# QUESTIONS AND ANSWERS ON COPYRIGHT FOR LIBRARIANS

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## DISCLAIMER

These answers represent my own personal opinions, in response to questions asked of me by New Zealand librarians. Where appropriate you should seek advice from your legal adviser.

## RELATED PUBLICATIONS

*The Copyright Act 1994 and Amendments: Guidelines for Librarians* (2008)
http://www.lianza.org.nz/about/governance/copyrightact.html

*Implications for Interloan of the Copyright Act 1994 and Amendments* (2008)
http://www.lianza.org.nz/about/profile/interloan/copyright_implications.html

*Copyright Guidelines for Academic Staff and Students* (2008)
http://www.waikato.ac.nz/copyright/

*Questions and Answers on Copyright for Academic Staff and Students* (2008)
http://www.waikato.ac.nz/copyright/

*Copyright Guidelines for Research Students* (2008)
http://www.lconz.ac.nz/documents/Copyright%20Guidelines%20LCoNZ.pdf

## QUESTIONS AND ANSWERS

1. **For some laboratory processes in my institution there is a reading list which staff must show they have read before undertake a process. Can copies of these articles be obtained (either from the library's own collections or on Interloan) and be stored in a central place, say in a pamphlet box on library shelves or in a vertical file?**

   *In interpreting the Copyright Act, it is usually useful to work through each relevant section of the Act, to see whether any section applies to what you want to do. So, in this case, can the copying be undertaken under:*

   ***s.42, Copying for criticism, review, and news reporting****? No, this section is not relevant.*

   ***s.43, Copying for research or private study****? No, because this section applies to copying by an individual for that individual's own research or private study, not to copying for other individuals or for the library or its collections.*

*__s.44, Copying for educational purposes__? No, because s.44(3) applies to copying by or on behalf of an educational establishment, and s.44(3)(f)(ii) restricts copying to no more than the greater of 3 percent or 3 pages of the work. (It is true that licence agreements which educational institutions have with Copyright Licensing Ltd (CLL) extend this limit to the whole of a periodical article, but the CLL license relates to multiple copying for student course-packs, not to copying for library collections).*

*__s.52, Copying by librarians of articles in periodicals__? No, because this section applies to copying for a specific library user, not for the library's collections or for other users.*

*__s.53, Copying by librarians for users of other libraries__? No, because sub-section (2) states that copying under this section must be for a person who has requested that the copy be supplied for the purposes of that person's research or private study. This section applies to copying for the users of other libraries, not for the collections of other libraries.*

*__s.54, Copying by librarians for collections of other libraries__? No, because most unfortunately this section applies only to copying from books, not from periodical articles.*

*__s.55, Copying by librarians or archivists to replace copies of works__? No, because sub-section (1)(b) states that the purpose of copying under this section must be to replace in the collection of another library "an item that has been lost, destroyed, or damaged", so this section does not apply.*

*__s.56, Copying by librarians or archivists of certain unpublished works__? No, this section is not relevant.*

*The answer to this question, therefore, must be no. You could approach CLL to see if they would offer your library a licence to allow you to do what you are asking.*

2. **Can digital copies of periodical articles obtained from other libraries or from overseas document supply companies be placed on a server for use by researchers of a long-term research project, the personnel of which will change over the years?**

*Provided that the digital copies have been obtained lawfully, they may be communicated to authenticated users under the provisions of s.56A (Library or archive may communicate digital copy to authenticated users). However, the difficulty will be with the words "obtained lawfully", since ss.52, 53, 54 and 55 do not apply, for the reasons given in the answer to Question 1. And digital copies of periodical articles supplied by overseas document supply companies are for the research or private study of the requester, not for the library's collections. If your library subscribes to digital copies of*

*the journals in which the articles are published, you could provide hypertext links to the relevant articles.*

3. **Does New Zealand copyright law apply to all authors, regardless of their nationality and regardless of the place of publication of the work?**

   *Yes. New Zealand copyright law applies to almost all nationalities and countries – those Convention countries (defined in s.2(1)) that are signatory to any of the copyright conventions that New Zealand is signatory to: the Berne Convention, the Universal Copyright Convention and the TRIPPS Agreement. As a rule of thumb, librarians can assume that virtually all publications have been published in or by a citizen of a Convention country. Countries that are not signatory to any of these three copyright conventions include Afghanistan, Iran, Iraq, Nauru, Tuvalu and Yemen, among others.*

4. **Are New Zealanders required to comply with overseas copyright law?**

   *No. New Zealand citizens in New Zealand are required to comply with New Zealand copyright law.*

5. **Is the position different if you are publishing overseas?**

   *Yes. Your overseas publisher is likely to require you to comply with the copyright law of the country of publication.*

6. **Is a music score a "musical work"?**

   *No. Music scores are "literary works", and the same rules apply as for books.*

7. **Do New Zealand libraries need to comply with the code of practice of overseas associations such as the British Music Publishers' Association (for example, regarding the copying of musical publications)?**

   *No, not unless your library has a licence agreement with the association.*

8. **Does a student writing a thesis have to obtain permission from the copyright owner for every quotation used in the thesis, even if the quotation is only a few words?**

   *No. A short quotation from another work is well within the fair dealing provisions of s.43 (Copying for research or private study). Acknowledgment of the source should of course always be made – but this is a matter of academic practice, not copyright law (although "sufficient acknowledgement", defined in s.2(1), is required under s.42, copying for criticism, review, and news reporting).*

**9. How do I register copyright in my work?**

*You do not (and can not) register copyright in New Zealand: copyright automatically exists as soon as a work is published, i.e. "issued to the public" (s.10). This is not so in some other countries (such as the U.S.) where copyright in a work is normally registered. Some people print a ©, the name of the copyright owner, and the year of publication on the verso of the title-page to indicate that there is copyright in the work, but this is not required to assert copyright ownership under New Zealand law, and their absence does not mean that the work does not have copyright protection.*

**10. Who owns copyright in a directory that has been compiled mainly by one person but which has been contributed to by various librarians over the years?**

*The author of the work. There can be multiple authors each owning copyright, but whether this would apply to the contributing librarians in this case would depend on the extent of their contribution, and whether there was an agreement between them and the main author. The fact that someone else published the work does not affect copyright in the work, unless the author has passed copyright ownership over to the publisher. Nor does the fact that the publisher has inserted a © prove that the publisher owns the copyright – it just indicates that copyright in the work is claimed.*

**11. Does the copyright position change if the directory is substantially enhanced and published in an electronic version?**

*If the changes are sufficient to mean that the electronic version forms a substantially new work, not just a copy of the old work (for example, that its coverage has been significantly extended and brought up-to-date) then copyright in the new work will be owned by the author or creator of that new work. A court might need to rule, if there is a dispute. The new work should, of course, include acknowledgement of the earlier work on which it is based.*

**12. What is the copyright position regarding the loan to other schools of books that are photocopy masters? Most of these state that they must not be given or sold to, or photocopied by, other schools or teachers.**

*You are constrained by this licence agreement. You may loan the books, but must make it very clear to the borrowers that the books must not be photocopied. To cover the library, you may wish to require the borrower to sign a simple statement that no copies will be made.*

**13. My institution has a collection of slides of art works, which is used for teaching purposes. I have just learnt that this collection has now been digitised. What are the copyright implications?**

*First, are the original slides legal copies? Copyright in artistic work lasts for 50 years. If the original slides were made illegally, then making a copy from them by any means, including by digitisation, is "subsequent dealing" which is not permitted. Second, and assuming that the slides were made legally, who owns the copyright in the slides? If your institution employed or commissioned someone to make the slides, then your institution is likely to own the copyright, but this does need to be determined. If your institution does own the copyright, then it can give permission for the work to be digitised. If, however, your institution does not own the copyright, there are no exceptions in the Copyright Act allowing for the slide collection to be digitised without first getting permission from the copyright owner(s).*

**14. Can a spoken-word recording be copied as back-up to the original in case of damage? If so, should the original or the copy be loaned out?**

*The Copyright Act (s.80) allows a back-up copy to be made for preservation purposes of a computer program, but not of other media. However, s.55(1-2) of the Act permits the librarian of a prescribed library to make a copy (other than a digital copy) of any item in its collection "for the purposes of preserving or replacing that item in the collection of the library or archive in addition to or in place of the item", provided that "it is not reasonably practicable to purchase a copy of the item in question to fulfil the purpose". And s.55(3) permits the librarian of a prescribed library to make a digital copy of any item in its collection if "the original item is at risk of loss, damage, or destruction", again provided that "it is not reasonably practicable to purchase a copy of the original item". Note that s.55 does not apply if the original work can be purchased.*

*In the case of a digital copy, the digital copy must replace the original work, and only the digital copy may be accessed or loaned. In the case of any other copy, both the original and/or the copy may be accessed or loaned.*

**15. How does copyright apply to newspapers? Are there any restrictions on copying either print or digitally-scanned newspapers?**

*There is copyright in newspapers in the same way as in any other literary works. A newspaper is either a "periodical", thereby falling under the provisions of s.52, or a "published work", falling under s.51. Librarians of prescribed libraries may copy the whole of an article (under s.52) or a "reasonable proportion" of a book (under s.51) for any person, provided that the provisions of those sections are complied with. An entire issue of a newspaper may not be copied without permission from the copyright owner,*

*unless that issue of the newspaper is more than 50 years old and is therefore out of copyright, or unless you have a licence to copy, e.g. from PMCA, or unless the copying is being undertaken under section 55 (see also the answer to Question 14).*

**16. Are librarians copying for their users required to find out what the copy is to be used for – e.g. for the users' research or private study?**

*No. This was a requirement of the 1962 Copyright Act but is not required by the 1994 Act. However, if you know that a copy is to be used for a purpose not permitted by the Act (for example, because the user volunteered this information to you), then as a responsible citizen you should not supply the copy – otherwise it might be held that you were aiding and abetting a breach of copyright.*

**17. If a work (such as a car manual, standard, consumer magazine) has a specific copyright statement in it, does this mean that neither the reader nor the librarian may make a copy from the work?**

*No. New Zealand citizens may make copies, provided that the copies are in accordance with the provisions of the Copyright Act 1994 (as amended). Readers must comply with ss.42 or 43, librarians with ss.50-56. The exception to this would be if the library has signed a specific licence agreement with the copyright owner (e.g. e-journal publisher, database provider or aggregator), in which case the terms of the licence agreement take precedence.*

**18. We are now being asked by the public to scan and email copies from a variety of publications (newspapers, journals, books, the Internet). Do copyright rules apply?**

*Absolutely. Copying includes digital copying. Note that the Copyright (New Technologies) Amendment Act 2008 imposes additional requirements when digital copies are made or supplied by librarians.*

**19. I have a photograph, taken in the 1930s, of the Southern Cross Airplane down on the West Coast. I do not know who the photographer was. I would like to try to sell copies of this photograph, but do want to get any copyright issues right.**

*Copyright in a photograph is owned either by the photographer, or by the person who commissioned or paid for the photograph to be taken. This copyright lasts for 50 years after the death of the copyright owner, so copyright in the photograph you have could still exist. However, if the photographer is unknown, then copyright expires at the end of 50 years after the photograph was first made available to the public, in which case copyright in your photograph will have expired.*

*You should also be aware that s.105 of the Copyright Act 1994 gives the person who commissions the taking of a photograph for private and domestic purposes, but who does not own the copyright in the photograph, the right to privacy, which includes the right not to have copies of the work issued to the public, not to have the work exhibited or shown in public, and not to have the work communicated to the public. And s.98 of the Act gives the author of a work the right not to have his or her work treated in a way that is derogatory. Derogatory treatment is defined as treatment, whether by distortion or mutilation of the work or otherwise, that is "prejudicial to the honour or reputation" of the author.*

**20. In this context, what does "unknown authorship" mean? Unknown to whom? Do I need to make any attempt to find out who may have taken the photograph?**

*"Unknown" is not defined in the Act. It means unknown to the general public, including the person wanting to make the copy. A court would normally expect you to take "all reasonable steps" (also undefined) to locate the copyright owner. If you do not know who the photographer is, and cannot think of any way of finding out, then perhaps you should not make the copies unless you are quite sure that copyright in the photograph has expired.*

**21. The Library of our not-for-profit organisation wishes to expand its services to include early childhood centres, and we hope to make copies of journal articles for users on request. Can we offer such a service without registering as a prescribed library, as long as we exercise "fair dealing" with the journals as required by the Act?**

*In interpreting the Copyright Act 1994 (as amended), you need to be clear under which section of the Act the copying is being undertaken. The "fair dealing" provision comes from s.43, which covers copying by an individual for that individual's own research or private study. It does not cover copying by a librarian on behalf of a user. Copying by librarians is covered by ss.50-56, and all these sections apply to copying by the librarian of a prescribed library. If your library is not a prescribed library, it may not take advantage of those sections. Your library may become a prescribed library either by applying under s.234(b) of the Act, or by becoming a member of the Interloan Scheme.*

**22. If a commercial document supply company such as Infotrieve sends a digital copy of an article or other document to the library, is it okay for the library to forward it to the requesting borrower by email?**

*Yes. Forwarding a copy is not making a copy (transient copying does not infringe copyright), provided that the library does not retain a copy of the article supplied. The Infotrieve charge includes any copying and royalty charges payable to the copyright owner.*

**23. Under the Trans Tasman Interlending Scheme, are libraries in New Zealand permitted to supply copies (either print or digital) to Australian libraries?**

*No. The library copying provisions in the New Zealand Copyright Act 1994 (as amended) apply only to prescribed libraries, and permit the supply of copies only to other prescribed libraries. Australian libraries are not prescribed libraries. Libraries may of course loan original works to Australian libraries.*

*I understand that the National Library of New Zealand is negotiating with the Ministry of Economic Development to find an appropriate way to resolve this problem. Now that New Zealand library holdings are listed on OCLC WorldCat, the issue relates to all overseas libraries, not just to Australian libraries. It places a severe restriction on New Zealand libraries, which receive copies from libraries all over the world but are not permitted to reciprocate; and it seriously hinders the dissemination of New Zealand research and scholarship to overseas institutions.*

**24. If as an artist I sell a painting to someone else, who owns the copyright?**

*You do. Selling a work does not transfer copyright ownership of the work, unless copyright ownership is explicitly sold along with the work.*

**25. Is it two articles only, or more than two articles, that libraries are permitted to supply on Interloan if the articles are from the same issue of a periodical and all relate to the same subject-matter?**

*Two articles only, as specified in s.53 (Copying by librarians for users of other libraries). It is s.52 (Copying by librarians of articles in periodicals for their own users) that permits the copying of more than one article, if these relate to the same subject-matter.*

**26. What does "on the same subject-matter" actually mean?**

*I interpret this phrase liberally and literally, as meaning "on the same subject". Thus, all articles in a subject-specific journal such as* Journal of Family Violence *or* Child Cancer *are likely to be on the same subject (family violence or child cancer). However, the articles in a general journal such as the* New Zealand Listener*, or general science journals such as* Scientific American*,* Nature *or* Science*, will not be.*

*The CLL licence agreement (Schedule 2 para 1.1) states: "The term 'the same subject matter' will be interpreted on a case-by-case basis. For the avoidance of doubt, it is not intended to allow copying of multiple articles from the same issue of a periodical publication unless the content of each of the articles copied is closely related and focusing on a particular aspect of a subject".*

**27. One of our library users has made use of our resources for many years. He is a scientific editor who is undertaking work for international pharmaceutical companies. He has complained to our Dean, and to his MP, that we will not provide him with pdfs from some of our electronic resources. What is the copyright position?**

*Use of your electronic information databases is subject not to the Copyright Act, but to the licence agreements you have with the database providers, aggregators or e-journal publishers. The first principle that must be applied in the electronic environment is not, what use is to be made of the licensed materials, but rather, is the person an "authorised user" as defined in the licence agreement? Most licence agreements limit use to current members of the staff of the licensee and individuals who are currently studying at the licensee's institution, or to registered users of the library. And most agreements exclude commercial use. A number of licence agreements do permit access by walk-in users, but again, exclude commercial use, limiting access for "the purposes of research, teaching and private study". In the situation you describe, your decision not to provide copies from the databases to which your library subscribes would appear to be the correct one.*

**28. We have been asked by an external user to scan an item from our collection and email it to her. Is this permissible?**

*Yes, under the terms of either s.51 (which allows a "reasonable proportion" of a book to be copied) or s.52 (which permits the whole of a periodical article to be copied), as applicable. Copying includes making a digital copy – but note the additional requirements of s.56B: you must give to the user a written notice that sets out the terms of use of the digital copy, and you must "destroy any additional copy made in the process of making the copy that is supplied" as soon as is reasonably practicable.*

**29. Our library is finding increasing numbers of CD-ROMs and DVDs being acquired with book purchases, with a confusing mish-mash of notices and warnings, ranging from "shrink-wrap" licences through to blendings of copyright and rights warnings on the versos of title-pages. What is the legal status of these?**

*New Zealand citizens are subject to New Zealand copyright law, not to the laws of overseas jurisdictions. And in my view "shrink-wrap" licences, which have not been read, let alone agreed to, prior to purchase, have no legal validity (or should have no legal validity) whatsoever. The same applies to other notices and warnings. I believe that they can safely be ignored. Of course, if the vendor of a work asks for a licence agreement to be signed prior to purchase by the library, the terms of this licence must be adhered to.*

**30. Can the holding library make a copy of a university thesis on request?**

*It really depends whether a thesis falls within the definition of "unpublished work" in s.56 (Copying by librarians or archivists of certain unpublished works). Section 10(1)(a) states that "publication" means "the issue of copies of the work to the public". Section 9(1) states that "issue to the public" means "the act of putting into circulation copies not previously put into circulation" – which presumably would include theses, even if the "circulation" is limited to the library, examiner, supervisor, the student's parents, etc. It is true that s.10(3) excludes from the definition of publication "publication that is not intended to satisfy the reasonable requirements of the public" – but it could be held that the ten or so copies of a thesis that a student prints are indeed more than sufficient "to satisfy the reasonable requirements of the public". My view is that s.56 is intended to cover unpublished works such as letters, journals and archival papers, rather than theses. I consider, therefore, that permission does need to be sought from the author of the thesis.*

*Note that s.10(1)(b), in the definition of "publication", includes making a work available to the public by means of an electronic retrieval system. This includes making a digital copy of a thesis available via an institutional research repository, the Australasian Digital Theses Program, a library catalogue, or other means.*

**31. A number of libraries have received a letter from the Recording Industry Association of New Zealand which states that, if the libraries are renting CDs and DVDs to the public and making a profit from doing so, "we require you to immediately cease and desist from doing so".**

*It is correct that s.79 states that rental of a sound recording, film or computer program is permitted by an educational establishment or prescribed library, only if the rental of the work is not "for the purposes of making a profit". Note that the use of the word "purposes" implies intent: the intent of the library must be not to make a profit. In most if not all libraries, the purpose of making a charge for the rental of CDs, DVDs etc is to make a contribution towards recovery of a very small proportion of library costs, and certainly not to make a profit.*

*There is nothing in the Copyright Act requiring libraries to prove to anyone that they are not making a profit from rentals. Presumably, the purpose of the letter is to draw libraries' attention to the existence of s.79.*

32. **I run a toy library, which hires out toys to our members who pay an annual membership fee. Can my library also hire out DVDs and CD-ROMs?**

    *Section 79 of the Copyright Act restricts the rental of sound recordings, films or computer programs to prescribed libraries (defined in s.50) or educational establishments (defined in s.2(1)). Unless your toy library falls within these definitions, you may not rent out DVDs or CD-ROMs without the prior permission of the copyright owner.*

33. **My library is about to cease to be a member of the Interloan Scheme and will therefore become a non-prescribed library. (a) Will licence agreements with CLL or PMCA still apply? (b) Will I be able to copy articles for the library's current awareness service? (c) Will users be able to make copies under the fair dealing provisions of the Copyright Act?**

    *(a) Yes. Licence agreements with RROs take precedence over the Copyright Act; and in any case, these licences are not affected by your library's status as prescribed or non-prescribed.*
    *(b) No. Copies may be made for library users, or for current awareness services, under ss.51-56 of the Act only by librarians of prescribed libraries.*
    *(c) Yes. The provisions of s.43, copying for research or private study, apply whether or not your library is prescribed, because this section relates to copying by users for their own research or private study, not to copying by librarians for their users.*

34. **Publications often have printed inside them a statement such as "No part of this work may be reproduced or copied in any form or by any means, electronic or mechanical, including photocopying, without the written permission of the publisher". Are libraries required to comply with such statements?**

    *Not in my view. Unless your library has signed a licence agreement with the publishers of the work, in which you agree not to make copies or partial copies, then the provisions of the Copyright Act 1994 (as amended) apply – I cannot see that a statement printed in a work can override the rights given to librarians under New Zealand statutory law. You will, of course, need to be clear under which section of the Act you are making the copies, and ensure that you comply with the requirements of that section.*

35. **Where a library user requests a standard on Interloan, can the library add the standard to its collections and then loan it to the requester?**

    *Not under s.53 (Copying by librarians for users of other libraries), since this section allows supply only for the purposes of the research or private study of the requester. However, a copy of the standard could be obtained and added to the library's collections under s.54 (Copying by librarians for collections of other libraries) – but <u>only</u> if the*

*requesting library has been unable to purchase a copy of the standard "at an ordinary commercial price within the 6 months preceding the supply". In the case of standards, presumably the library could purchase a copy "at an ordinary commercial price" (i.e. not an inflated second-hand price). Note the requirements for record-keeping set out in s.54.*

**36. Does s.55 (Copying for preservation or replacement) mean that my (prescribed) library may make a copy of a video which cannot be purchased from any other source for preservation purposes? Is it the original copy, or the preservation copy, that should be loaned out?**

*Yes, s.55 does mean this. The purpose of the copying must not, of course, be to have a second copy – because if it were, the purpose of the copying would not be to "preserve or replace" the original copy, but rather to have a second copy, and copying for this latter purpose is not permitted under s.55.*

*Note that it must not be "reasonably practicable to purchase a copy of the item in question to fulfil the purpose". If the video is available for purchase, s.55 does not apply and if a back-up copy is required, a second copy of the video must be purchased.*

*It is probably preferable for the original copy to be kept as the master, and for the preservation copy to be loaned, so that, if another preservation copy has to be made at a later date, the copy can be made from the original master copy.*

*It is unfortunate that s.80 of the Act allows a back-up copy to be made only of a computer program, and not of an audio-tape, video, or other easily mangled works.*

**37. We get children coming into the library for school projects and cleaning us out of books on a subject. Is it permissible (a) to make several photocopies of pages from a book, to give to other children when they come in? (b) to download pages from the Internet, and keep these to photocopy for customers when they request information? (c) to print off several copies of pages from the Internet, just in case they will be useful for requesters?**

*(a) No. In the February 1992 Judgment of Salmon J. the Judge ruled that librarians under ss.51-52 may copy for their clients only in response to a specific request – they may not copy just in case someone else may subsequently ask for the same thing. And ss.51-52 restrict the copying to one copy only on the same occasion.*

*(b) You cannot assume, just because something is on the Internet, that there is no copyright in it and that it may be copied freely. You should probably assume that there <u>is</u> copyright in anything on the Internet, unless the copyright owner has clearly waived copyright (or has been dead for over 50 years!). If copyright has not been waived, you may make a copy of a "reasonable proportion" under the terms of s.51,*

*but only where you have received a specific request to provide the copy by your user, and you may not make copies just in case other users may subsequently request copies. However, if copyright has been waived, then you may make as many copies as you like for whatever purposes you like.*

(c) *Same answer. Note that it is always open to you to request permission to copy from the copyright owner.*

**38. I have been asked by fellow public librarians how much of a book may be copied for library users. Is it 10 per cent?**

*Section 51 (Copying by librarians of parts of published works) permits "a reasonable proportion" of a work to be copied. Guidance as to what is "a reasonable proportion" may perhaps be obtained from s.43 (fair dealing) and s.44 (3% / 3 pages / 50%). The 1990 Carrington Judgment made clear that there is no "ten per cent rule". In effect, each instance must be considered individually.*

**39. Is ten percent a good rule of thumb for copying for research or private study?**

*No. The only guidance is how a court shall interpret fair dealing, as set out in s.43. In essence, it is the significance of what is copied that it the most important factor, not the simple amount of the copying.*

**40. The children's team in my library has asked if it is legal to show a DVD to children as part of their holiday programme activities, or would they need to apply for a license?**

*Under the Copyright Act s.16(1)(d) and (e), playing or showing a work in public is a restricted act. Unfortunately, none of the exceptions in the Act (e.g. sections 47, 57, 81, 87, 87A) apply to what you want to do. Your library would therefore need to get prior permission from the copyright owner.*

**41. The Parliamentary Library has requested copies of three articles from the same issue of a periodical to be supplied (which is not permitted under s.53), claiming that the needs of Parliament override copyright. Is this correct?**

*Section 59 of the Copyright Act states that copyright is not infringed by anything done for the purposes of parliamentary or judicial proceedings, or for the purposes of reporting parliamentary or judicial proceedings. "Parliamentary proceedings" is not defined, but (by analogy with "judicial proceedings", which is defined) presumably refers to proceedings before Parliament, so any copying done under this section would have to be used in Parliament (for example, to prove a point being made in debate or to answer a Parliamentary Question). Section 59 would be unlikely to apply to select committee work, or just because an MP wanted to read something. It would be sensible for libraries*

*supplying copies under this section to annotate the copies "Supplied f*or *the purposes of parliamentary proceedings under s.59 of the Copyright Act 1994".*

**42. Are we able to copy as a back-up CDs that come with ESOL and computer books? My understanding is that we were able to do this in the past.**

*Section 80 of the Copyright Act 1994 permits the making of a back-up copy of a computer program "in order to preserve the original copy for use if the copy is lost, destroyed, or rendered unusable". There is not and has not ever been provision for making back-up copies of other easily-mangled materials such as audio-tapes or video-tapes, or of CDs, DVDs etc.*

*Section 55 of the Act does allow the librarian of a prescribed library to make a copy of any item in its collection for the purpose of "preserving or replacing that item by placing the copy in the collection of the library in addition to or in place of the item". But note that this section applies "only where it is not reasonably practicable to purchase a copy of the item in question to fulfil the purpose". So, if you can no longer purchase a second copy of the CD, you may make a back-up copy under s.55. But if you can still purchase a copy, you should do this – and then place one copy aside in a safe place so that it can be brought out if the first copy is "lost, destroyed, or rendered unusable".*

**43. Is showing clips of a YouTube video to a class a breach of copyright?**

*The YouTube Terms of Use just prohibit commercial use. Educational institutions are not "conducted for profit", and use for educational purposes is not commercial use.*

*Section 32(2) of the Copyright Act states that "the playing or showing of a work in public is a restricted act". However, s.47(2) (as modified by the Copyright (New Technologies) Amendment Act 2008) states that the playing or showing, for the purposes of instruction, of a sound recording, film, or communication work to an audience consisting of persons who are students or staff members at an educational establishment or are directly connected with the activities of the establishment "is not a playing or showing of the work in public for the purposes of section 32(2)". YouTube falls into the definition of communication work and its related term "communicate" ("to transmit or make available by means of a communication technology, including by means of a telecommunications system or electronic retrieval system").*

*Therefore, films and videos may be shown to classes in educational establishments without breaching copyright in those films and videos, as may clips from YouTube. It should be noted, however, that if there is a statement or licence attached to the video or film-clip prohibiting or restricting its use, then that takes precedence over the provisions of the Copyright Act.*

**44. The LIANZA *Copyright Guidelines* state that copies of articles received on Interloan may be copied and included in print course-packs. But the CLL licence agreement allows multiple copies to be made only from print originals. What is the source of the LIANZA statement?**

*The source is CLL's* Copyright Licensing Bulletin *for February 1999, which is on the CLL website at* http://www.copyright.co.nz/index.php?view=news&load=article&article_id=9 . *Copies received on Interloan may be copied for print course-packs, provided that the works cannot be purchased or obtained by any other means, and provided that the copying is included in sampling surveys required under the CLL licence.*

**45. Our Acquisitions Department, when trying to obtain a publication for the library's collections, is often referred to the publisher's website from where a copy may be downloaded and printed. This is particularly so for reports and other publications of New Zealand Government Departments. Only very occasionally is a charge made for this. We would like to place these downloads on a server, rather than (or as well as) making a print copy – linking to the publisher's server is not satisfactory because the links are often not stable, and the reports can vanish overnight. Is providing electronic access to documents via our library website breaking copyright?**

*You must assume that there is copyright in anything on the Internet, including reports and other documents, unless it is specifically stated that copyright is waived, or that the work is in the public domain, or that the work is made available via an open content license such as a Creative Commons licence which permits free downloading and copying. You therefore need the copyright owner's permission to make a print or digital copy, or to communicate the work – i.e. to make the work available electronically on a computer network, intranet or server.*

*It is true that s.56A permits the librarian of a prescribed library to communicate a digital copy to authenticated users without seeking further permission, provided that the library complies with the provisions of s.56A. However, this section applies only if the library already holds a lawfully-obtained digital copy.*

*Unless this is so, it is necessary for the library to seek permission from the copyright owner. Permission can, of course, be sought in the one request – i.e. you can ask the copyright owner if you may make a print and/or digital copy, and also make the work available to authenticated library users on a secure server.*

**46. Can research outputs be stored in a "dark archive" of an institutional repository, to which there is no access by the public?**

*If the research outputs are in print format, then they may not be digitised (which is a form of copying) without the permission of the copyright owner. It makes no difference*

*whether or not the digitised copies are placed in an archive to which there is no public access – it is the copying that is not permitted.*

*If, however, the research outputs are already in digital format, and the library has obtained the digital copies lawfully, then under s.56A the library may communicate (i.e. make available on a computer network or secure server) the digital copies to authenticated users, provided that the provisions of s.56A are complied with. However, a library may not digitise a work without permission and communicate that digital copy under s.56A, because the digital copy will not have been obtained lawfully.*

*Copyright in most journal articles is owned by the journal publishers, and many of these permit authors to archive their articles in institutional repositories. However, often this relates only to pre-prints, or versions other than final published versions. Many publisher websites give details of what they permit.*

**47. What is the duration of copyright in a work, the author of which is a corporate body such as the New Zealand Library Association or a university department?**

*The Copyright Act 1994 clearly accepts that corporate bodies may be authors – s.18, "Qualification by reference to author", states that a work qualifies for copyright if the author is, at the material time, a body incorporated under the law of New Zealand or of a prescribed foreign country; and s.21(2) states that where an employee makes a work in the course of his or her employment, that person's employer is the first owner of copyright in the work.*

*Unfortunately, s.22 (Duration of copyright in literary, dramatic, musical, or artistic works) is silent about the duration of copyright where the author is a corporate body. My own view is that in such cases copyright would expire 50 years from the end of the calendar year in which the work was made or made available to the public.*

*I do not consider that a work which has corporate authorship can be considered to be a work of unknown authorship. But even if it is, s.22(3) makes clear that copyright in such a work expires "at the end of the period of 50 years from the end of the calendar year in which it is first made available to the public by an authorised act".*

**48. What is the duration of copyright in periodical articles, the copyright in which has been transferred from the author to the journal publisher?**

*The same as for books – 50 years from the end of the calendar year in which the author died. Copyright duration is not affected by change of copyright ownership.*

**49. The LIANZA *Copyright Guidelines* state that libraries should have a compliance programme in place, to ensure that breaches of copyright are not taking place on library-supplied self-service photocopiers. What should such a compliance programme include?**

*Several years ago an Australian academic library was prosecuted because users of the library's self-service photocopiers were found to be breaching copyright. It was held that having warning notices above each copier was not sufficient: as the library was providing the photocopiers on library premises, it had an obligation to ensure that its users did not breach copyright. Hence the statement about the need for compliance programmes in the LIANZA* Copyright Guidelines.

*A compliance programme would include warning notices above all self-service photocopiers and scanners, outlining what the Copyright Act allows; and regular and frequent checks by a staff member, during all the hours that the Library is open, on what users of the copiers are doing, with intervention if any breaches of copyright are observed. A record would need to be kept of when the checks were undertaken and by whom, so that the Library could show, in the event of a prosecution, that it was taking "all reasonable steps" to ensure that breaches of copyright law did not occur.*

*Such a compliance programme is likely to be expensive, given the hours that libraries are open seven days a week. At some libraries, photocopier service staff (who clear paper jams, fill paper trays, etc) are asked to report any apparent breaches of copyright that they observe, but many libraries do not have separate copier service staff. One way to avoid the problem is not to have self-service copiers or scanners, but rather to employ staff to undertake all copying for users – but this, too, is expensive, and not very user-friendly. There would appear to be no easy solution.*

**50. In compiling a major regional bibliography for my library, I interloaned a large number of copies of periodical articles, in order to confirm bibliographic details, to assist indexing, and to allow checking of the articles' relevance to the scope of the bibliography. These copies would be of very considerable value to the library and to those using the bibliography, since the periodicals from which the articles have been copied are not held by the library. Is it permissible for these copies to be retained by the library and held in vertical files?**

*No, because the copies were supplied under s.53 (Copying by librarians for users of other libraries), for use by you for your research or private study, and not for the library's collections. Most unfortunately, s.54 (Copying by librarians for collections of other libraries) applies only to copying from books, not from periodical articles. (See also the answer to Question 1).*

**51. What is the position regarding copyright in works on the Internet?**

*There is copyright in most types of work on the Internet, and the fact that something is posted on the Internet does not automatically give anyone the right to copy, store or disseminate it, unless:*

- *the author or copyright owner has waived copyright or specifically granted permission*
- *the work has been made available via an open content licence such as a Creative Commons licence*
- *the Copyright Act allows this*
- *the work is in the public domain (i.e. is out of copyright)*
- *the author has been dead for more than 50 years.*

*It has been argued that placing material on the Internet without restrictions is an implied licence to view, download and/or print the material. It has also been argued that viewing, and subsequently downloading a work from the Internet breaches the copyright owner's exclusive right to reproduce or communicate the work, or to control how it is used. When in doubt, it is always wise to seek permission from the copyright owner.*

*It would be extremely helpful if all those who place documents, reports and other materials on the Internet, including Government departments and institutions, would clearly state what the copyright position is regarding these documents.*

**52. I am setting up a free library service specialising in lending audio-books to the elderly and the infirm, to the sight-impaired, and to other kinds of disadvantaged / especially-challenged readers of all ages, and I need to know what the law says about such lending. Specifically: (1) If a registered charity buys or is given original copies of audio-books, can it then lend those original copies to its members? (2) If so, can it also lend downloadable copies online? (3) If so, is it required to have a licence or special permission (from publishers) to do so? (4) Would the proposed library be required to purchase special (more expensive) "library" copies of the audio-books to be downloaded by or otherwise lent to its members? Or (5) would it simply be required to take every reasonable precaution to prevent copies being made and circulated, and if so, what might those reasonable precautions be?**

*(1) Since you are loaning original audio-books and are not making copies, and since you are offering a free service, I cannot see anything in the Copyright Act that prevents you loaning audio-books – provided that (a) no charge for the loan is made; (b) the publishers of the audio-books have not placed any restrictions on their free loan; (c) the audio-books being loaned are original works, not copies; (d) the audio-books have been obtained lawfully by you or by the people who donate them to you; and (e) no copies are*

*made, either by you, or by borrowers, or by anyone else, except as is provided for in the Copyright Act 1994 (as amended).*

*(2) If you have downloaded a copy of an audio-book lawfully (i.e. with the permission of the copyright owner), and if the copyright owner has not placed any restrictions on the loan of the downloaded audio-book, then the downloaded copy may be loaned under these same conditions. It may also be loaned online – again, provided that the copyright owner has not expressly prohibited this.*

*(3) You will need a licence or special permission from the publishers / copyright owners only if what you are doing is beyond what the publishers have allowed by permitting downloading. If the publishers place no restrictions on what you do with the downloaded copies, then you may make use of them as you wish. However, if the publishers state (for example) that copies may be downloaded only for the personal use of the person undertaking the downloading, then you must comply with that restriction, or negotiate a licence or permission with the publishers / copyright owners.*

*(4) You must comply with the restrictions placed by the publishers as copyright owners. If the publishers require you to purchase "special" copies for any use other than for personal use, then you must comply with this.*

*(5) As lender of the audio-books you have a responsibility to ensure that borrowers of the audio-books are made aware of relevant copyright law. This could be done by attaching a label to each audio-book, stating that "The Copyright Act 1994 prohibits the sale, letting for hire or copying of this copy".*

**53. I am helping a community service organisation to set up a library which includes a database of their articles, books and other resources. Is there a way for a community service organisation to gain permission to disseminate articles to its experts and clientele without breaching the Copyright Act? Can such an organisation purchase its own copyright licence?**

*As this library is a non-prescribed library, the provisions of the Copyright Act relating to copying and supply by prescribed libraries do not apply. You may certainly loan original issues of periodicals and original books to the users of the library, but you may not make or supply copies, either in print or digital format, from periodicals or books. You could approach Copyright Licensing Ltd, to see if they offer a licence for this type of library – see their website at* [http://www.copyright.co.nz/](http://www.copyright.co.nz/) .

**54. If a non-teaching waiariki (allied) Māori staff member of a polytechnic wrote a book privately, with lots of her own family information about Māori hairstyles (including her grandmother's direct words), can she claim sole intellectual property rights, or does the institution have the right to claim it, or should it be shared? She did not use the institution's time, money or resources.**

*The author owns the copyright, as specified in s.21. Only if a person "makes, in the course of his or her employment" a work can the employer claim copyright ownership. If the author was not requested by the polytechnic to undertake this work as part of her employment, and did not use its time or resources, then she owns copyright as author.*

**55. Does a library need to obtain permission to download and print a report from a government department website?**

*Yes, unless the website already states somewhere that documents on it may be downloaded and printed. Once you have this permission, you may make a print copy for placing in your library's collections; you may also communicate the downloaded copy (that is, make it available via a computer network, the Internet, an intranet or a secure server) to your authenticated library users under s.56A, provided that the provisions of that section are observed. Storing such documents on a library server allows ongoing access to them should they subsequently be removed from the publisher's website.*

**56. A friend wrote some songs, the words for which he gathered from published and unpublished mōteatea. A group of us gathered and sang the songs, so that they could be recorded onto disc, utilising the recording facilities at a Wānanga and a Māori radio station which were made available free of charge. Another person paid for the CD cover and cases, on which was printed a copyright symbol and the name of a Māori organisation. Who owns the copyright?**

*Your question illustrates how complex copyright in sound and video recordings can be. First, the author owns copyright in the songs. It is not relevant that some or all of the words were taken from other sources such as published and unpublished mōteatea. By weaving the words into songs, the author has created new works in which he owns the copyright – unless he has passed the copyright over to someone else.*
*Second, there is separate copyright in the performance of the songs, owned by the performers – unless they have passed the copyright over to someone else (such as a record company or the recording studios in which the recordings were made, for example).*
*Third, there is separate copyright in the cover of the CD.*
*Fourth, there is separate copyright in the final version of the CD. Note that printing a copyright symbol © on a work does not prove copyright ownership – it merely indicates that the named person or organisation is claiming copyright ownership.*

*Fifth, copyright in the final version of the CD relates only to the physical expression of that performance on that CD. It does not remove copyright in the original songs (owned by the author) or in the original performance of the songs (owned by the performers) – unless copyright ownership has been passed over to someone else.*

**57. A small group, in conjunction with a Māori radio station, are about to embark on a project which will involve talking to kaumātua and kuia about te reo, tikanga and other things. Some will be filmed, others only recorded. Consent forms will be given to those who are interviewed. Sound bites will be made from the finished product which will be available for access on our website. We are an incorporated body and have charitable status, so packaging for commercial enterprise is not the emphasis behind the project. What should our approach to copyright be in regard to this project?**

*Section 21(1) of the Copyright Act 1994 states that "the person who is the author of a work is the first owner of any copyright in the work". Section 5(1) states that "the author of a work is the person who creates it". Section 5(2) states that "the person who creates a work shall be taken to be ... (b) in the case of a sound recording or film, the person by whom the arrangements necessary for the making of the recording or film are undertaken". All this means that copyright in an oral history (whether recorded on film or in a sound recording) rests with the person making the film or sound recording, not with the person(s) being recorded.*

*In this case, if the recordings are being made either under contract to the radio station, or by employees of the radio station in the course of their employment, then copyright is owned by the radio station. If the recordings are being made in association with the radio station but not under contract, then copyright is owned by the person or persons responsible for making the arrangements for the recordings – which in this case could be the small group only, or perhaps the small group and the radio station jointly. Either way, copyright ownership does not rest with the persons being recorded – although of course it is necessary to obtain their permission to make the recordings, and it is ethical practice to get their agreement in advance to ways in which the material is subsequently to be used.*

*The copyright owners may make whatever use they wish of the recordings, including making them available on a website.*

**58. Our library rents out music CDs and movie DVDs. Could the revenue gained from the rental of these materials be considered profit, in light of section 79 (Rental by educational establishments and libraries), which does not permit prescribed libraries to "effect the rental of the work for the purposes of making a profit"?**

*"For the purposes of making a profit" is not defined in the Copyright Act 1994. In my view, it is meant in the business sense and is certainly not the equivalent of "income".*

*The purpose of libraries in lending CDs and DVDs is the same as their purpose in lending books – to meet the needs of their clients for access to recorded knowledge, and to make recorded knowledge as widely available as possible. It is certainly not the purpose of libraries to make a profit, and nor do they do so: it is the purpose of video stores, not of libraries, to make a profit. The charge libraries make for the rental of CDs and DVDs is intended solely to recover a small proportion of the costs of providing the rental service, and in my view is not in breach of the provisions of section 79 of the Act.*

59. **Could, then, this requirement in section 79 be used to support a case to the Council's Finance Officer that the rental charge made for the loan of CDs and DVDs should be discontinued after (say) two years, when the purchase and processing costs of the materials have been recovered?**

    *It could certainly be used in making such a case. However, the Finance Officer may well respond that the continuing rental charge is intended to recover some of the costs associated with the loan and housing of the CDs and DVDs, and the general expenses of the library.*

60. **My library has associated with it a self-professed "private collection" that is managed by a committee of volunteers. It receives a grant from my Council as the local authority and shares our library management system, but operates independently, with no reporting structure to myself as District Library Manager. Because they utilise our LMS their holdings are added on Te Puna as if they were ours, and we provide an Interloan service on their behalf. We would like to bring this collection within our library (as we have done with two other similar community collections), but the committee seeks to retain independence at any cost. I am wondering if copyright issues may be another link to develop the argument for their inclusion in the district library service. In particular, is the continued provision of Interloan and cataloguing services for this library, which does not meet the criteria of a prescribed library, a possible breach of copyright?**

    *Section 50(1) of the Copyright Act 1994 defines a prescribed library as "(d) A library maintained by an educational establishment, government department, or local authority". "Maintained" is not defined, and you would need to seek legal advice as to whether this community collection could be considered to be "maintained" by your local authority. Given that it receives a grant from your Council, that it utilises your library's LMS, that its holdings are listed in your catalogue, that its holdings are listed on Te Puna as if its holdings are part of your library's holdings, and that you utilise your Council-paid staff to provide cataloguing and Interloan services for it, it could perhaps be argued that it is, at least in part, "maintained" by your Council and is therefore prescribed. Central to*

*this argument would be the attitude of your Council – that is, whether your Council claims that it "maintains" the community collection.*

*Whether or not it is prescribed, your library may certainly provide cataloguing services for them – since no copying is involved, the Copyright Act does not apply. Further, your library may, if you choose, borrow books or other original works (e.g. original issues of journals, not copies) on its behalf from other libraries – again, since no copying is involved, the Copyright Act does not apply.*

*However, if it is not prescribed, you may not request copies of periodical articles or copies of parts of books from other libraries for them, and prescribed libraries may not supply on Interloan copies of periodical articles or copies of parts of books to them.*

*In attempting to persuade this community collection to become a full branch of your library, you could draw their attention to the fact that, if it is not a prescribed library, you are unable to continue to obtain copies for them via Interloan. However, your success in this will no doubt partly be determined by the number of copies that are requested on Interloan by them.*

*You could also perhaps remind the Committee that, if the collection is not a prescribed library, copies from library materials may not be made either for its own users, or for the users of other libraries.*

*Perhaps more fruitfully, you could point out that, if it becomes a full branch of your library, there will be many benefits to its staff, including access to all the advantageous provisions of the Copyright Act available to prescribed libraries, and that its users will therefore benefit very considerably.*

**61. Why is there sometimes an embargo on viewing periodical articles online?**

*Copyright in a periodical article lasts for 50 years after the end of the calendar year in which the author died. Usually, when an author arranges with a commercial publisher to publish an article, the author signs a contract which passes copyright over to the publisher. The publisher may publish the article in print format; or may publish it in digital format. Digital publication may be by the publisher from the publisher's website; or may be through an aggregator such as ProQuest or Ebsco. Where the publisher allows an aggregator to publish the article, the publisher as owner of the copyright often places an embargo of between 3 months and 12 months (and sometimes for much longer), which prohibits the aggregator publishing the article through its service until the embargo has expired. This is so that the publisher can sell print copies of the periodical for a period, before sales of the print copies are undercut by publication of the digital version through the aggregator's service. These arrangements (including any*

*embargoes) are a matter of contract or licence between the publisher as owner of the copyright and the aggregator; they are not a matter for copyright law.*

**62. Is a researcher permitted to put abstracts and full versions of his/her own articles on a website?**

*Section 71 of the Copyright Act 1994 states that it is not an infringement of copyright to copy an abstract, or issue copies of an abstract to the public, where the abstract indicates the content of an article that is published in a periodical, and where the article is on a scientific or technical subject. Unfortunately, this exception does not apply to an abstract of an article that is not on a scientific or technical subject – that is, it does not apply to an article in the humanities, education, law or social sciences.*

*A researcher may place PDFs of his/her articles on the web for others to access only if:*

*(a) copyright ownership in the articles has not been passed over to the publisher(s) of the articles; or if this has been done,*

*(b) only if the publisher allows this. Many scholarly publishers allow authors to place copies of their own articles on the web (for example, in institutional research repositories), but often with restrictions – for example, permission may be given only for pre-prints or for non-final versions of the articles. Most major periodical publishers give copyright information on their websites, which spells out what their authors may and may not do. Examples are Elsevier at http://www.elsevier.com/wps/find/authorsview.authors/authorsrights, or Blackwell Publishing at http://www.blackwellpublishing.com/bauthor/faqs_copyright.asp.*

**63. Where can I find a "stock" notice for putting above library public photocopiers?**

*A sample warning notice for putting above photocopiers and scanners that are provided for self-use by library clients is included as Appendix 1 of LIANZA's* The Copyright Act 1994 and Amendments: Guidelines for Librarians *(4th edition, 2008) at http://www.lianza.org.nz/about/governance/copyrightact.html .*

**64. Is it permitted to provide hypertext links from records in library catalogues or websites to pdf documents without permission from the document copyright owner?**

*There is no copyright in a URL, and I cannot see how copyright could be breached by including a URL in bibliographic records in your catalogue or on your website – you are not making a copy of any document by so doing, and if you or a user displays the document on the screen, that is a transient copy which is permitted under section 43A of the Copyright Act.*

*There is copyright in documents on the web – unless:*

- *(a) the copyright owner has waived copyright, or specifically granted permission*
- *(b) the copyright owner has made the work available via an open content licence such as a Creative Commons licence*
- *(c) the Copyright Act allows copying*
- *(d) the work is in the public domain*
- *(e) the copyright owner has been dead for more than 50 years.*

*Assuming that there is copyright in some or all of the documents to which you are providing a link from your catalogue or website, I suppose it is theoretically possible that you could be held liable because you are providing a link to an in-copyright work, knowing that users of your website will very likely download and/or print the document to which the link has been made, and that you could therefore be seen to be aiding a possible breach of copyright. However, I really think that this is extremely unlikely, because any possible breach of copyright is being done by the user of your website, not by you; and in any case, the user could presumably have found the document for him/herself by doing a Google search, so what you are really doing is organising information so that it is easier for your users to find relevant information – which after all is what librarians and information managers do.*

*I suggest that, before making the link, you check the website to see if there is any copyright statement prohibiting downloading and/or copying. If there is, you should seek permission from the copyright owner, and if permission is refused or you do not get a response, not make the link (but you can still provide the bibliographic details of the document, as there is no copyright in a bibliographic citation).*

*The only difference in making the link directly to the pdf document, rather than to the relevant page of the website, is that by so doing you may prevent the user from seeing any copyright statement that appears on the website but is not displayed within the pdf document. So if there is a copyright statement, you may consider it is better to link to the relevant website page, rather than to the document itself. Or perhaps you could print the copyright notice against the document description within your website.*

**65. Can a contract override any of the laws regarding copyright ownership? For example, can someone claim all copyrights and moral rights to a work of art if it is simply written up in a contract and signed by the artist?**

*My understanding is that, under contract law, the signatories to a licence agreement can choose to opt out of the provisions of other relevant acts. This means that the terms of a licence agreement take precedence over the relevant sections of the Copyright Act.*

**66. My library purchases from an overseas supplier DVDs that are in a "public performance rights" version, rather than a "home use version", and we pay very much more for this version. Does this mean that the groups / institutions which borrow our DVDs have these performance rights for the period of the loan?**

*My reading of the "Public Performance Rights" licence that you sent me is that it permits your library not only to loan the DVDs to your users for use at home (which does not require a "Public Performance Rights" licence), but also to show the DVDs in your library to your users (which does appear to require a "Public Performance Rights" licence).*

*However, your question asks, does the "Public Performance Rights" licence also apply to users who borrow the DVDs from your library, to enable them to use the DVDs outside the home? I should think that it does, because the licence states that a public performance is "any performance..." . However, if you are concerned about this, you could always contact the supplier to seek confirmation that this is so.*

**67. Other DVDs we obtain from an overseas supplier come with a licence that states they are "for home, library or educational use only". What does this mean?**

*This licence allows your users to borrow the DVDs from your library for use in their home, or for educational use, by which I presume is meant, for use in an educational establishment such as a school, polytechnic or university, or for use by a church, society, association or other group for use for educational purposes. It does not include showing the films to a group for "public performance" purposes such as for entertainment purposes, for commercial purposes, for fund-raising, or similar purposes.*

**68. Can library users play commercial DVDs on hardware (video players or PCs) in the library? Is this in conflict with s.16(1)(c) or (d), Playing or showing a work in public?**

*Unless there is a statement attached to the DVD stating that it may be played only on the borrower's own equipment (which is extremely unlikely), I see no problem with a patron playing a DVD on a DVD player in the library, since no copying is involved.*

*In the same way, if no copy is being made, then there is no problem about an individual watching a DVD in the library on a library PC for that individual's private purposes (entertainment, educational purposes, or whatever).*

*Nor do I think there is any problem if a small group of the user's friends or acquaintances watch the DVD – I do not think this could possible fall within the definition of section 16(1)(c) or (d). I can't see any definition of "in public", but at least in part I should have thought that it is the intention that counts. If a library shows a DVD*

*in the library to a group such as children, then the intent is to show the work in public to the public (in this case, to children), and that would be playing or showing a work in public. But this, it seems to me, is not the same as an individual watching a DVD privately in the library for his or her own private purposes, and perhaps being joined by a couple of friends who watch it with him or her for their private purposes.*

**69. Do copyright rules applying to Interloan also apply to libraries within my own network of libraries? We have a combined District that incorporates 14 libraries under two District Councils.**

*If no copies are being made, then the Copyright Act does not apply and you may shuttle original works (books, periodicals, DVDs etc) between branches or other system libraries to your heart's content.*

*I should have thought that the branch libraries are part of your library system, and are not "other libraries" as referred to in sections 53 (Copying for users of other libraries) or section 54 (Copying for collections of other libraries) or part of section 55 (Copying to replace copies of works in the collection of another prescribed library). If so, then you are making copies under section 51 (Copying of parts of published works), section 52 (Copying of articles in periodicals), part of section 55 (Copying to replace copies of works in the collection of your own library), or section 56 (Copying of certain unpublished works). Copying under all of these sections is reasonably generous, and the wording of the sections relating to Interloan between prescribed libraries (sections 53 and 54 and part of section 55) is very similar to the wording of the other sections.*

*However, given that you say that some of the libraries are from a different district council, it might be that a court would consider them to be separate prescribed libraries. This may be more likely if they have separate holdings statements on Te Puna, or different library symbols.*

*But either way, I don't see that it matters: if you study what you are permitted to do under each of these sections, I don't think you will find much difference in what is permitted and what the requirements are, whether the copying is being done under sections 51-52 and part of 55, or sections 53-54 and part of 55. The same comment applies if you are supplying digital copies between the libraries in your system.*

**70. I am confused regarding the amount of copying that a prescribed library may copy for students. Is it 3% or 3 pages whichever is the lesser or 50%? And does this change for patrons (not students) standing at the photocopier copying chunks out of a recipe book, or making multiple copies of song lyrics? What should we be advising these patrons?**

*Your questions, alas, do show some confusion. You have to think under what section of the Copyright Act the copying is being undertaken, and then follow the requirements of that section.*

*If the copying is being done for an educational purpose, by or on behalf of an educational establishment (including by a librarian acting on behalf of an educational establishment), then section 44(3-4) applies: multiple copies may be made, but only the greater of 3% or 3 pages (and if this means that the whole of the work would be copied, then only 50% of the work may be copied).*

*If the copying is being undertaken by a librarian for the prescribed library's own library user (whether a student or otherwise), then sections 51 and 52 apply: a "reasonable proportion" (not defined) of a book may be copied, or the whole of a periodical article, or more than one article from the same issue of a periodical if the articles all relate to the same subject-matter.*

*If the copying is being undertaken by a library user (whether a student or otherwise) on a photocopier or scanner, then section 43 applies: the copying must be for the user's own research or private study, only one copy may be made, and the copying must be "fair dealing" (section 43 lists what a Court will take into account –- and therefore what the user must take into account – in determining whether the copying is "fair dealing").*

*Go to the LIANZA Copyright Guidelines at http://www.lianza.org.nz/about/governance/copyrightact.html, download the pdf, and in Appendix 1 you will find a sample warning notice to put above library photocopiers and scanners, which attempts to spell out what users may copy on these. You may certainly copy this notice, and you may adapt it to your own particular circumstances if you wish (e.g. put the name of your library on it).*

**71. My library is attached to a not-for-profit organisation which is funded by a number of territorial local authorities in the region. The library is not a member of the Interloan Scheme. Do we fit the definition of a prescribed library?**

*Section 50(1)(d) of the Copyright Act 1994 states that a prescribed library includes "A library maintained by an educational establishment, government department, or local authority". It seems to me that the significant words are "maintained by". I am not a lawyer, but I should have thought that the territorial authorities that contribute funding to your institution could not be said to "maintain" your institution or your library – they do not appoint your staff, or determine your opening hours, or set your priorities, etc etc.*

*If your library was either a charter or non-charter member of the Interloan Scheme, then you would be a prescribed library, but you say that this is not the case.*

*There is provision in the Act under section 50(1)(e) for the definition of prescribed library to include "A library of any other class of library prescribed by regulations made*

*under this Act, not being a library conducted for profit". Note that even if the institution to which a library is attached is "conducted for profit", this does not mean that the library itself is "conducted for profit". There is further reference to the regulation in section 234(b).*

*So there would appear to be three options:*

*(1) seek legal advice to see if your library qualifies to be a prescribed library under section 50(1)(d);*

*(2) become a member of the Interloan Scheme; or*

*(3) apply for the definition of prescribed library to be extended to your library by regulation under 50(1)(e). I don't know how this is done – you could consult the MED or a lawyer.*

**72. Although my library is a member of the New Zealand Interloan Scheme (a non-Charter member), we do not loan out items, and when we borrow through Interloan, we borrow though the Auckland Public Library business service. Does this invalidate our "prescribed library" status?**

*This is a question for TPSAC (the Te Puna Strategic Advisory Committee, which has replaced the JSCI as administrator of the New Zealand Interloan Scheme), since they determine whether a library is eligible to be a member of the Interloan Scheme. The Copyright Act (as amended) just states that libraries which are members of the Interloan Scheme are prescribed libraries.*

**73. Over several years we have built up an electronic (and also hardcopy) collection of Annual Reports and Independent Appraisal Reports. Both of these types of documents are publically available, but in the case of Independent Appraisal Reports they disappear quite quickly off websites. Obviously we REALLY don't want to delete the collection that we have built up, and often in the case of Annual Reports, we were subscribed to receive hard copies from the company, but they have since stopped sending out the hard copies now things are available on the web. I have the horrible feeling that you are going to say that in order to comply with copyright, we are going to have to contact all the producers of these 100s of annual reports and appraisal reports to request permission to store and use them! Would there be a practical way of doing this? Or is there a licence we could buy that would allow us to collect these?**

*There is copyright in annual reports, as there is in any other type of publication. Copyright will be owned by the issuing body – the company in the case of annual reports, and whoever issued the Independent Appraisal Reports. You may make copies (either print or digital) for adding to your collections, and you may make copies available*

*digitally to your users, only within the limits of what is permitted in the Copyright Act 1994 (as amended) or with the permission of the copyright owner.*

*From what you say, it would appear that for a period you received print copies of reports directly from the companies. These are lawfully obtained original print works, and may be loaned out to your users, or consulted in your library, in the same way as original copies of any other book or library material.*

*If you want to make the annual reports and appraisal reports available digitally for your users, consider the following options:*

*(1) If you have lawfully obtained digital copies from the copyright owners, you may communicate (place on a server for access by authenticated library users) the digital copies under the terms of section 56A. However, from what you say, this is not the case – you have only lawfully obtained print copies.*

*(2) You may make digital copies of the reports for the purposes of preservation or replacement, if the reports are at risk of loss, damage or destruction, and if it is not reasonably practicable to purchase copies, under the terms of section 55(3).*

*(3) You may point to the digital copies on websites, for example from your catalogue or from a list of reports that you have on your website. However, this may not be a solution, given that some of the reports disappear from the publisher or company websites.*

*(4) It is always open to you to write to the copyright owners for permission.*

*So in summary: if you consider that the print copies of the reports are at risk of loss, damage or destruction, you may make digital copies under section 55(3). But please first read the requirements of this section in the Copyright (New Technologies) Amendment Act 2008 on pages 17-18.*

*Alternatively, write for permission from the copyright owners.*

**74. My library holds many issues of two local newspapers in paper form. May we digitise these newspapers? Do we need to seek permission from the newspaper publishers?**

*Section 55(3) of the Copyright Act permits the librarian of a prescribed library to make a digital copy of any item in the collection of the library without infringing copyright in the work if (a) the original item is at risk of loss, damage or destruction; and (b) the digital copy replaces the original item; and (c) the original item is not accessible by members of the public after replacement by the digital copy except for purposes of research the nature of which requires or may benefit from access to the original item; and (d) it is not reasonably practicable to purchase a copy of the original item. It is this last clause which could perhaps prevent you from using s.55(3) – if the newspapers have been*

*microfilmed by the National Library, and if your library is able to purchase the microfilm, then is it "reasonably practicable to purchase a copy of the original item"? It is reasonably practicable to purchase a copy of the microfilm copy, but I don't think this could be considered to be the same as "reasonably practicable to purchase a copy of the original item", so I consider that s.55(3) does apply in your case, and that you may make a digital copy under the provisions of that section.*

*You may then communicate the digital copy – make it available to authenticated library users via an intranet or secure server – under the provisions of section 56A (but note the requirements of that section).*

*Neither of these sections requires your library to obtain permission from the copyright owner. However, you may wish to do this, in case the publisher is able to fill gaps in your library's holdings of the newspaper, so that your digital set of the newspaper is as complete as possible.*

**75. My library also holds in a vertical file newspaper clippings from a wide number of different newspapers. May we digitise these clippings? Do we need to seek permission from the newspaper publishers? And do members of the public need copyright permission to scan their old news clippings and put them online.**

*(a) By the library:*

*Yes, I believe that section 55(3) would apply equally to newspaper clippings (but note, not photocopies of newspaper clippings) held in the collection of your library.*

*(b) By members of the public:*

*Members of the public may scan (make a digital copy) of newspaper clippings (but not photocopies of newspaper clippings) under section 43, Copying for research or private study, provided that they comply with the provisions of that section. However, there is no provision in the Copyright Act for members of the public, without first obtaining permission from the copyright owner, to communicate the digital copies, for example on the Internet, because under s.16 communicating a work to the public is a restricted act. The library provisions (e.g. sections 55(3) and 56A, referred to in the answer to Question 74) do not, of course, apply to anyone other than the librarians of prescribed libraries.*

**76. In our Library we have Aotearoa People's Network public Internet terminals on which members of the public sometimes download music from the Internet, and then transfer music files to their own devices, e.g. MP3s or iPODs. Others have been seen transferring the library's music CDs into the CD drive and "ripping" copies off to their iPODs. If this is for their own personal use, is this OK?**

*Section 81A, Copying sound recording for personal use, states:*

*"(1) Copyright in a sound recording and in a literary or musical work contained in it is not infringed by copying the sound recording, if the following conditions are met:*

*(a) the sound recording is not a communication work [i.e. radio or television broadcast, newscast, etc]; and*

*(b) the copy is made from a sound recording that is not an infringing copy [i.e. is a lawful copy]; and*

*(c) the sound recording is not borrowed or hired; and*

*(d) the copy is made by the owner of the sound recording; and*

*(e) the owner acquired the sound recording legitimately; and*

*(f) the copy is used only for that owner's personal use or the personal use of a member of the household in which the owner lives or both; and*

*(g) no more than 1 copy is made for each device for playing sound recordings that is owned by the owner of the sound recording; and*

*(h) the owner of the sound recording retains the ownership of both the sound recording and of any copy that is made under this section.*

*(2) For the avoidance of doubt, subsection (1) does not apply if the owner of the sound recording is bound by a contract that specifies the circumstances in which the sound recording may be copied."*

*Section 81A, therefore, allows copying (including format shifting) of a sound recording, but only from a legitimately acquired sound recording already owned by the person making the copying, and only for his/her personal use or for personal use of others in his/her household. It does not, therefore, cover copying of sound recordings downloaded from the Internet, or from sound recordings held and owned by the library.*

*There are certain Internet sites (such as iTunes) that legally permit downloading of music from those sites, with or without payment of a fee. If the website clearly states that the music may lawfully be downloaded, then it is OK for the downloading to be undertaken on a library-provided computer, and for the copy then to be copied onto the user's own device. But unless this is so, downloading of music from the Internet is a breach of copyright, and should not be undertaken either on library-supplied computers, or on individuals' own computers. The subsequent copying of the illegally-downloaded music onto individuals' devices only compounds the breach of copyright.*

*I consider that librarians have a duty to try to ensure that copyright is not breached by users of the library, its hardware and resources. A sample notice regarding copying and downloading of music is included as Appendix 2 of LIANZA's* The Copyright Act 1994

and Amendments: Guidelines for Librarians *(4th edition, 2008) at* [http://www.lianza.org.nz/about/governance/copyrightact.html](http://www.lianza.org.nz/about/governance/copyrightact.html) .

**77. My library has a DVD collection and we are currently allowing our customers to view the DVDs on the Aotearoa People's Network computers. One or two customers may view a DVD at the same time. Is this acceptable, seeing that it is not public viewing?**

*I can not see anything in the Copyright Act 1994 (as amended) that prevents users from playing DVDs lawfully acquired and owned by the library either on library-provided hardware, or on personally-owned hardware either within or outside the library, since no copying is involved. I also do not see any problem if the user of the DVD, viewing the film in the library for his/her personal and private purposes (e.g. for entertainment, educational purposes, or whatever), is accompanied by a couple of friends who watch the same DVD at the same time for their own personal and private purposes – I do not consider that such viewing could possibly fall within the definition of section 16(1) (c) or (d), Playing or showing a work in public.*

**78. My organisation holds a large collection of photographs taken by staff photographers working for various newspapers over the years. If we have a photograph of an artwork, be it sculpture, painting, installation etc, who owns the copyright in the photograph?**

*There is copyright in the original work of art (sculpture, painting, installation, etc).*

*Photography is a form of copying, and the photographer should have obtained permission from the copyright owner to make the copy. However, there is an exception to this (section 73) in regard to certain artistic works on public display – buildings, and works such as sculptures, models for buildings, or works of artistic craftsmanship that are "permanently situated in a public place or in premises open to the public". Copyright in such a work is not infringed by making a photograph or film of it.*

*There is separate copyright in the photograph, which is owned either by (a) the photographer, or (b) the photographer's employer, if the photograph was taken in the course of the photographer's employment, or (c) by the person who commissioned and paid for the photograph, if the photograph was commissioned.*

**79. Can you point us to further information about the proposed change to section 21(3), which will give copyright ownership to the photographer, rather than to the person or institution commissioning a photograph to be taken, as is the law at present?**

*The Copyright (Commissioning Rule) Amendment Bill 2008, with explanatory information, is at* [http://www.legislation.govt.nz/bill/government/2008/0299-1/latest/whole.html?search=ts_bill_copyright#DLM1599201](http://www.legislation.govt.nz/bill/government/2008/0299-1/latest/whole.html?search=ts_bill_copyright#DLM1599201) *. There is also information*

*on the MED website at*
*http://www.med.govt.nz/templates/ContentTopicSummary____18836.aspx*

**80. If my school bought a cable that allowed us to connect an iPod that has movies on it, legally purchased and downloaded from iTunes, to our data projector and played the movies to a group of students, are we breaking copyright laws?**

*I do not think you would be breaching copyright law. Section 47(2) of the Copyright Act 1994 states that "The playing or showing, for the purposes of instruction, of a sound recording, film, or communication work to an audience consisting of persons who are students or staff members at an educational establishment or are directly connected with the activities of the establishment is not a playing or showing of the work in public for the purposes of section 32(2)".*

*This rather convoluted way of putting things means that an educational establishment (such as a school) may play films or videos to its students and staff, provided that the films are lawfully-obtained copies. But note that this section 47(2) does not permit you to play films or videos to parents of your students, or to anyone else not "directly connected with the activities of the establishment".*

**81. My research library holds institutional subscriptions for several journals. These subscriptions are for both e-journals and print. (1) Are our scientists permitted to download pdfs from these e-journals to their reference management software? (2) Are they permitted to photocopy an article of interest from a print issue? (3) Are they able to store pdfs in shared access networked folders? (4) Would it be possible for the librarian to manage pdfs purchased say from Infotrieve and keep them as a central resource, and if someone wants to read it they come to me, just like a book?**

*(1) The answer to this question will depend on what is permitted in the licence agreement(s) your library has signed with the e-journal publisher(s). I should think that the licences will certainly allow the staff and researchers at your institution to make print copies of individual articles for their own research or private study; I should think also that the licences will allow the staff and researchers to download pdf copies of the articles to their own PCs and place these in their own reference management system, but again for their own research or private study. Without seeing the licence(s), I do not know whether they will allow staff and researchers to download pdfs and put these on an intranet or secure server for access by a number of staff or researchers – this is probably less likely, although I know that some licence agreements from e-journal publishers do allow articles to be shared with other researchers in the same institution.*

*(2) Yes – in accordance with the provisions of fair dealing set out in section 43 (Copying for research or private study) of the Copyright Act 1994. I believe that this section*

*probably allows the copying of the whole of a periodical article, but certainly no more than a "reasonable proportion" of a book.*

*(3) Only if this is permitted by your licence agreement(s) with the e-journal publisher(s) – see the answer to your first question.*

*(4) No, because the Infotrieve licence statement that comes with each supplied article states (I understand) that the article may be used only by the person who requested the article, for that person's own research or private study. Nor would the librarian be able to do this if the articles are obtained on Interloan from a New Zealand or overseas library – because section 53 (Copying by librarians for users of other libraries) states that articles may be supplied only if "a person has requested the library to which the copy is being supplied to supply him or her with the copy for the purposes of research or private study" – that is, for the requester's own research or private study, and not for other researchers or for the library's collections. And most unfortunately, section 54 (Copying by librarians for collections of other libraries) applies only to "a published edition that is a book" – not to a periodical article.*

**82. Is the copying of book covers, for inclusion in a newsletter listing new accessions, or for adding to library catalogue records, a breach of copyright?**

*There is no copyright in the wording (author, title, publication details, blurb, etc) on book covers, because this is not more than a "reasonable proportion" and is not substantial, taking in relation to the whole work. However, most book covers include illustrations, photographs or other art work in which there is likely to be separate copyright. Book covers, therefore, should not be copied without the prior permission of the publisher as copyright owner. You could ask for blanket permission from each publisher to copy any of their book covers in this way. Most publishers will give permission willingly, as this is free advertising which increases exposure to their books.*

*Several book suppliers and other organisations provide a charged service for linking to copies of book covers from library catalogue records.*

**83. I am having trouble understanding clause (1)(d) of section 56A, Library or archive may communicate digital copy to authenticated users. Could you give a couple of examples of how this applies?**

*Section 56A(1) states that the librarian of a prescribed library may communicate a lawfully-obtained digital copy of a work to authenticated users, provided that "(d) the number of users who access the digital copy at any one time is not more than the aggregate number of digital copies of the work that (i) the library or the archive has purchased; or (ii) for which it is licensed".*

*Here is an example of what this means in practice: if (say) two copies of a Braille book are purchased, the book may be made available digitally to no more than two concurrent Braille users; and if four copies are purchased, the book may be made available digitally to no more than four concurrent Braille users. Another example: subscribers to some e-book services are required to nominate (and pay for) a specified number of concurrent users to the e-books in the collection. In both examples, the number of users who access the digital copy at any one time must not exceed the aggregate number of digital copies of the work that the library has purchased, or for which it is licensed.*

**84. I am confused: can you clarify when s.56A applies and when s.56B applies, as each seems to have slightly different wording and uses different language, e.g. "communicate" vs. "supply", "digital copy" vs. "copy in digital format", "informed in writing about the limits of copying and communication" vs. "written notice that sets out the terms of use of the copy", etc?**

*Sections 56A and 56B are completely separate sections, standing in their own right – they are not sub-sections either of section 56 or of each other.*

*Section 56A allows librarians of prescribed libraries to communicate (make available via a computer network, the Internet, an intranet or a secure server) a copy of a work in digital format that the library has already lawfully acquired to authenticated users, without needing to obtain permission from the copyright owner or licensee, and sets out the requirements if librarians do this. Note that it does not apply if the librarian already has permission from the copyright owner or licensee to communicate the digital copy.*

*Section 56B qualifies sections 51, 52 and 56 (copying by librarians of prescribed libraries for their own users). It sets out the two additional requirements that librarians must follow if the copy being supplied is in digital format. Neither of these two additional requirements is onerous.*

**85. My library is a non-Charter member of the Interloan Scheme. Is my library thereby a prescribed library?**

*Yes. The Copyright (General Matters) Regulations 1995 clause 4 states that "The class of library constituted by libraries that are members of the interloan scheme is hereby declared to be a class of library for the purposes of section 50 of the Act". Section 50 of the Copyright Act defines prescribed libraries. The LIANZA website makes clear that both Non-Charter and Charter Libraries are members of the Interloan Scheme.*

**86. Does a prescribed library need to have a licence with PMCA in order to make copies from newspapers for its users?**

*It is not clear (at least to me) whether a newspaper is a periodical (and therefore covered by section 52, Copying by librarians of articles in periodicals) or a published work (and therefore covered by section 51, Copying by librarians of parts of published works). If a newspaper is a periodical, the librarian of a prescribed library may make, for supply to any person, one copy of an article, or more than one article from the same issue if the articles all relate to the same subject-matter. If a newspaper is a published work, the librarian of a prescribed library may make, for supply to any person, one copy of a "reasonable proportion" of the work. Either way, I should have thought that it is not necessary for a prescribed library to have a licence with PMCA.*

*Note that users of a library may copy from newspapers only within the "fair dealing" provisions of section 43 (Copying for research or private study).*

**87. I have been approached by a group of researchers who are working on a project which involves analysing abstracts of university theses, and then obtaining copies of relevant theses on Interloan for study by members of the team. What are the copyright implications?**

*There is no copyright in bibliographic citations, so these may be copied and stored on a server for use by the research team. However, there is copyright in abstracts – the exception relating to abstracts in section 71 of the Copyright Act 1994 applies only to abstracts accompanying articles on a scientific or technical subject published in periodicals, not to abstracts published in books or theses.*

*Section 43(1) of the Act states that "Fair dealing with a work for the purposes of research or private study does not infringe copyright in the work". Section 43(3) lists the factors that a court will take into account (and therefore that a user copying from a work for her or his own research or private study must take into account) in determining whether such copying is "fair dealing". These factors are:*

- *(a) The purpose of the copying; and*
- *(b) The nature of the work copied; and*
- *(c) Whether the work could have been obtained within a reasonable time at an ordinary commercial price; and*
- *(d) The effect of the copying on the potential market for, or value of, the work; and*
- *(e) Where part of a work is copied, the amount and substantiality of the part copied taken in relation to the whole work".*

*In my view, provided that the copying is "for the purposes of research or private study" of the person making the copy, copying (which includes making a digital copy) of the whole of an abstract is probably not an infringement of copyright in the thesis, given that an abstract is not substantial, taken in relation to the whole thesis.*

*However, communicating a work (making it available on a computer network, the Internet, an intranet or secure server) to the public is an act restricted by copyright (section 16(1)(f)). I cannot see anything in the Copyright Act 1994 (as amended) that permits abstracts from theses to be copied and stored on a server for use by the research team.*

*A court might rule that making a summary of the essential elements of an abstract is not making a copy of the abstract, but rather is creating a new work, based on the abstract. If so, then copyright in the new work (the summary) is owned by the author of it, and may be stored on a server and made available to the research team.*

*Section 53 of the Act (Copying by librarians for users of other libraries) is quite clear: a copy may be supplied on Interloan only where "a person has requested the library to which the copy is being supplied to supply him or her with the copy for the purposes of research or private study", and the person to whom the copy is supplied "may use the copy only for the purposes of research or private study".*

*There is no breach of copyright if the hard copy of the thesis is read in the library by the requesting person. However, it is not lawful for a copy of a thesis supplied on Interloan in digital format to be stored on a server and accessed by members of the research team, since the copy was supplied for the requester's use, not for the use of anyone else.*

*Of course, those theses and abstracts that have been digitised and made available via an institutional research repository or ADT (the Australasian Digital Theses Program) may be accessed by all members of the research team, because as part of the deposit process, the authors of the theses (the copyright owners) have given permission for their theses to be made available and accessed in this way.*

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