain. All of these data variables will be broken down by the library types discussed previously to determine similarities and differences of photocopying behavior by types of library users and usage.

Library patrons are also being surveyed on the reasons for photocopying library materials (for work, school, research, personal use, etc.) and their perception of the meaning of the copyright notice. In addition, library patron age and status (student, teacher, employee, other) is recorded so that levels of awareness and understanding of the copyright notice can be compared by key demographic variables.

We are also asking library patrons questions dealing with requests for photocopying made to library staff of library materials. This includes copies of materials made for interlibrary loan or other purposes. They are asked about the frequency and status of these requests. Users will report on the status of these requests to determine the frequency and nature of refusals to photocopy library materials by library staff.

Publisher Survey Analysis. As described above, the publisher survey includes both book and serial publishers. One of the first questions we will need to address in the analysis is to develop a better estimate of the number of publishers. Our study population includes 1400 book publishers and nearly 20 000 serial publishers; the final number of publishers we estimate will be less than this because there may be substantial overlap in the population since many publishers publish both books and serials.

Then we will classify book and serial publishers by type (commercial publisher, professional society, government agency, etc.) and by size (in terms of number of employees). In addition, we will classify publishers as book publishers, serial publishers, or publishers of both. We will then proceed to the more serious analytical questions.

First, we will classify publishers by whether or not they belong to the Copyright Clearance Center (CCC), a private sector mechanism which has been developed to handle photocopying transactions involving royalty payments. We will thus be able to distinguish among the various types of organizations which have chosen this route for handling photocopying transactions and payments.

Second, we will estimate the relative proportions of serial titles which actually display a notice of copyright. While the display of a notice of copyright does not actually signify whether or not an item is automatically protected by the copyright law, it may communicate potentially useful information to users.

Third, we will analyze data concerning changes in serial prices and total subscriptions between 1976 and 1980. This will help us to describe the changing economics of serial publishing before and after the passage of the new copyright law.

Fourth, we will analyze data describing the serial related revenue of the publisher, and we will attempt to estimate the relative proportion of revenue derived from various sources, particularly from subscription sales vs. photocopying royalties or fees. We will also analyze data concerning the sale and distribution of reprints, offprints, or tearsheets. This is of interest since reprints, etc., are an integral part of scientific information dissemination, often providing a link between researchers and their peers. In return, they also provide an

additional mechanism for publisher revenue beyond subscription sales.

Fifth, we will estimate the number of publishers which have licensing arrangements with other organizations to handle the licensed photocopying of their publications, and we will also describe the frequency with which the publishers themselves receive and respond to photocopying permission requests, particularly requests received from libraries. Of particular interest will be an analysis of the disposition of these requests, e.g., how often permissions are given.

CONCLUSIONS

These data will be delivered to the Copyright Office early in 1982 for its consideration in its review of the impacts of the new copyright law. The schedule for public release of the data will be determined by the Copyright Office.

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Copyright from a Permissions Person's Point of View[†]

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In order for publishers to effectively and efficiently handle permission requests for further dissemination of information, it is necessary for them to have copyright to the material they publish. Some publishers require that, to the extent possible, copyright be transferred to them. In return, certain rights are generally returned to authors or their employers in the case of works made for hire.

A copyright owner is not the only one who is concerned with copyright. As copyright administrator for the American Chemical Society Books and Journals Division, I get telephone calls, letters, and telegrams from authors, editors, librarians, publishers, lawyers, educators, and users of information. One of the main concerns of a permissions person is to respond to requests for copyright information and reprint permission in a timely manner. Another concern is to ensure that copyright transfer forms are properly signed.

It goes without saying that you must be the copyright owner of requested material in order to be able to grant reprint permissions. Because copyright transfer and ownership is germane to granting reprint permissions, and because we feel that our owning copyrights to works we publish is a service rather than a deterrent to information dissemination, the ACS Books and Journals Division requires authors to transfer their copyright to ACS, except in those cases where a work is in the public domain because authors of a paper are employees of the U.S. Government and have prepared a paper as part of their official duties.

The rights we return to authors, employers, and the U.S. Government appear on the ACS copyright transfer form which is printed every year in the first issue of each of our research journals. We state directly on our form that copyright transfer

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