Current Copyright Act 1978

• Outdated, irrelevant and serious barrier to access to knowledge.

• Holding back updates to 11 Dept of Arts & Culture laws since 2008

• L & Es sanctioned by international Treaties – SA failed to adopt them nationally

• New Bill seeks to redress the situation
Did you Know?
Access to Information Restricted or Prohibited

- Preservation and digitisation projects restricted, delayed, cancelled
- Historical and educational projects cancelled
- Altruistic support for rural doctors not possible
- Format-shifting not permitted to address obsolete technologies
- Deposits in institutional repositories restricted/stopped
Copyright Reform

• Educational and library sectors – lobbying since 1998!

• Proposals to amendment Regulations (1998) and the Act (2000) were withdrawn

• Africa Group proposals and eIFL Model Copyright Law – some included in this Bill

• Bill is a positive step forward
Framework of 2017 Bill

- Human Rights and other international Conventions and Treaties
- Treaties supported by African Group at WIPO SCCR
- Progressive foreign copyright regimes
- Global sustainable development goals
- eIFL Model Copyright Law - expands on WIPOs Model Law for Developing Countries - [http://www.eifl.net/system/files/resources/201607/eifl_draft_law_2016_online.pdf](http://www.eifl.net/system/files/resources/201607/eifl_draft_law_2016_online.pdf)
- SA Constitution and National Development Plan (NDP)
- Various pieces of legislation relating to Libraries, Education, Archives, Disabilities, etc.
Support for L & E’s in Bill

• International Federation of Libraries & Institutions (IFLA) – represents libraries in 150 countries
• Global Expert network on Copyright User Rights
• Library Copyright Alliance (USA)
• Australian Digital Alliance and Australian Libraries Copyright Commission,
• German Coalition for Action “Copyright for Education and Research”,
• African Union for the Blind (relating to persons with disabilities)
• Electronic Information for Libraries (eIFL)
• Department of Arts and Culture
• National Department of Education
• DAC Legal Deposit Committee
• National Council for Library and Information Services (NCLIS)
• Library and Information Association of SA (LIASA)
• Universities South Africa
• Southern African Research Universities Association (SARUA)
• Informally by NGOs, e.g. Freedom of Expression Institute, Media Monitoring Group, Wikipedia, and ENCODE
L & E’s for Libraries & Related Sectors

- Libraries provide access for authors and creators

- Legal Deposit – cultural heritage

- Bill provisions will assist libraries and related sectors to carry out their statutory mandates.
L & E’s for Education & Academic Activities

• L & Es will facilitate access to information

• Will transform research, teaching and learning

• Coursepacks:
  • India Case - http://bit.ly/2m9mvCo
  • Canada Case going to appeal - https://tgam.cva/2vu5hlt
Persons with Disabilities

- Welcome appropriate provisions for people with various disabilities
- SA needs to ratify Marrakesh Treaty urgently – to ensure reciprocal cross-border sharing of accessible formats
- Accessible formats - whole new business opportunity for SA publishers & authors
Orphan Works

• Impractical, expensive & cumbersome process

• Will render works inaccessible forever

• Licensing, or better still, fair use a practical solution!

• State ownership of mostly international works not advisable – nor State fund to collect monies.
Fair Use Provisions

• Fair Use needs to be open in the Bill
• Open fair use will address –
  • ever-changing technologies;
  • transformative users;
  • text and data mining;
  • new innovations;
  • 3D creations,
  • Artificial intelligence
  • Unforeseen uses in the future

• Fair use is NOT ‘carte blanche’ for unlimited copying
• An enabler, not destroyer of creativity
• Best Practices = Fair Use and Best Practice Guidelines
  http://libguides.wits.ac.za/Copyright_and_Related_Issues/fairuse_fairdealing
‘Capture’ of Knowledge in Copyright Works

• Access – an expensive commodity
• Foreign control and resale
• SA tertiary sector pays R600 million per year for e-resources
• Institutions pay millions to for books and photocopies
• Scholarly authors now have to pay high article processing charges
• Elsevier – buying out OA platforms – boycotts, SciHub
• Fair use provisions could address a lot of these issues
Copyright Amendment Bill 2017

• 2017 Bill published for comment and invitation to present at Parliamentary hearings – closing date 7 July 2017

• Joint Academic Submission (Wits, UCT and UNISA) – supported by various organisations, including IFLA

• LIASA, NCLIS, Legal Deposit Committee, Universities SA, SARUA, IFLA, the Global Expert Network on Copyright User Rights, etc. made submissions

• See submissions at: http://libguides.wits.ac.za/Copyright_and_Related_Issues/SA_Copyright_Amendment_Bill_2017
Opposition by Rightsowners

• Written submission to Bills by various stakeholders, e.g. SAMRO, DALRO, etc.
• Strong opposition to Bill presented in public hearings in August 2017
• Myths about Fair use – not ‘carte blanche’ for wide infringement
• Educational provisions – believed to negatively impact on publishing industry
Process of Bill

• Portfolio Committee on Trade & Industry Public hearings - 1, 3 & 4 August 2017 for all stakeholders

• Sponsored by DAC – presented on behalf of LIASA and related sectors on 4 August 2017

• Small task group established by PC to redraft Bill

• ANC Legal Research Group Workshop on YouTube at: https://www.youtube.com/watch?v=MB0ehw1pspY

• Portfolio Committee to continue deliberating on the Bill in Parliament until 1 December 2017
In a nutshell, Open Access is:
- Free
- Immediate
- Full Text
- Permanent
- Online access
- With Limited/no copyright restrictions

**GREEN**: Publish in conventional accredited journals, plus deposit a copy into an institutional repository – **OA via a repository**

**GOLD**: Publish in peer-reviewed accredited OA journals, preferably without article processing costs. **OA via a journal**

**For more information**: See: What is Open Access? Overview by Peter Suber – [http://legacy.earlham.edu/~peters/fos/overview.htm](http://legacy.earlham.edu/~peters/fos/overview.htm)
Open Access Timeline - [http://oad.simmons.edu/oadwiki/Timeline](http://oad.simmons.edu/oadwiki/Timeline)
There are many misconceptions and myths about Open Access, particularly about its quality, impact factors and peer-review processes.

There are good and not-so-good OA journals, just like there are good and not-so-good subscription-based journals.

Read about these myths at: http://libguides.wits.ac.za/openaccess_a2k_scholarly_communication/myths
“Obscurity is a far greater threat to authors and creative artists than piracy” (T. O’Reilly)

If you aren’t on Google, you don’t exist!
Why Green OA for Authors?

• So what is your choice? Open Access – or Obscurity in the digital world?

• About 2.5 million annual research articles are published in 25,000 peer-reviewed journals worldwide. Most research articles are accessible by only a few

• OA - an online managed, permanent database of scholarly output. It maximises:
  • Research visibility, usage, impact, citation, productivity, progress & funding, and
  • research manageability and accountability

All this - by maximising research accessibility
Why Green OA for Universities?

• An ethical argument – if public pays for research, then public should have access to it.

• OA maximises, measures and rewards uptake, usage, applications and impact of research activity

• Showcases research output on global stage

• Cuts copyright fees

• Provides free resources for teaching and research
Why Green OA for Universities (cont’d)

• Reduces the risk of researchers using outdated data

• Encourages co-operation, innovation, collaboration, etc.

• External OA databases could be commercialised - It’s remain free & open

• It makes publications accessible and transparent

• Attracts funders to support research
Institutional Repositories: Some Benefits

- Institutional repositories are meaningful indicators of academic quality
- A larger potential audience – accessible to anyone on the Web – wealth of resources to potential PGs & other researchers
- Better impact, increased citations, global and cross-disciplinary exposure and funding opportunities.
- Reduces delay in getting research results
Copyright Policies for IRs

- Publisher copyright policies - [http://www.sherpa.ac.uk/romeo.php](http://www.sherpa.ac.uk/romeo.php)
- Publishers that allow Published Version to be placed on IR - [http://www.sherpa.ac.uk/romeo/PDFandIR.php?la=en](http://www.sherpa.ac.uk/romeo/PDFandIR.php?la=en)
- Publishers’ policies (mixed) – green, blue, yellow and white - [http://www.sherpa.ac.uk/romeo/browse.php](http://www.sherpa.ac.uk/romeo/browse.php)
- Search by Journal name for individual policy - [http://www.sherpa.ac.uk/romeo/journalbrowse.php](http://www.sherpa.ac.uk/romeo/journalbrowse.php)
- South African journals on Sherpa Romeo - [http://sherpa.ac.uk/romeo/search.php?country=ZA&la=en&fIDnum=%7C,&mode=simple&version](http://sherpa.ac.uk/romeo/search.php?country=ZA&la=en&fIDnum=%7C,&mode=simple&version)
- Research funders' open access policies - [http://www.sherpa.ac.uk/juliet](http://www.sherpa.ac.uk/juliet)
Gold OA Publishing

- Resources on Publishing your Research - [http://libguides.wits.ac.za/ScholarlyCommunication](http://libguides.wits.ac.za/ScholarlyCommunication)
- Open access Publishing (see sub-Tabs too) - [http://libguides.wits.ac.za/ScholarlyCommunication](http://libguides.wits.ac.za/ScholarlyCommunication)
- ROAD – Directory of OA Scholarly Resources- [http://aims.fao.org/activity/blog/road-directory-open-access-scholarly-resources](http://aims.fao.org/activity/blog/road-directory-open-access-scholarly-resources)
What is an Article Processing Charge (APC)?

• An article processing charge (APC) is a publication fee that some publishers charge authors to publish their works on OA.

• Not all Open Access journals charge APCs, but many do.

• Rather select an OA journal without APCs, or publish in a conventional subscription-based journal, and then place copy of your final manuscript or published paper in our institutional repository.

• You can check your publishers’ copyright policies on Sherpa Romeo website at: http://www.sherpa.ac.uk/romeo
What is Predatory Publishing?

“Predatory publishing is the practice of publishing journals that exploit the emerging acceptance of open-access academic journals to undermine peer-review processes” (J. Beall)

Unscrupulous practices – e.g. spam emails; charge APCs – often without informing authors beforehand; publish very quickly without peer review, etc,
Scam Publishing/Bogus Conferences

• Bogus journals

• Low quality or predatory journal publishers - 
  http://libguides.wits.ac.za/openaccess_a2k_scholarly_communication/Predatory_Publishers

• 2 Predatory Book Publishers - Lambert Academic Publishers & VDM Verlag—see 

• Fake conferences (check sponsors, even IEEE has sponsored some); some use 
  same name & acronyms of genuine conferences; offer several conferences in 
  one year; same contact for several conferences; no venue or programme details, 
  etc.

• Plagiarism - Some journals have a bad reputation for this – do Google search

• Honorary credits - Someone adds your name or others’ names as an ‘honorary 
  author’ or editor’, without you knowing
Conclusion

• National imperative to build an informed nation

• Redress and/or remove inequalities and build and sustain vibrant communities

• Balanced copyright laws will allow equitable access to knowledge

• Adopt and promote Open Access - Free up knowledge for all!

HAPPY OPEN ACCESS WEEK!!
Thank You

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Copyright & Related Resources
http://libguides.wits.ac.za/Copyright_and_Related_Issues
Other useful LibGuides
http://libguides.wits.ac.za/prf.php?account_id=25548

Copyright & A2K Issues (Free Online Information Service)
To subscribe: email Denise.Nicholson@wits.ac.za
See: http://africanlii.org/blogs/denise

Have a Nice Day

http://africanlii.org/blogs/denise