



Policy Cross Domain: A Status Report

InterPARES II Symposium

Los Angeles, May 2004

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Definitions of "Policy"



Encarta:

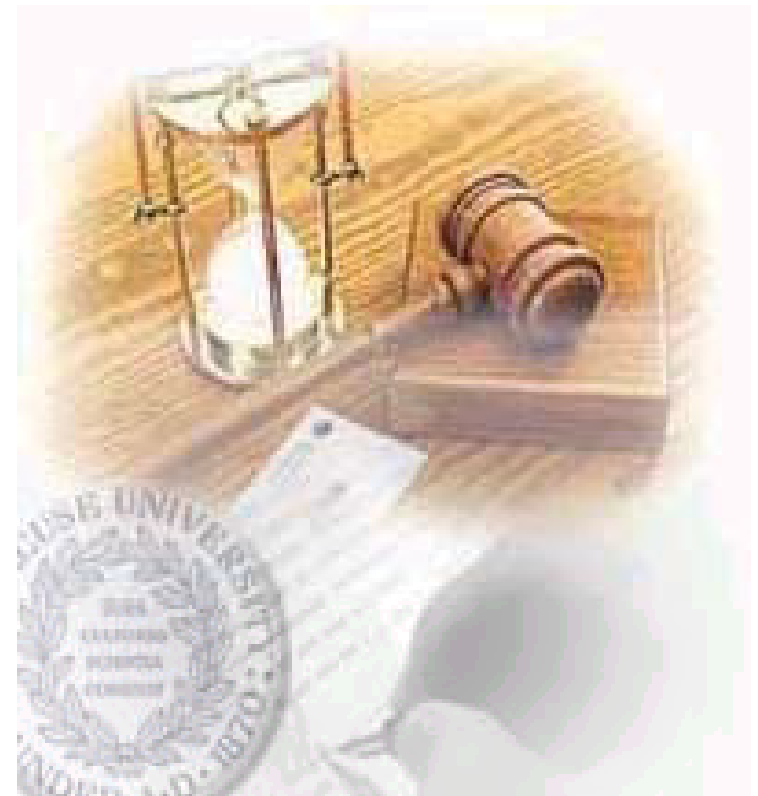
- Course of action: a program of actions adopted by an individual, group, or government, or the set of principles on which they are based. Robek, et al. (p. 583).
- Broad guidelines for operating an organization. A basic guide to action that prescribes the boundaries within which activities are to take place. (Richard Pearce-Moses)

Definitions of “Policy”


Per the InterPARES

Glossary:

“A formal statement of direction or guidance as to how an organization will carry out its mandate functions or activities, motivated by determined interests or programs.”



Intellectual Organization



	FOCUS 1 Artistic activities	FOCUS 2 Scientific activities	FOCUS 3 Governmental activities
DOMAIN 1 Records creation & maintenance	Working Group 1.1	Working Group 1.2	Working Group 1.3
DOMAIN 2 Authenticity, accuracy & reliability	Working Group 2.1	Working Group 2.2	Working Group 2.3
DOMAIN 3 Methods of appraisal & preservation	Working Group 3.1	Working Group 3.2	Working Group 3.3

Terminology

Policy

Description

Modeling



Domain Members

- Sharon Farb (Co-chair)
- Howard Besser (NYU)
- Hannelore Dekeyser (Kath. Univ. Leuven)
- Kevin Glick (Yale)
- Elaine Goh (National Archives of Singapore)
- Maria Guercia (University of Urbino)
- Chenhui Hao (PRC Archives)
- Livia Iacovino (Co-chair)
- Terry Maxwell (SUNY)
- John McDonough (Natl. Archives of Ireland)
- Du Mei (PRC Archives)
- Shelby Sanett (Amigos Library Services)
- Kate Theimer (US Natl. Arch. Records Admin.)
- Research Assistants: UCLA, UBC, SUNY



Major Research Questions (1)

- How do policies, procedures, and standards currently control records creation, maintenance, preservation and use in each focus area?
- Do these policies, procedures, and standards need to be modified or augmented?
- How can we help translate policies, procedures, and standards into different national environments, sectors, and domains or cultural and juridical perspectives?



Major Research Questions (2)

- What legal or moral obligations exist regarding the creation, maintenance, preservation, and use of the records of artistic and scientific activities?
- What principles should guide the formulation of new policies, strategies and standards related to the creation, appraisal, and long-term preservation of reliable, accurate and authentic records in digital environments?



Methodologies & Activities

- Research and analyze the existing policies, strategies, guidelines, and standards in each of the focus areas.
- Examine the results of the case studies and the work carried out in the three domains.
- Conduct literature reviews.
- Develop tables and charts to compare policies, procedures and standards.



Policy Case Study Questions

- To what extent do policies, procedures, and standards currently control records creation, maintenance, preservation and use in the context of your activity?
- Do these policies, procedures, and standards need to be modified or augmented?



Policy Case Study Questions

- What legal, moral (e.g. control over artistic expression) or ethical obligations, concerns or issues exist regarding the creation, maintenance, preservation and use of the records of artistic, scientific and e-government in the context of your activity?



Current Research Includes

- Accuracy and Reliability of Geospatial Data
- Business Model Costing
- Comparative Moral Rights Analysis
- Comparative Privacy Laws Analysis
- Copyright in a Digital Environment
- Digital Rights Management
- E-Government and E-Voting
- Security Issues including privacy, civil liberties and personal identification systems.



Key Policy Issues

Examples from the Focus Groups:

- E-Government
- Artistic Focus
- Scientific Focus

E-Government

- Accountability
- Ownership/
responsibility
- Reliability/liability
- Public/private
collaboration
- E-Voting
- Identity Theft



E-Voting

- Controversies in US and abroad.
- More accurate and reliable or costly, error-prone and vulnerable to hackers?
- Paper “audit trail” needed for authentication?



E-Voting: California

- California Secretary of State said glitches in Diebold systems "jeopardized the outcome" of the March 2 primary.
- State restricts e-voting, but some counties resist.

Some Counties Might Sue Over E-Voting Orders

The secretary of state's paper-ballot requirement and other rules for using electronic systems are too difficult and costly, several registrars say.

Los Angeles Times, May 4, 2004. B1.

E-Voting: Ireland

- Ireland decided against e-voting on April 30.
- Electronic Voting Commission said the system was open to potential interference and its accuracy could not be guaranteed.



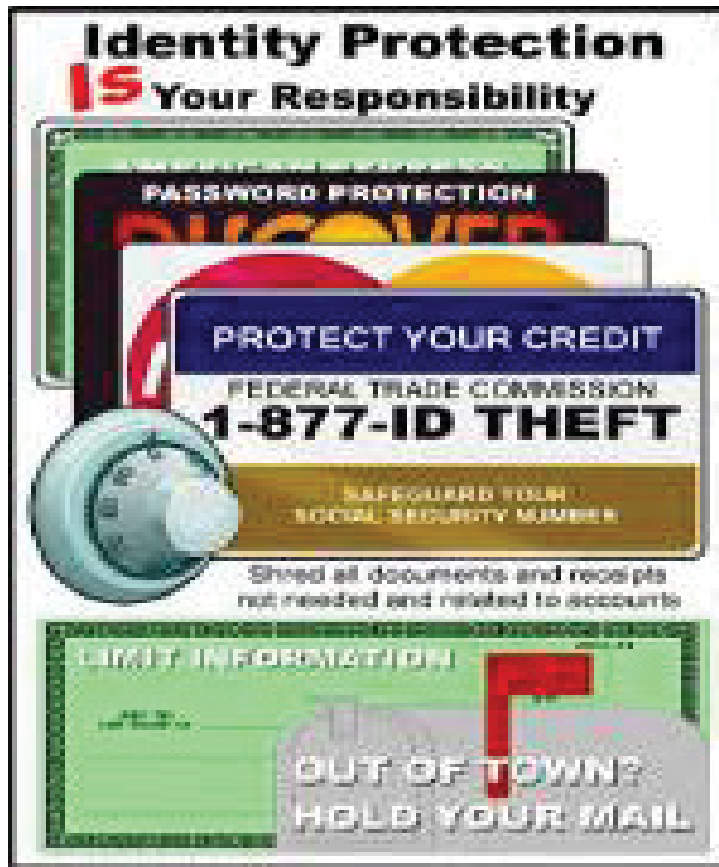
Commission on Electronic Voting
An Coimisiún um Vótáil Leictreonach

E-Voting: Australia



- A different approach.
- Although a private Australian company designed the system, it was based on specifications set by independent election officials, who posted the code on the Internet for all to see and evaluate.
- Accomplished in six months and tested in 2001.
- Avoids issues of “black box” proprietary software.

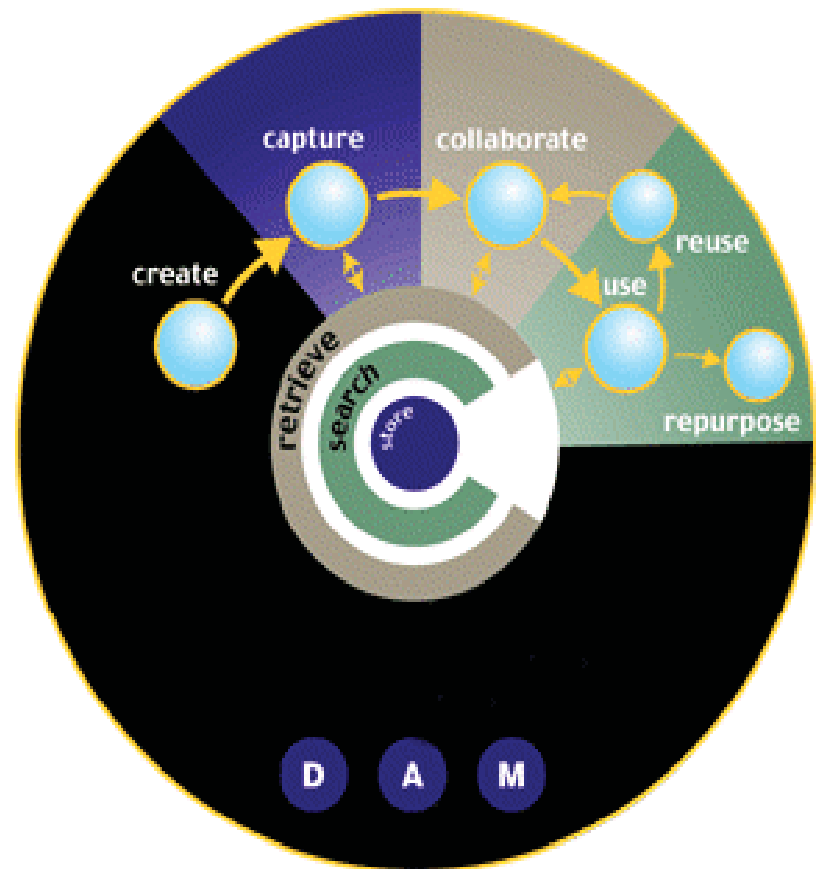
Identity Theft

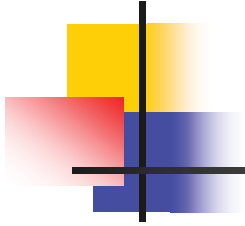


- FACT Act passed by Congress in 2003.
- Designed to combat ID theft and simplify repair of credit reports.
- Comparative analysis of national identification systems.

Artistic Focus

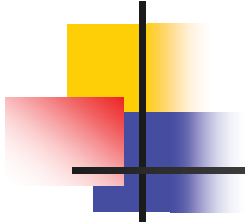
- ARTS Focus Group: preservation
- Copyright in digital environment
- Ownership/IP rights
- Digital Asset Management (DAM)
- Moral Rights



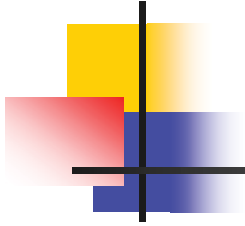


- “All the digital preservation methods currently being developed and used will potentially require some sort of copying.”

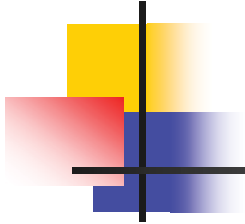
- Ayre, C., Muir, A. The Right to Preserve. *D-Lib Magazine*, March 2004. See also *Copyright and Licensing for Digital Preservation: A research project* funded by Arts and Humanities Research Board, UK. Charlesworth, A. (2003). *Legal Issues Relating to the Archiving of Internet resources in the UK, EU, USA and Australia.*



- “Digital copies are *perfect* copies of the original. For digital content, production is reproduction.”
- Varian, H., Shapiro, C. (1999) *Information Rules*. Boston, MA: Harvard Business School Press



- “It is possible only to preserve the ability to reproduce the electronic record, rather than to preserve the electronic record ‘itself’.”
- Ken Thibodeau, InterPARES Preservation Task Force



- “A ‘copyright’ exists in any original work of authorship fixed in a tangible medium. That medium can be almost anything, including paper, computer disk, clay, canvas, and so on. For a work to be ‘original,’ it must meet two qualifications: (1) it cannot be copied from another work; and (2) it must exhibit at least a small amount of creativity. Copyright lasts for the life of the author and 70 years thereafter.”

- Besek, J. (2003). *Copyright Issues Relevant to the Creation of a Digital Archive: A Preliminary Assessment*. Washington, D.C: CLIR. See also 17 USC 101 et seq.

RIGHTS OR CONTROLS	U.S.COPYRIGHT LAW (Federal)	LICENSING (state contract law)	TECHNOLOGY
Scope/coverage	Defines scope and limits coverage (e.g., Federal Government information, facts, and processes are not included) †	No limits (unless illegal or against public policy)	To be determined. No limits (unless illegal)
Duration	Limited time (as specified) ††	To be negotiated (usually annually)	To be determined. Controls include digital rights management (DRM), media dynamics, diversity and obsolescence, software copyrights and patents, proprietary metadata
Fair Use	Inter-library loan Scholarly sharing Electronic reserves Electronic linking Printing Downloading Parody News reporting Criticism ††† 17 U.S.C.§ 1201	To be negotiated To be negotiated To be negotiated To be negotiated To be negotiated To be negotiated To be negotiated To be negotiated	To be determined. Can Fair Use be modeled without compromising the case-by-case approach to balancing the four Fair use factors?
Exemptions for Libraries and Archives	Preservation copies Security copies Archiving rights Perpetual access ‡	No such thing. Any customization to be negotiated, including preservation and security copies, archiving rights, and perpetual access	No such thing

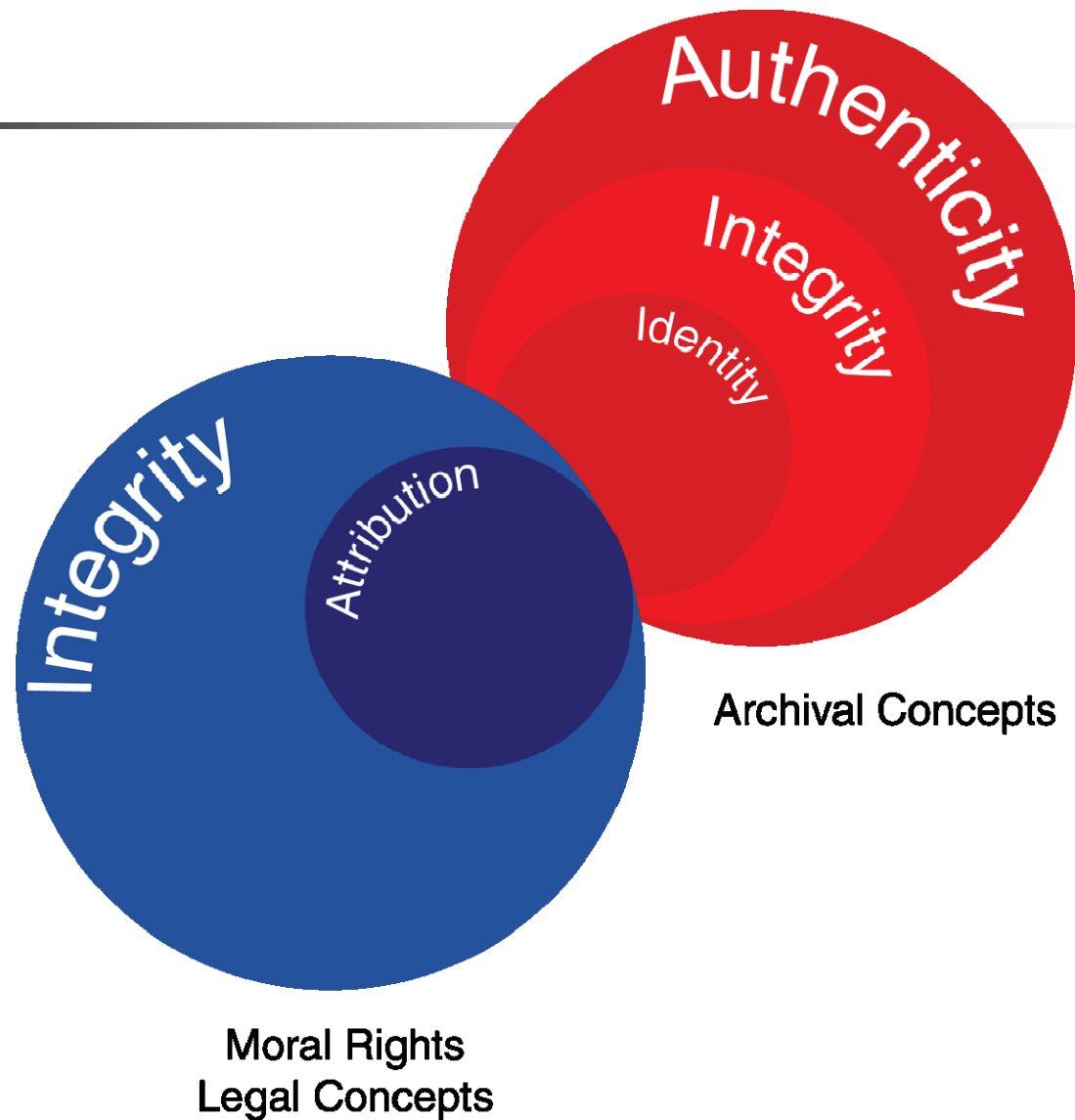
Art. 6bis



Independently of the author's economic rights, and even after the transfer of the said rights, the author shall have the right to claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation.

Berne Convention for the Protection of Literary and Artistic Works, September 9, 1886, art. 6bis, S. Treaty Doc. No. 27, 99th Cong., 2d Sess. 41 (1986).

Comparing the concepts



Moral Rights Chart

EUROPEAN UNION – SPAIN

Legislation	Right of Attribution/Right of Integrity	Limitations/Waivers/Consent	Duration
<p>Law No. 2/1987, of November 11, 1987, on Intellectual Property, as last amended by Law No. 43/1994 of December 30, 1994.</p>	<p>Art. 14. The author shall be invested with the following unrenounceable and inalienable rights:</p> <p>1° the right to decide whether his work is to be disclosed, and if so in what form; (Right to divulge)</p> <p>2° the right to determine whether such disclosure should be effected in his name, under a pseudonym or sign or anonymously;</p> <p>3° the right to demand recognition of his authorship of the work; (Right of attribution)</p> <p>4° to demand respect for the integrity of the work and to object to any distortion, modification or alteration of it or any act in relation to it that is liable to prejudice his legitimate interests or threaten his reputation; (Right of Integrity)</p> <p>5° the right to alter the work subject to respect for the acquired rights of third parties and the protection requirements of goods of cultural interest;</p> <p>6° the right to withdraw the work from circulation for reasons of changed intellectual or moral convictions, after indemnification of the holders of exploitation rights for damages and prejudice. If the author later decides to resume exploitation of his work, he shall give preference, when offering the corresponding rights, to the previous holder thereof, and shall offer terms reasonably similar to the original terms.</p> <p>7° the right of access to the sole or a rare copy of the work when it is in another person's possession, for the purposes of the exercise of the right of disclosure or any other applicable right. The aforesaid right shall not allow the author to demand the moving of the work, and access to it shall be had in the place and manner that cause the least inconvenience to the possessor, who shall be indemnified where appropriate for any damages and prejudice caused him.</p>	<p>Art. 17. The author shall be invested with the exclusive exercise of the rights pertaining to the exploitation of his work in whatever form and especially the rights of reproduction, distribution, communication to the public and alteration, which may not be exercised without his authorization, except where this Law so provides.</p>	<p>Art. 15-(1) On the death of the author, the exercise of the rights specified in items 3° and 4° of the foregoing Article shall pass, without limitation in time, to the person, whether natural person or legal entity, to whom the author has expressly entrusted it by testamentary provision. In the absence of such provision, the exercise of the rights shall pass to his heirs.</p>



Future Plans (1)

- Continue to work with the Focus, Domain and Cross-Domain Groups to identify policy relevant legislation, standards and policies.
- Continue to conduct comparative research and create comparative reflecting international spectrum of InterPARES Policy Issues.
- Analyze results of case studies and domain research as it becomes available.

Future Plans (2)



- Identify gaps in existing policies to help insure the long-term accurate and reliable preservation of digital records in the arts, e-government and scientific domains.
- Disseminate research findings via InterPARES website, conference papers and journal articles.
- Prepare Final Project Report.

Questions?

