

# CLM - Report to Council, IFLA - Boston 2001

The Committee on Copyright and Other Legal Matters was established to advise IFLA and its constituent groups with respect to copyright and intellectual property, economic and trade barriers to the acquisition of library materials, disputed claims of ownership of library materials, authenticity of electronic texts, subscriptions and license agreements and other legal matters of international significance to libraries and librarianship. The membership of the Committee endeavors to be representative of all regions of the world. During the first four years there were 24 members, including the Chairman and three observers, representing 20 countries. The UAP office, at the British Library, Boston Spa, provides the Secretariat for the Committee. While CLM does not have any formal Newsletter we do maintain pages on IFLAnet. There you will find our Terms of Reference, Membership, Contributions and Papers from CLM members, Reports from the General Conferences, Reports of our participation in other meetings, as well as the policy statements developed for IFLA.

CLM had its first meeting in Amsterdam, August 1998. During the Amsterdam meeting an open session of the committee attracted over 90 people for a discussion of possible areas of activity for the new committee, beyond the prime one of copyright. The committee then reviewed the wide-ranging input, which resulted in a list of activities, which has directed our work over the past four years. To facilitate this report, comments have been grouped under each of these activities: Copyright; Licensing; World Trade Organization; Mergers; Privacy; Florence Agreement; Copyright education; Blue Shield and Repatriation of cultural items.

## Copyright

The digital environment has raised many issues for those interested in access to information and the delicate balance between the rights of copyright holders and the needs of the users of this information. The library community became more generally aware of the potential impact of international agreements in the new digital environment early in 1996 as discussions were held related to a WIPO Diplomatic Conference on Certain Copyright and Neighboring Rights Questions, which was to be held that December. In a short time, considerable effort was made by the global library community to try and ensure that the balance developed over the years for print material was not lost with the arrival of digital. Since the adoption of the WIPO Copyright Treaty in December 1996, international activities at the World Intellectual Property Organization have continued to be closely monitored. It was felt to be important for IFLA to continue to be represented during the period following the adoption of the Treaty; therefore CLM participated in four meetings during 1998 and 1999.

In 1998 WIPO established a Standing Committee on Copyright and Related Rights to "consider emerging issues in this field, and to absorb and carry out, at a suitable point the functions of existing committees of experts on issues currently being addressed in the progressive development of international law in copyright and related rights". However monitoring and participating in WIPO committee meetings is turning out to be a costly activity both in the sense of time and dollars. As a result there has been less participation this past year and we are actively looking for a way to coordinate our involvement with other library organizations.

One of the major achievements of CLM has been the revision and expansion of the IFLA Copyright Policy of 1996 to clearly state the needs and concerns of the library community with respect to copyright in the new digital environment. This policy statement was approved by the Executive Board in Jerusalem in August 2000. Copyright continues to be a key issue for CLM and each year at the General Conference we have either had a session on copyright or joined with other sections to present a program.

## Licensing

Licensing is of growing interest to the library community. Another important achievement for our Committee was the development of a set of Licensing Principles to assist libraries in dealing with the many variations

that have been appearing in licensing contracts. One of the points that has been emphasized in the Principles is the relationship of copyright to licensing contracts. It is important for the library community to be aware that where copyright law exists, clauses in licensing contracts should not override exceptions already provided in national copyright legislation. The Executive Board approved the Licensing Principles at its meeting in March 2001.

As well as having both the Copyright Policy Statement and the Licensing Principles available on IFLAnet, a leaflet has been prepared for each of them and we are also working to arrange translation.

## **The World Trade Organization**

In 1998 CLM was monitoring the now defunct Multilateral Agreement on Investment {MAI} and the possible impact on libraries. Since then the discussion of MAI issues has been included in other international meetings, in particular treaties governed by the World Trade Organization: the General Agreement on Trade in Services (GATS), and the Trade Related Aspects of Intellectual Property Rights agreement,(TRIPS). These agreements came out of the Uruguay round of trade negotiations, which ended in 1994. A statement on the WTO website explaining TRIPS "Ideas and knowledge are an increasingly important part of trade" leaves no doubt that the library community needs to maintain an ongoing awareness of TRIPS. To that end CLM is in the process of producing a brief document entitled " Tips for TRIPS". The General Agreement on Trade in Services (GATS) is also cause for concern because of its possible impact on not-for-profit libraries. When the possibility arose for NGO's to be accredited at the 1999 Seattle meeting of the World Trade Organization IFLA took the opportunity to request NGO status which we received and a member of CLM attended that very interesting and perhaps, in retrospect, trend setting event. For that meeting an IFLA position statement on the issues affecting libraries as a result of possible WTO actions was developed. The Committee has just completed a revision of that position statement. The WTO and Libraries was also the topic of a guest lecture at the IFLA Conference in Jerusalem and more work will be done to encourage national associations worldwide to become effective lobbyists for information issues in this international forum.

## **Mergers**

Throughout this whole period the library community has witnessed a number of corporate mergers of some major publishers, including publishers with proprietary software access to their electronic publications, which allows them to control the medium of dissemination itself. These mergers are of great concern to the library community from the point of view of access, costs for our users and quality of information. CLM has been monitoring this trend and when possible supporting the positions of other library organizations. The Committee is presently looking at how it can be more active in this area but there is a question of whether IFLA has the resources to do the type of background work, particularly in the area of economic analysis which is necessary in order to make a strong presentation relating to a specific merger

## **Privacy**

Privacy has long been an issue for libraries and over the years policies and behaviors have been developed and become well understood. However with the advent of the digital environment honoring those policies is becoming more of a challenge. There is also a concern that the new electronic copying management systems have the potential to threaten the privacy of readers. The Committee felt that an appropriate action would be to publicize the issues and facilitate understanding of this new environment. To that end one session of the CLM program at this conference has been on Privacy.

The last four topics, included in our 1998-activity list, were, Tariffs on educational materials (the Florence Agreement), Copyright education, Blue Shield and Repatriation of cultural materials. These are areas where CLM has not achieved a great deal, partly because of the topic and partly because other important activities took our time and attention.

In 1999 one of our members did a review of the Florence Agreement and as a result we have come to the

conclusion that electronic technology and broader international trade activities have more or less overtaken the Florence Agreement.

Copyright education is a different matter. Here we know there is considerable need for education in copyright matters from the broadest policy levels within a country to ensuring that staff in individual libraries are adequately trained so that library policies and procedures relating to the use of copyrighted materials are properly implemented. Considerable work has been done in this field in some countries and it is our intention to see how CLM can perhaps build on that work to help fill in the gaps and promote best practices in this area.

The Blue Shield is an international initiative to encourage nations to establish planning structures to provide advice for the preservation of cultural materials in the event of disasters, both natural and man-made. The intent is to mobilize, within individual countries, a coalition of organizations responsible for cultural collections (archives, libraries and museums) to do the necessary planning. One member of CLM monitors the Blue Shield program and keeps members informed.

The last area on our activity list is the repatriation of library materials when items may have been removed from a country illegally. A difficult topic but again one the Committee is monitoring and discussing in order to find the most appropriate way for CLM to contribute

Critical to the success of library service in any of our countries is our relationship with publishers. Following discussions at the General Conference in 1998 work began on a means to improve library/publisher relations throughout the world. A Joint IFLA/IPA (International Publishers Association) Steering Group was established and had its first meeting in March 2000. CLM is represented on that Group and we work closely with IFLA headquarters on those issues arising from their discussions directly relating to CLM's mandate

CLM, like all other core activities, will be preparing a Strategic Plan for the years 2002-2003 detailing our next steps forward. It is clear however, that in order to achieve useful results in this increasingly important area of library activity, CLM needs to be adequately financed. Any financial contribution that IFLA members or others interested in our work can make to this effort will be greatly appreciated.

In summary working with CLM is interesting, challenging and most rewarding as our mandate includes a number of public policy issues, which are critical to the success of the library communities' goal of universal and equitable access to information. I would like to thank all the members of the Committee for their work and dedication, and in particular to those members who have completed four years with us and are going on to other things My sincere appreciation also to the staff at Boston Spa and in the Hague for their patience and ever ready assistance.

August 21st, 2001

**Marianne Scott, Chair- IFLA CLM**

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