Technology, Education and Copyright Harmonization Act

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(with material “borrowed” liberally from Kenny Crews and Peggy Hoon*)
All IS Teams
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Getting a Perspective
Clarifying a Few Things

- The TEACH Act is NOT Required!
- The TEACH Act is NOT Automatic!
- The TEACH Act is NOT a Panacea!
- The TEACH Act is NOT “Fair Use”!
- The TEACH Act is NOT the same as “Classroom Use”!
- The TEACH Act is NOT Simple!
So What Is It?
Looking on the Brighter Side

- The TEACH Act IS for the Benefit of Distance Education
- The TEACH Act IS a Protection from Copyright Liability
- The TEACH Act IS an Opportunity
- The TEACH Act IS a Responsibility
Putting the TEACH Act in Context

- Copyright Protects Vast Range of Materials
  - Original Works/Fixed in Tangible Medium
  - No Requirement of Formalities
  - Instant & Automatic Protection
Putting the TEACH Act in Context

- Copyright is a bundle of exclusive rights:
  - To reproduce the work
  - To make derivative works
  - To distribute the work
  - To display work publicly
  - To perform the work publicly
  - To perform the work publicly by means of a digital audio transmission (for sound recordings)
Putting the TEACH Act in Context

- Many Uses in DE may be Infringements
- Section 110 (2) places limits on the rights of the copyright holder
- The TEACH Act modifies Section 110(2)
  - And 112 (f)
Display of a work, or performance of a non-dramatic work via transmission is not an infringement if:

- part of systematic instruction;
- directly related to course content;
- reception is in classrooms or similar places normally devoted to instruction, OR directed at those with disabilities or other special circumstances, OR directed at government employees.
What Does TEACH do for ME?

Improvements Over Previous Law

- Possible Protection from Liability
- Broadened Opportunities to Use Copyrighted Works in DE
  - Expanded Scope of Usable Materials
  - Expanded Range of Receiving Location
  - Storage of DE Content
  - Digitization of Analog Content
TEACH Act Requirements

- WHO:
  - Accredited Nonprofit Educational Institution or Governmental Body
TEACH Act Requirements

- **WHAT:**
  - Performances of nondramatic literary works or
  - Performances of nondramatic musical works or
  - Performances of reasonable portions of any other work or
  - Display of any other work in an amount comparable to that typically displayed in a live classroom setting
TEACH Act Requirements

- **BUT NOT:**
  - Works produced or marketed primarily for performance/display as part of mediated instructional activities transmitted via digital networks **or**
  - Unlawful copies (copies you know or reasonably should know were not lawfully made or acquired)
TEACH Act Requirements

WHEN:

- The performance or display “is made by, at the direction of, or under the actual supervision of an instructor” and
- The materials are transmitted “as an integral part of a class session offered as a regular part of the systematic, mediated instructional activities” of the educational institution and
- The copyrighted materials are “directly related and of material assistance to the teaching content of the transmission”
TEACH Act Requirements

- **HOW:**
  - Transmission made solely for and reception limited to (as technologically feasible) students enrolled in the course, **and**
  - Institute technological measures that reasonably prevent retention for unauthorized further dissemination in accessible form, **and**
  - No interference with copyright holder's technological measures that prevent such retention and dissemination
TEACH Act Requirements

- Conversion of analog to digital allowed when:
  - No digital version available to the institution or
  - The available digital version is technologically protected to prevent DE uses
GENERAL INSTITUTIONAL REQUIREMENTS

- Promulgate copyright policies and
- Provide accurate information about copyright and
- Promote copyright compliance and
- Provide notice to students that course materials may be copyrighted
Lingering Problems
Problems Seem to Do That

- “Mediated Instructional Activities”
- “Class Session”
- Relationship to E-Reserves
- Repeat Uses and Access
- Mixed Delivery of a Single Course
- Technological Dilemmas
- The Holistic Expectation
Do I HAVE to do TEACH?
Keeping Your Options Open

- Remember: TEACH is NOT Required
- Options:
  - Alternative Delivery Methods
  - Alternative Materials
  - Seeking Permissions
  - Fair Use
- Getting Guidance from Above
TEACH Resources

- ALA/Kenny Crews: “New Copyright Law for Distance Education: The Meaning and Importance of the TEACH Act”
  http://www.ala.org/Content/NavigationMenu/Our_Association/Offices/ALA_Washington/I sues2/Copyright1/Distance_Education_and_the_TEACH_Act.htm

- TEACH Act Toolkit from North Carolina State University:
  http://www.lib.ncsu.edu/scc/legislative/teachkit/background.html

- Lolly Gassaway’s TEACH Act Comparison Chart: http://www.unc.edu/%7Eunclng/TEACH.htm
Questions?