

## **The Copyright and Rights in Performances (Quotation and Parody) Regulations 2014**

### **A Short Briefing by the Libraries and Archives Copyright Alliance (LACA)**

#### **The story so far**

LACA (the Libraries & Archives Copyright Alliance) and CILIP (the Chartered Institute of Library and Information Professionals) have strongly supported the Government's reform to copyright laws, and we are delighted that the majority of these became law on 1 June 2014. However, two of the Statutory Instruments, including the proposed Quotation Exception contained within the **The Copyright and Rights in Performances (Quotation and Parody) Regulations 2014**, have been delayed at Committee Stage in Parliament.

**We urge MPs and Peers to support these delayed SIs and in particular the proposed Quotation exception which is essential to research, education, libraries and archives.**

#### **Summary**

The proposed quotation exception will:

- Enable researchers, academics, students as well as citizens to make a "fair" and proportionate quotation from a published work that is in copyright;
- Require acknowledgement of the rights holder;
- Allow a "fair" and proportionate part of a published work to be quoted in instances beyond simply being critiqued, commented upon or analysed for its merits;
- Align UK law with European and international norms.

Currently the law allows fair dealing in a published work for the purposes of "criticism and review" only. However, extracts of copyright works sometimes need to be referred to for research, teaching and learning purposes whilst the work being quoted itself is **not** being commented upon or analysed.

Examples that would fall outside of criticism and review include:

- Quotations from extracts of works by research students in literature reviews for e-dissertations and e-theses which are made available in subject or institutional repositories.
- Illustrative quotations from literature or scholarly works included within academic books/monographs to reflect the nature or message of the work.
- Quotations of works in lectures/teaching sessions which may be recorded and made available to students.
- Reproducing excerpts of musical works for students to arrange for different instrumental combinations.
- Reproducing illustrative extracts of musical works for incorporation into concert programmes.
- The use of quotations to illustrate the impact of the First World War on soldiers and civilians in an Imperial War Museum published guide book to accompany the opening of the new First World War Galleries.
- A British Library blog on preservation using a picture of a poster, book, or photograph to illustrate how items decay or how they have subsequently been conserved.
- A scientist who needs to quote scientific findings in their own work as their work builds upon the original findings.

### **Provision to protect copyright exceptions from override by contract**

Universities, libraries and schools may not normally purchase electronic material outright. They normally subscribe to electronic content, via hundreds of contracts. It is, therefore, NOT copyright that dictates how that content can be used, but the contracts.

These contracts have varying terms and conditions that have to be complied with. Just as it is not possible to have a separate agreement for every book on a shelf, it is not possible for the thousands of libraries in the UK to negotiate each contract governing the use of electronic material. Libraries and archives do not have the resources or legal expertise required to do this: nor would it be efficient for the publishing industry to have to negotiate every contract with every library.

All we ask is that, irrespective of the varying terms of these contracts and the large number of contracts libraries have to negotiate, all libraries and their patrons have certainty around the minimum actions they can do with the electronic content which they have purchased or to which they have lawful access. Everyone who uses electronic content should be able, as a bare minimum, to use that material in line with exceptions to copyright as decided by Parliament.

The proposed provision to protect the new Quotation exception from being overridden by contract, (a provision that now exists in UK copyright law with regard to exceptions for libraries, archives, education, research and disabled people, and also exists in Irish copyright law), is therefore essential so that people know what they can do with content to which they have lawful access. Without this we are expecting every librarian, student, researcher and citizen in the country to be experts

in contract law, and have read and understood all the terms and conditions for every eBook or e-database they access through a library.

Rights owners often claim that limitations and exceptions are rendered unnecessary by the existence of licensing schemes. They forget that many copyright works are not, and in some cases cannot be, covered by licensing schemes. There is, for instance, no scheme for unpublished literary works (such as private letters), nor one for private films or photographs. Archives and libraries have no choice but to rely on exceptions in order to provide a service to the public. Similarly, the internet is used by all; to suggest that every page of the internet can be licensed seems entirely impractical.