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Hello,

I am the library assistant who conducts ILLs here. My supervisor has asked me to submit my comments about this. My responses are in bold, below. I did not address each and every question.

<http://www.copyright.gov/fedreg/2006/71fr70434.html>
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Specific Questions

1. How can the copyright law better facilitate the ability of libraries and archives to make copies for users in the digital environment without unduly interfering with the interests of rights-holders?

2. Should the single-copy restriction for copies made under subsections (d) and (e) be replaced with a flexible standard more appropriate to the nature of digital materials, such as "a limited number of copies as reasonably necessary for the library or archives to provide the requesting patron with a single copy of the requested work"? If so, should this amendment apply both to copies made for a library's or archives' own users and to interlibrary loan copies?

YES. The incidental copies are a technicality.

3. How prevalent is library and archives use of subsection (d) for direct copies for their own users? For interlibrary loan copies? How would usage be affected if digital reproduction and/or delivery were explicitly permitted?

For us, very prevalent. Not much effect; we use digital delivery already in the majority of ILLs.

4. How prevalent is library and archives use of subsection (e) for direct copies for their own users? For interlibrary loan copies? How would usage be affected if digital reproduction and/or delivery were explicitly permitted?

For us, not very prevalent. Little effect: rare requests for whole works, few are available digitally.

5. If the single-copy restriction is replaced with a flexible standard that allows digital copies for users, should restrictions be placed on the making and distribution of these copies? If so, what types of restrictions? For instance, should there be any conditions on

digital distribution that would prevent users from further copying or distributing the materials for downstream use?

Yes, seems reasonable, to preserve the commercial market.

Should user agreements or any technological measures, such as copy controls, be required?

No objection, but could be incorporated into present disclaimer about use.

Should persistent identifiers on digital copies be required? How would libraries and archives implement such requirements? Should such requirements apply both to direct copies for users and to interlibrary loan copies?

Yes, no difference in potential misuse.

6. Should digital copying for users be permitted only upon the request of a member of the library's or archives' traditional or defined user community, in order to deter online shopping for user copies? \

What of users without local library services? What if there is no online commercial route to get the article?

If so, how should a user community be defined for these purposes?

Anyone qualified to get a library card.

7. Should subsections (d) and (e) be amended to clarify that interlibrary loan transactions of digital copies require the mediation of a library or archives on both ends, and to not permit direct electronic requests from, and/or delivery to, the user from another library or archives?

No. This would inhibit our current services to graduates, vendors, etc.

8. In cases where no physical object is provided to the user, does it make sense to retain the requirement that "the copy or phonorecord becomes the property of the user"? 17 U.S.C. 108(d)(1) and (e)(1). In the digital context, would it be more appropriate to instead prohibit libraries and archives from using digital copies of works copied under subsections (d) and (e) to enlarge their collections or as source copies for fulfilling future requests?

No opinion.

9. Because there is a growing market for articles and other portions of copyrighted works, should a provision be added to subsection (d), similar to that in subsection (e), requiring libraries and archives to first determine on the basis of a reasonable investigation that a copy of a requested item cannot be readily obtained at a fair price before creating a copy of a portion of a work in response to a patron's request?

No, very burdensome to investigate each request.

Does the requirement, whether as applied to subsection (e) now or if applied to subsection (d), need to be revised to clarify whether a copy of the work available for license by the library or archives, but not for purchase, qualifies as one that can be "obtained"?

10. Should the Study Group be looking into recommendations for revising the CONTU guidelines on interlibrary loan? Should there be guidelines applicable to works older than five years?

No, smaller commercial market usually.

Should the record keeping guideline apply to the borrowing as well as the lending library in order to help administer a broader exception? Should additional guidelines be developed to set limits on the number of copies of a work or copies of the same portion of a work that can be made directly for users, as the CONTU guidelines suggest for interlibrary loan copies?

Seems reasonable.

Are these records currently accessible by people outside of the library community?

Should they be?

11. Should separate rules apply to international electronic interlibrary loan transactions? If so, how should they differ?