

Legal Regulation & Education: Doing the Right Thing?

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Copyright, Risk and Cultural Heritage

Are those cultural heritage institutions that identify as archives, or hold archive collections, doing the right thing when they make copyright-protected material available online without first securing permission from the copyright owner? Conversely, are those institutions who commit to supporting democracy, accountability, education and community, yet avoid digitising copyright protected material to comply with the law, doing the right thing for their user communities and the general public?

Building on previous research (Deazley and Stobo, 2013), this paper argues that existing and proposed changes to the law do not target the 'right things' for those cultural heritage institutions who identify as, or hold archives, and are committed to making their collections available online. Given the strategic importance of digitisation to the cultural heritage sector in the UK, this leaves individual archives with the following decision: to comply or not comply with copyright law.

As a result, the author argues that, through the use of risk management strategies, it can (in certain circumstances) be appropriate for cultural heritage institutions to ignore the rights of some rightsholders in collections, in order to achieve their stated objectives: namely, to support and contribute to "local and national democracy and accountability, to education, learning, and culture, and to the sense of identity and place for local people, communities and organisations." (2013, p. 3)

This paper is based on an empirical scoping study conducted at the Wellcome Library. The Codebreakers project was a pilot mass-digitisation initiative in which the Wellcome Library decided to adopt a risk-managed approach to copyright clearance in the archive collections selected for digitisation.

The paper will be further illustrated using a digital resource documenting the Archives and Copyright symposium held at the Wellcome Trust in September 2013. The creation of this digital resource was funded by a BILETA research grant. The resource includes video footage and transcriptions of presentations, images and links to further resources.

The paper further develops the arguments presented in Archives and Copyright: Risk and Reform, (2013, available at: <http://bit.ly/1eBmYoW>) which was originally presented at the 28th Annual BILETA Conference 2013 (Liverpool).

Relevance to Conference Theme and Streams: This paper is highly relevant to the central Conference Theme and in particular to the following conference topics: Intellectual Property and e-Learning and Legal Education.