

**Information Meeting:
Educational Content and Copyright in the Digital Age
WIPO Headquarters, Geneva
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“Education, Copyright and Development.”

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The Commonwealth of Learning (COL) is an intergovernmental organisation established in 1998 by Commonwealth Heads of Government to encourage the development of open learning and distance education, through the fostering and sharing of knowledge, resources and technologies.

COL has concentrated on improving education by making the best use of technology. Technology, however, offers only part of the solution to the world's need for education. Another part lies in having good and affordable educational material for the technology to deliver.

COL accepts that distance learning education must respect the legitimate interests of copyright holders. COL is concerned, however, that some national copyright regimes do not include the exceptions and limitations that international agreements allow for the educational use of copyright material. In such countries learning either has to take place without using copyright material or has to bear the additional cost of the royalties for using this material. This concern led to a COL workshop in Johannesburg in May 2005 which drafted a document drawing attention to these exceptions and limitations. Sir John Daniel, President of COL, sent this document to the 53 Commonwealth Ministers of Education.

While it is important that ministers of education be informed about the legal position of copyright material, the reality is that in most Commonwealth countries Ministers of Education have little say over how copyright legislation is drafted and administered. This is because copyright legislation usually falls into the portfolio of a minister who is responsible for trade, industry and economic development. These ministers are understandably concerned mainly with promoting the growth and prosperity of the publishing industry.

Categorising copyright as a source of wealth has meant that copyright legislation, which should represent a balance between the interests of the creator of a work and the community, is understood

mainly from the point of view of the holders of copyright. These (who are not usually the creators of the material) have regarded the new technology that has made it possible to reproduce and distribute material, such as the technology used in distance learning, as an opportunity to increase the royalties they collect.

This situation, which amounts to taxing education on behalf of the publishing industry, not only goes against the ideal of copyright. It also goes against the long-term interests of the publishing industry because uneducated people are not likely either to appreciate the products of the publishing industry or to be able to pay for them.

Educators do not have the resources to challenge the publishing industry. They cannot afford to contest the publishers' interpretation of copyright legislation in court. And they do not have access to the government ministers who are able to amend copyright legislation to provide for educational exceptions. Proposals for bilateral trade treaties sometimes also include terms that make inroads on the educational exceptions for using copyright material.

All this has resulted in educators having a sense of being unable to get reasonable access to important educational material. This has led to confrontation between educators and copyright holders with educators seeing WIPO as firmly on the side of the copyright holders.

COL invites WIPO, as the institution responsible for administering the international agreements about copyright, to encourage the use of copyright material for education by promoting the awareness and the use of the educational exceptions in copyright. In particular, the COL would like to see:

- An agreement on Access to Knowledge and Technology
- Positive WIPO participation in meetings of those involved in education such as the 4th Pan-Commonwealth Forum on Open Learning that will be held in Jamaica 30 October to 3 November 2006

Cape Town, 10 November 2005