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COVID-19 prompts calls for library-friendly copyright laws

Tonderayi Mukeredzi 26 November 2020

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COVID-19 is taking its toll on libraries since teaching and learning moved online earlier this year. Shortages of textbooks and other printed material, exorbitant textbook prices and copyright problems have proved especially challenging

Teresa Hackett, copyright and libraries programme manager at Electronic Information for Libraries (EIFL), a not-for-profit international organisation that works with libraries across the world, said libraries could not cope with the demand for textbooks and other printed material.

Hackett said that when scores of library buildings closed, staff would gain special access and arrange for faculty and students to pick up books from guards at campus gates.

“There were cases where librarians could not enter libraries at all because of government restrictions. Some libraries provided emergency access by e-mail to book chapters or other study material. But, over time, even this service became difficult for libraries that did not have sufficient scanning equipment or staff resources to keep up with requests,” she said.

Complex copyright laws

Academics and librarians also struggled with complex copyright laws and regulations that prevented access to e-resources.

Denise Nicholson, scholarly communications librarian at the University of the Witwatersrand in Johannesburg, South Africa, said COVID-19 had highlighted the inadequacies and restrictions in South Africa’s copyright law that negatively affects access to information, knowledge sharing and the provision of relevant teaching and research materials.

“Overnight, e-learning platforms became the virtual classroom for schools and tertiary institutions. Teachers and lecturers needed to scan book chapters, articles, images and other teaching materials from personal and borrowed copies and upload them to password-protected e-learning platforms, but they quickly hit the copyright barrier,” said Nicholson.

The pricing models for academic e-books was another major challenge. Whereas reasonably priced and widely available e-books could help alleviate the situation, most e-books were beyond the reach of many users.

Nicholson said access to e-books has been particularly problematic for libraries during lockdown as most books that are considered textbooks are simply not available for purchase in electronic format.

“For example, two South African textbook providers do not allow

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libraries to purchase e-books and they will only sell directly to individual lecturers or students. However, e-book prices in South Africa are unaffordable for most students,” she said.

Converting print material violates laws

Professor Paul St-Pierre of the University of Guelph in Ontario, Canada, said during a presentation at the 2020 EIFL virtual general assembly in September 2020 that, not only are textbooks expensive, but e-textbook distributors circumvent libraries.

Dick Kawooya, an information science lecturer at the University of South Carolina in Columbia, South Carolina, said COVID-19 and the lockdown meant that libraries were not available to the public to access print and digital services. “Although all library resources are acquired and distributed legally, converting print resources would violate the copyright law,” he said.

“Likewise, transmitting copyright content in other formats such as reading a book aloud over Zoom would potentially infringe on the relevant copyright laws. Many libraries needed to do exactly that but could not avoid breaking the law.”

Consequently, many libraries are looking to open source material, the use of Creative Commons and other open-content licences to fill the gap.

Publishers made concessions

Following a statement by the International Coalition of Library Consortia in March requesting publishers to lift certain restrictions on licences temporarily, many publishers responded by providing access to additional content and by making certain COVID-19-related content freely available.

Some publishers lifted paywalls to their entire portfolios, while others waived restrictions on concurrent access or allowed remote access. However, access expired at different times, depending on the publisher and the territory.

Heads of African copyright offices agreed that Africa was lagging behind the rest of the world regarding copyright provisions, especially for the use of digital material. This emerged at an African regional seminar jointly organised by the UN’s World Intellectual Property Organization (WIPO) and Kenya Copyright Board (KECOBO).

Limited exceptions in many countries

American copyright consultant Professor Kenneth Crews revealed at the meeting that, out of 53 African countries surveyed, 13 have no exceptions for libraries. These exceptions address issues including reproducing copyrighted works for research and study, document supply and interlibrary lending. The most common specialised exceptions are for preservation (26 countries) and research and study (25 countries).

Crews said libraries in 10 other countries have to make do with a general exception, usually an exception that does not include specialised library activities.

Said Kawooya: “For years, librarians and other partners have called for library-friendly copyright laws, the kind that provide expansive limitations and exceptions, but the calls fell on deaf ears. COVID-19 has shown the link and urgency in the intricate relationship between copyright, access to information or learning materials and education.”

At the Nairobi meeting, participants agreed that exceptions must be increased to achieve a proper balance in the copyright system,

especially for digital technologies and to allow cross-border use.

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