

TRIG
A Symposium . . .

A New Copyright Law: What Are the Issues?

JAMES R. SQUIRE *

DESPITE several years of study and discussion, involving educational and scholarly leaders, authors, publishers, specialists in the new media, and other interested parties, revision of the copyright law of 1909 remains one of the more complex and controversial issues facing the United States Congress. Hopes for immediate action on the copyright revision bills currently before the Congress (S 597 and HR 2512) were terminated last spring by the decision of the United States Supreme Court concerning the activities of cable television systems, and it seems clear that further study of the copyright implications of cable television systems will be mandatory before the Senate Subcommittee on Patents, Trademarks, and Copyright can reach any agreement on the language of a new bill.

The issues which have complicated and confused the ebb and flow of the seven-year-old attempt to revise existing copyright statutes have not resulted primarily from basic disagreement over the legitimate interests of authors and publishers in protecting their own creative efforts or from a lack of understanding of the legitimate interests of the scholar or classroom teacher in seeking fair use of copyrighted material. In principle, most parties to the deliberations have long since recognized these essential concerns.

Rather the major issues have been the almost inevitable result of attempting to define within the language of a single bill legal protection for both producer and consumer which applies not only to conventional printed and oral transmission of copyrighted material, but to various kinds of photocopying and dissemination of information through electronic means made possible by modern technology. To define "fair use" of copyrighted material in a single classroom involving face-to-face relationships of teacher and students is one thing; to define such use in an educational television classroom involving thousands of pupils and the possibility of recorded replays seems quite another. Achieving a reasonable consensus about such problems and finding a language to express this consensus in such a way as to apply to the variety of situations in which copyrighted materials are used (or someday may be used) have been the major tasks.

For Today and Tomorrow

Developments in technology not only compound the problem but raise concern lest

* James R. Squire, Editor in Chief and Senior Vice President, Ginn and Company, Boston, Massachusetts

legislation written today may seem unduly restrictive tomorrow. In a sense we face at the present moment a problem similar to that faced forty years ago when radio was new. Our legislators must prepare statutes to guide us not only for the conditions we face today but for those which we anticipate tomorrow. One case in point relates to the growing use of computerized storage of information for subsequent retrieval and dissemination. When copyrighted material is utilized in such programs, should restrictions govern its use at the moment of "input"? Or only during the "print-out" when the copyrighted material becomes widely disseminated? And how in our modern technology can fair and effective methods be developed to control the use of such dissemination systems without restricting free access to ideas?

Further complicating present concerns are the recent U.S. Supreme Court decisions suggesting that transmission cable television systems are users or relayers, rather than broadcasters of material, and hence are entitled to unrestrictive use of copyrighted broadcasts, much like individuals before television sets in their home. Are computer information banks thus also users which only

relay material to others? To what extent do these new court decisions apply to other kinds of electronic transmission?

The nation's educators have an important stake in the clarification of these issues and in shaping the language yet to be written into law. Not only will they wish to ensure the necessary and legitimate fair use of copyrighted material for educational purposes in the classroom, but they share an important responsibility in assuring authors and publishers that investment in time, effort, and ideas will be afforded legitimate protection.

In a day in which modern technology makes increasingly possible widespread copying and easy electronic transmission of ideas, many authors and most publishers fear that unrestricted duplication may so undercut distribution of commercially-produced materials as to limit the investment which any publisher can make in educational materials. If this should happen, authors would seldom receive a reasonable return for their creative efforts, publishers would be forced to restrict their investment in any educational program, the quality of educational material would inevitably suffer, and our educational programs would be the inevitable losers. □

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BROWN PALACE HOTEL • DENVER, COLORADO

Sunday, January 19, through
Wednesday, January 22, 1969

Association for Supervision and
Curriculum Development, NEA
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