



# The District of Columbia Library Association

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## **Statement of Betty Landesman President, D.C. Library Association**

### **before the Copyright Office Library of Congress**

May 2, 2000

My name is Betty Landesman. I am a librarian with the Research Information Center of the AARP, formerly the American Association of Retired Persons. Prior to taking this position, I worked at a number of college, university, and research libraries as well as for a vendor of computer systems for libraries. I am here today wearing the hat of President of the District of Columbia Library Association. DCLA is one of the chapters of the American Library Association and has members from all the many diverse types of libraries in the District, including public, academic, school, medical, law, special, and government libraries.

I want today to talk not about the legal intricacies of the new provisions of the Copyright Act, but about the practical effects of the new Section 1201(a) and the need for a broad exemption that takes those practical effects into account. Without an exemption by the Librarian from the anti-circumvention prohibition, libraries will not be able to carry out their mission of providing access to critical information resources for the communities of patrons they serve.

At all of the institutions DCLA represents, as I know is increasingly the case across the country, electronic services have become an important -- and integral -- part of the wide range of services we provide. As you are aware from the comments provided in this rulemaking process, electronic information is invaluable to many different kinds of research, from the most elementary work of school children to sophisticated medical and academic research. Yet much of the material necessary to support the information, education, and research goals of library users is increasingly available only in electronic format or the electronic versions contain materials that are not included in the print version. Examples of information available only in electronic format include *Ethnic Newswatch* and many other current events services; AIDSLINE and many other subject bibliographic indexes; and *Postmodern Culture* and many other scholarly journals. Even where there is a print counterpart, for example the *Encyclopædia Britannica*, the online edition provides access to Internet links and multimedia materials not available in print that greatly enhance the quality of research possible.

All libraries, either directly or indirectly, provide a public service function. I work in a library that is part of a non-profit association. We support research on aging done by association staff and made available to the public through published studies and through the *Ageline* database. Library materials are available to patrons outside of the association through interlibrary loan, and the library itself is accessible to researchers who need to use our specialized collections.

For many people in the communities we serve -- particularly the poor, the elderly, and school age children -- the public library serves as the principal access point for the information, both print and electronic, they need. In the non-public environment, the

library is accountable to the members of its organization, whether it be students, faculty, or staff, for the support of their educational and research needs. According to figures published by the National Center for Education Statistics in 1999<sup>1</sup>, 15,994 public libraries serve communities in the United States. 98,169 school libraries serve as information resource centers for 53 million students. 3,303 postsecondary and research libraries support 15.5 million undergraduate and graduate students. And 9,898 special libraries provide specialized research for students, researchers, and practitioners of all kinds.

Thus, our concern about technological protection measures and their potential restrictions on use is the threat they pose to our libraries' ability to serve their users in the way we have done for centuries in the world of print.

I note that some of the "content providers" have suggested that librarians simply want information for free, suggesting in the words of one commenter, that we want to "break into the book store" to exercise our fair use rights. Nothing could be farther from the truth. Our nation's public, academic, school, special, and government libraries expend hundreds of millions of dollars in fees each year for fee-based databases and electronic materials and services. In my library, for example, the amount budgeted last year for electronic services was double the amount budgeted for print collections. And I expect that the proportion libraries spend on electronic resources will continue to grow -- considerably -- in the future.

My concerns are in three main areas: cost; interlibrary lending; and access to information.

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<sup>1</sup> National Center for Education Statistics. *Fall Enrollment in Postsecondary Institutions, 1997*. U.S. Department of Education, Office of Educational Research and Improvement, Washington, DC, November

First, we expect that technological measures will be used in ways that increase the overall costs of the information we already buy. As the Library Associations pointed out in their comments, we are very concerned that the effect of these measures will be to move us toward a pay-per-use pricing model as well as to charge for uses that are legitimate and non-infringing under copyright law. That would put additional pressure on already strained acquisitions budgets and reduce the number and level of services we can provide.

Second, the “first sale” and “fair use” provisions of the Copyright Act of 1976 provide libraries with the ability to lend information products that they purchase and to make single copies of these works to patrons engaged in research and scholarship. In addition to supporting the information needs of their own users, libraries share resources by participating in interlibrary loan. Since no library is able to own all the materials needed to support the information needs of its users, it is only by cooperating and helping each other that we have been able to serve our patrons effectively. Persistent access controls such as electronic books with limits imposed on redistribution would undermine the basic concept of the library as an institution that lends information resources to users.

Finally, I am concerned that these protection schemes will seriously reduce our library users’ ability to make full and non-infringing use of the material we legitimately acquire. The restrictions we already see include limiting access to a particular resource to one computer in the library; restricting use to a specific number of simultaneous or even consecutive users; and precluding access to material after a certain period of time. And,

as noted above, the harm these restrictions pose to our communities will fall particularly heavily on those who have no alternative sources for access.

A related aspect of this concern is that technological measures will hamper or negate the ability of libraries to archive and preserve information products so that they will continue to be available to our users in the future. Researchers in myriad fields and students of all ages should be able to depend upon having access to older materials. Yet, products may "disappear" at a time determined solely -- either deliberately or through neglect -- by the producers of the products, because the library was prohibited from making archival copies, or because the library no longer subscribes to the product but is barred access to the information to which they did subscribe.

I ask that as you consider the breadth and focus of an exemption for Section 1201(a), you will keep in mind the importance of libraries in serving all aspects of our society. Since all types of materials are used in research - not only books and journals but also photographs, motion pictures, sound recordings - it would be impossible to identify specific classes of works that should be exempted. The exemption should therefore be a broad one. Technological measures that control both initial access to a product and also its continued use prevent libraries from providing necessary and non-infringing information to our users. Please be sure we can continue to do our job.