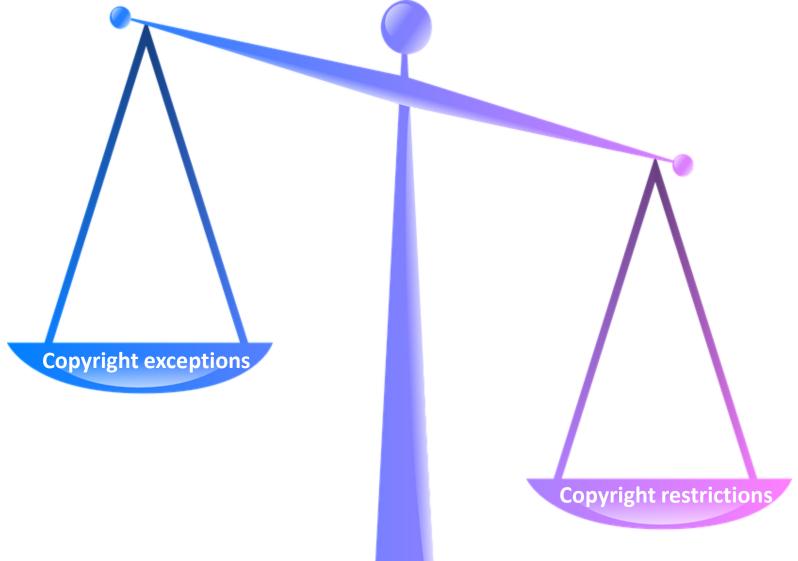


Copyright management in libraries has traditionally been risk averse and exceptions-based.

While digital technologies enable libraries to meet their public good mandates and expand access and re-use of collections, their ability to do so is constrained by many barriers, including:

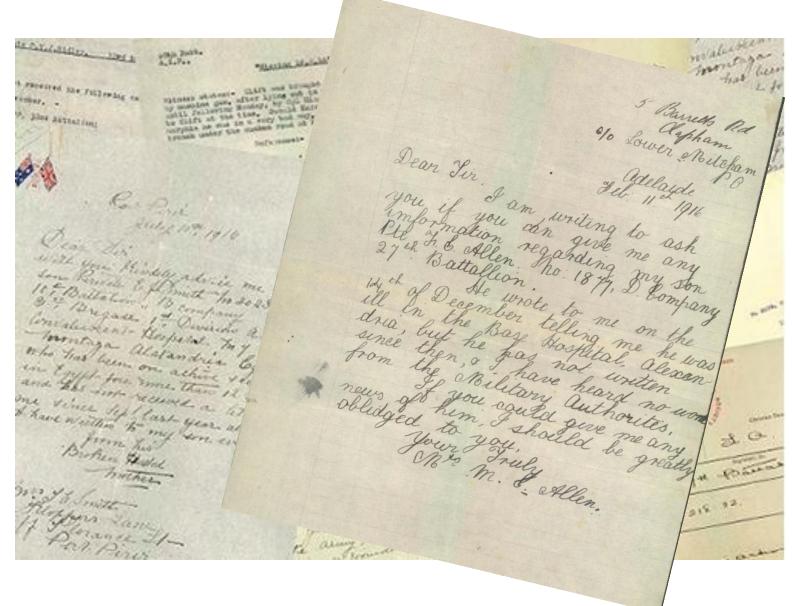
- Copyright duration on average
 70 years, at worst perpetual
- TPMs
- Greater penalties for infringement
- No safe harbour protection
- Statutory ambiguity and uncertainty.



Copyright has increasingly become one big

headache!

Exhibit A,
Orphan Works



Legislative change – we can only hope

2 reports:

Australian Law Reform Commission – Copyright and the Digital Economy

Productivity Commission – Intellectual Property Framework

Both found:

- Australian copyright is not efficient, effective and adaptable enough for the digital age
- One thing needed to fix it a flexible fair use exception, to ensure copyright only targets uses that are harmful to copyright owners

Copyright Amendment (Disability Access and Other Measures) Bill

Low hanging fruit amendments:

- Simpler disability exceptions including new fair dealing
- Simpler educational statutory licences removes admin requirements
- Safe harbour extension libraries & others protected from clients' online infringements
- Working preservation exceptions allow best practice for all materials
- End to perpetual copyright in unpublished works now same as published (and orphan works freed after 70 years)

Exposure draft and public consultation process, but still needs to be tabled (commitment for "early in new parliament")

What are we doing while we wait for the law to catch up?

Option 1: Supporting the development of industry standards and common procedures for the sector.

National & State Libraries Australasia Copyright Group key outputs include:

- Copyright information for the public available on all NSLA websites
- Position statements and/or procedural guidelines for
 - Public domain works
 - Creative Commons
 - Reasonable search for orphan works
 - Take down

Available for re-use under Creative Commons from the NSLA website www.nsla.org.au

Option 2: Advocacy for copyright reform – however long it takes.

ALCC, ALIA and ADA have provided critical support and advocacy for copyright reform and will continue to do so. Activities include presentations to the ongoing reviews, participation in public consultations, contribution of data and information, and meetings with politicians and government officials to advocate for the sector's interests.

The NSLA Copyright Group has provided significant quantitative data to support the efforts of these organisations and will continue to do so: currently looking at developing a template to allow libraries to identify the costs associated with copyright compliance

Option 3 – Learn and share copyright information and resources

Australian Libraries Copyright Committee new Copyright Guidelines

- Cover copyright essentials and copyright extended
- Library and archive targeted
- Creative Commons licensed share and adapt!
- Soft launched at http://libcopyright.org.au (send suggestions)
- Future webinars, videos, slideshows etc

We do training too – FREE for ALIA members!

Option 4 – Risk Management

A responsive twenty-first century library needs a large proportion of its staff to be both competent and confident in making copyright determinations and forming sound judgments based on organisational risk tolerance.

Proposal for a risk management framework

The proposal for the risk management framework, included in our paper on ALIA's conference website, has been developed and is being trialled by the State Library of South Australia, with input from the Australian Libraries Copyright Committee.

The framework involves 15 sequential steps (with an option for expansion): it begins with compliance (steps 1-7) and proceeds to risk management (steps 8 -1 4). The 15th step reiterates the importance of documenting decisions for future reference.

Exhibit B, SLSA in-house document

	,			
	South Australian almanacs & directories			
ate	Decision	Risk management rationale	Publically available information about decision	Steps required prior to applying to similar
	To put full-text, word- searchable digital copies online of in-copyright directories, i.e. directories	The publisher, Sands & McDougall Pty Ltd, Melbourne, is no longer registered with the Australian Securities and Investments	Directories first published more than 70 years ago are out of copyright. Directories first published less than 70 years ago are in copyright but the publisher, Sands & McDougall Pty Ltd, Melbourne, is no longer registered with the Australian Securities and Investments Commission (ASIC). The directories have been digitised in accordance with the State Library of South Australia's Copyright Risk Management Framework. Researchers do not need a copyright holder's permission to reproduce particular facts from a compilation like a directory, such as names and	Investigate
	that were published less than	Commission (ASIC), March 2014.	addresses. (Australian Copyright Council	publishing
1ar-14	70 years ago.	Public interest.	Information Sheet G060v11, February 2012)	entity.

Risk management framework – factors to consider

Fairness of using the work

• Purpose, Nature, Amount, Effect on the market

Likely risks (consequences) of using the work

Reputation

Risk mitigation strategies

- Respect moral rights
- Restrict use: low resolution, stand alone computers
- Take down
- Be prepared to negotiate
- Maintain accurate records of decisions identifies intent

Don't forget s200AB!

Future for the risk management framework?

- Creation of "generic" version
- Looking at getting formal endorsements from ALCC and NSLA
- Free for institutional adaption and repurpose
- Ultimately any decision to use will be heavily influenced by an institution's appetite for risk

Hopefully, next time someone mentions copyright we'll have moved past this





THANK YOU

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Jessica Coates, Australian Libraries Copyright Committee <u>jcoates@nla.gov.au</u>