Copyright and Research in the Humanities and Social Sciences: a British Academy Review

Through its series of research-related reviews, the British Academy seeks to examine issues crucial to the condition and health of its areas of interest. Professor John Kay FBA, Chairman of the British Academy’s Copyright Working Group, reports on the main findings and recommendations of the Review.

The Review of copyright and research in the humanities and social sciences was set up because the Academy was concerned that recent developments in technology, legislation and practice had meant that recent developments in technology, in the same way maths is. In yet other words, part of the gateway into tertiary education. Otherwise the innovation in languages that is taking place in primary schools will not be carried through into secondary school, and will thus prove to have been an expensive blind alley.

• Perhaps the most subtle concern voiced about the nation-wider loss of language expertise was the loss of the ability to understand what in another point of view is not spelled out merely in words but conveyed in very various modes – for instance in some languages by a body language that has to be learned. This implied meaning is generated in every language by cultural expectations as much as by verbal language. These expectations may be totally specific to the language and yet need to be understood if potentially dangerous misapprehensions are not to occur.

The British Academy is exploring ways in which it can keep the debate about the crisis of language learning at the forefront of public concern. It is currently considering the possibility of setting up a policy study, which could form the springboard for a campaign and a series of associated events and conferences, possibly held in partnership with sister academies from overseas, to keep the momentum going and highlight the urgency for languages. As part of this work, it will be holding a brainstorming meeting in mid-November 2007, in order to identify the ways in which the Academy can make a distinctive contribution to the debate, and focus on the areas where the Academy can say things with authority, and have an influence.

The British Academy’s statements in response to the Government’s Dearing Review of Language Learning are available at www.britac.ac.uk/reports/dearing-2006

Copyright holders have become more sensitive in defence of their rights as a result of the development of new media, and are more aggressive in seeking to maximise revenue from the rights, even if the legal basis of their claims is weak.

• Risk-averse publishers, who are often themselves rights holders, demand that unnecessary permissions be obtained, and such permissions may be refused or granted on unreasonable terms.

• There is an absence of case law, because the financial stakes involved in each individual case are small relative to the costs of litigation.

• Publishers and authors are uncertain as to the true position, and misapprehensions are widespread.

• There are well-founded concerns that new database rights and the development of digital rights management systems may enable rights holders to circumvent the effects of the copyright exemptions designed to facilitate research and scholarship.

These findings led us to make ten recommendations which are detailed in the main report, published in September 2006, and available on the Academy’s web site at www.britac.ac.uk/reports/copyright. Five key recommendations are listed below.
• Authors and producers of original creative material should understand that their interests in copyright are not necessarily identical with those of publishers and should not rely on publishers to protect them.

• Copyright must therefore provide reasonably broad and practically effective exemptions for research and private study and for criticism or review. The lively development of new cultural material is a principal objective of copyright protection.

• The law should be clarified – statutorily if necessary – to make clear that the use of copyright material in the normal course of scholarly research in universities and other public research institutions is covered by exemptions from the Copyright Act.

• Publishers should not be able to use legal or technological protection through digital rights management systems to circumvent copyright exemptions.

• The growth of digital databases should be monitored to ensure that ready access continues to be available for the purposes of scholarship.

To help address the current uncertainties and confusions about the scope of copyright exemptions, the Working Group produced a new set of guidelines based on the general principles outlined in the report. The guidelines cannot represent a statement of the law, but they aim to clarify the current situation and it is hoped will have considerable moral force in the event of dispute. The guidelines are available on the Academy’s web site at www.britac.ac.uk/reports/copyright.

In December 2005, the government set up the Gowers Review to address concerns that the UK’s intellectual property regime was not keeping pace with changes resulting from globalisation and technological developments. The Academy’s Working Group responded to its call for evidence, and seems to have been influential as many of the Academy’s recommendations were reiterated by the government’s Gowers Report (published December 2006). While Gowers undoubtedly moved the debate on and marked a welcome stop to the gradual extension of copyright that we have seen in recent years, it did not fully address the Academy’s primary concern about the need for clarification of the UK’s ‘fair use’ exceptions. The Working Group is therefore looking at ways in which it might exert influence on national and international debate and policy-making in this area.

As part of this work, the Academy held a follow-up conference on 30 March 2007 in association with the AHRC Centre for the Study of Intellectual Property and Technology Law at the University of Edinburgh. The discussion was lively, exploring the issues from two contrasting perspectives – copyright owners (those who generate, own, and administer copyrights) and copyright users (those who wish to use copyright material as the foundation for the development of new knowledge). The conference assessed the Academy’s report in the wider context of the reform agenda provided by the Gowers Report, and gave the Academy’s Working Group a useful steer on the ways in which its recommendations should best be taken forward in order to have maximum impact. The Working Group is excited by the prospect of following up many of these leads in the months to come.

The report and guidelines are available from the Academy’s web site at www.britac.ac.uk/reports/copyright.

The members of the Academy Working Group are: Professor John Kay (Chairman); Professor Bob Bennett (Chairman, Research Committee); Professor David Cannadine; Professor Nick Cook; Professor Bill Cornish; Professor Hector MacQueen; Professor Mike Murphy; and Professor John Stallworthy.

Peer Review: The Challenges for the Humanities and Social Sciences. A British Academy Review

Professor Albert Weale, FBA, Chairman of the British Academy’s Peer Review Working Group, reports on the main findings and recommendations of the Review.

Peer review is the practice by which the worth of research is evaluated by those with demonstrated competence to make a judgement. It is the traditional means by which research quality is guaranteed in academic studies. The British Academy was concerned that the role peer review plays in underpinning the success of the UK research enterprise in the humanities and social sciences needed to be better understood by policy-makers.

The Academy therefore set up a Review Working Group under my chairmanship to examine how the practice of peer review functioned in a context in which its scope was expanding beyond its traditional primary focus on individual publications and grants to encompass broader evaluations of, say, the research performance of departments. The Review Working Group was asked to recommend ways in which peer review systems, including those, like metrics, that rely on peer review, could better accommodate the distinctive features of humanities and social science research.

Peer review has its critics, who allege that it is costly, time-consuming and biased against innovation. None of these criticisms is entirely without force, but the Working Group concluded that there were no better alternatives and that often the criticisms were directed at deficiencies of practice rather than the principle of peer review.

Peer review is both a mechanism of selection – only those grants and publications are favoured that are positively judged by peers – and a force making for enhancement. Work is better as a result of peer review. Importantly, it retains widespread and deep