

ICA Copyright Declaration: introduction

EGLM took on this task following a call at the 2017 ICA Conference in Mexico. Copyright is a difficult and technical subject presenting many challenges for archives and a world apart from most archival discourse. ICA has a Representative to the World Intellectual Property Organization who is a Member of EGLM but has a separate mandate from the Group. Articulation of a clear position statement by ICA would help the WIPO Representative, Elected Officers and Secretariat to share some of the work of pushing for improvements in copyright provisions internationally, such as:

- In individual jurisdictions by either ICA Category A or FPA Members as appropriate¹;
- In international meetings, such as WIPO Standing Committee on Copyright and Related Rights and regional WIPO meetings; and
- In dialogue with allied professions' international bodies, such as the International Federation of Library Associations or ICOM

Cultural international organizations have only observer status within WIPO, whereas member states have the voting rights on Treaties, etc. There is a very strong lobby representing commercial, published content creators influencing WIPO and too frequently protections designed to protect revenue streams of the publishers have inflicted collateral damage on cultural life. Accordingly:

1. **Our Primary Goal:** We are arguing for the need for international action to establish a minimum level of copyright exceptions in all jurisdictions that will enable archives to make and disseminate the copies essential to fulfilling their mission.
2. **Our Target audience:** This is primarily an advocacy document aimed at archival administrators, those to whom they report, associations of archives professionals, our sister professions, and copyright policy bureaucrats and lawmakers. Although it does have an educational function in a general sense, it is not intended to be a primer on institutional copyright policy and practice. Other initiatives (e.g., a mooted online copyright training module, the published checklist of exceptions for archives, new guidelines on particular topics) will address practitioners' needs.
3. **Language:** Because this is aimed outside the profession, it must avoid [archival] professional jargon. At times, it needs to use copyright terms but in as little a technical a way as possible
4. **Level of detail:** Because each nation's current copyright law is different, the document has been written at a high level, and avoids specific references to particular national law(s). Nor can it be a catalogue of all the copyright problems facing archives in all jurisdictions.

Declaration structure

This is in four distinct sections:

¹ Not all Category A / National Archive members are able to engage in political advocacy, owing to bureaucratic propriety issues. Where The National Archivist and their staff are government officials, it is likely that public advocacy will have to be done by the professional body

1. We have used wording from the ICA Declaration on Archives as the starting point and defined the problem posed by Copyright;
2. We move on to explain this in more detail in the light of the nature of archival material;
3. We outline the particular challenges faced at the moment with born-digital and digitized archives, which heighten challenges with analog archives and add a few more;
4. The final section is a call for action based on the most relevant parts of the draft Treaty on Libraries, Archives and Museums [TLAM] that has been making slow progress in WIPO for a number of years. We call for advocacy from the ICA community based on the Declaration to persuade national intellectual property policy leads to use national votes in WIPO favourably to progress the TLAM *and* to press for their own jurisdiction to level its provisions (copyright exceptions) up to those of leading jurisdictions.

Next steps

We shall be introducing the draft Declaration to other parts of the ICA community (eg FAN, FPA) in bilateral discussions and taking feedback there and in a session planned for the Legal and Ethics Stream for Congress 2021 in Abu Dhabi. WE shall also be working with the Executive Board and the Secretary-General to design an appropriate adoption mechanism.

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Jean Dryden, WIPO Representative

April 2021