

# 1 Background to the investigation

## 1.1 Introduction

Legal deposit can be broadly defined as “a government provision which compels producers of all types of publications to deposit a certain number of copies of each publication in designated or similar institutions” (Jasion, 1991: 7). It is a system that has been in practice in various countries for many centuries and is widely acknowledged as the main instrument for building up and preserving a nation’s published heritage.

With a few exceptions, most countries where legal deposit is administered rely on a legal instrument of some sort to enforce compliance by publishers, printers, or manufacturers of publications, to ensure the development of such a national collection (Lariviere, 2000). Enforcement measures differ according to the individual legislative procedures of different countries, ranging from small fines to more drastic measures such as prohibiting the publishing and distribution of publications in cases of non-compliance (Crews, 1988: 566; Jasion, 1991: 8; Lor, 1995: 100). Issues surrounding the monitoring and enforcement of legal deposit legislation directly affect the implementation of legal deposit by depository institutions and the manner in which publishers will comply with legislation.

Recent decades have seen no significant decrease in the production of print material (Merril, 2000: 21), and a rapid proliferation of electronic publications, causing legal deposit to become an extremely complex and dynamic area of research (Muir, 2001: 655). In addition to the above-mentioned tracing and monitoring issues, the fundamental structures and

systems needed for the effective practical implementation of a legal deposit system, whether in the print or the digital environment, must be investigated.

All of these issues are particularly relevant in South Africa where the latest revision of its legislation makes provision for the legal deposit of not only print, but all types of publications, specifically also electronic/digital material.

## ***1.2 Purpose and scope of the study***

The revised South African Legal Deposit Act (Act no. 54 of 1997) (see Appendix A) came into force on 1st July 1998. Under section 8 of the Act, a Legal Deposit Committee with a broad representation of stakeholders is mandated to coordinate and promote the implementation of the Act, but no specific measures are provided, or guidelines given, for ways in which the Committee can monitor the processes involved with legal deposit. Similarly, the literature provides no tried and tested international examples of systems for tracing and enforcement measures that could be adapted and implemented within the South African context.

This study arises from the need expressed by the Legal Deposit Committee for an inquiry into the many issues and questions surrounding the provision of documents subject to legal deposit as expanded in the Legal Deposit Act.

The Legal Deposit Act of 1997, at the time of its promulgation, was one of the first in the world to make provision for the legal deposit of electronic publications (Lariviere, 2000). However, although the topic of electronic publications will thus inevitably be touched upon in this study, the

present investigation focuses mainly on the issues surrounding the supplying of print documents, specifically books, to the legal deposit libraries.

This restriction was instituted because the legal deposit system in South Africa was, and still is, focused mainly on print publications, of which books form the greater part. Also, an efficient and successful scheme in the print environment will arguably serve as a good foundation for implementing a programme of legal deposit in the digital environment. With the reality of preparing for the preservation of electronic publications rapidly approaching, an investigation into the legal deposit of books was thus identified as an area of immediate and critical concern.

### ***1.3 Research problem***

#### **1.3.1 Statement of the problem**

In the light of the above, the main research problem to be addressed in this study centres on the following: *What is the present situation with regard to the implementation, monitoring, and management of the legal deposit of books in South Africa?*

This study encompasses a wide terrain of concerns. To effectively resolve these, attention is directed to some essential sub-problems/questions arising from the central focus of the research project.

- The first sub-problem focuses on what legal deposit entails. Aspects to investigate include the main aims of legal deposit, the evolvement of legal deposit into the current universally accepted system, the

elements contained in legal deposit legislation, and South African legislation compared to that of other countries.

- The next sub-problem lies in identifying the activities and procedures involved in practically implementing legal deposit in national libraries or other legal deposit institutions.
- The question also has to be asked who the various stakeholders in the process of legal deposit are, and the levels of their involvement in the legal deposit process in general, and in South Africa in particular, need to be examined.
- The next sub-problem is discovering how the opinions and activities of the two main role players, namely publishers and legal deposit libraries, impact on the implementation of legal deposit in South Africa.
- As a fifth sub-problem, the extent to which publishers in South Africa comply with legal deposit legislation also has to be determined.
- The final sub-problem/question that arises from these last two issues, is to ascertain what gaps are present in the current system, and whether any improvements in the practical implementation of legal deposit, as well as in the tracing and monitoring mechanisms, can be brought about.

### **1.3.2 Research goals**

Legal deposit cannot be successfully implemented without the positive and committed participation of the publishers and the legal deposit

libraries. The study therefore aims firstly to investigate how the attitudes, opinions and behaviours of these core role players affect the depositing of material subject to legal deposit. This investigation is the main concern of the study and forms the bulk of the research project.

No studies have been done in South Africa to determine the state of compliance with legal deposit requirements in the country. Therefore the second purpose of this study is to find out how many of the books that are subject to legal deposit are actually supplied to the legal deposit libraries.

Based on the results achieved from these two investigations, the study will provide suggestions and recommendations for improved procedures and methods for monitoring and managing legal deposit in the future.

#### ***1.4 Research strategy and methodology***

Due to the scope of the study a traditional research approach focusing on either a specific qualitative or quantitative method proved to be insufficient to encompass the diverse aspects of the investigation. To best explain and explore the research problem, it was thus practicable to shift from the constrictions of one research design and explore the advantages of different combinations of design features without depriving the study of “a feasible and efficient strategy that ... satisfies the requirements for good research design” (Trochim, 2006). Qualitative and quantitative approaches in this particular study were, however, not used with the traditional purpose in mind of generating various data sets to address the same research problem (Baker, 1994: 284; Brewer & Hunter, 1989: 82). The project comprised two different, definite research phases, each with its own specific aim and methods.

A qualitative research approach employing both elements of descriptive research as well as elements of an exploratory nature was followed in the first phase of the project with the aim of determining the feelings and actions of the role players with regard to legal deposit and its implementation. This part of the project encompassed face-to-face interviews with small selected groups or individuals representing the publisher populations. Similar interviews were conducted with representatives of the five legal deposit libraries.

The second phase of the study followed on the first and used exploratory research methods to gather the necessary quantitative data. With the aim of establishing the extent of legal deposit compliance by publishers, secondary analyses of existing data was undertaken to obtain figures indicating the number/percentages of books delivered as legal deposit.

#### **1.4.1 Literature survey**

Before commencing with the empirical study, a comprehensive literature study was undertaken with the aim of obtaining sufficient theoretical knowledge of the area of study, and of the problems and most relevant issues surrounding legal deposit both internationally and in South Africa. This provided the foundation for conducting the two phases of the empirical research, for the subsequent analysis of the data obtained and for the future recommendations that were provided.

#### **1.4.2 First phase: survey research**

Survey research in the form of qualitative semi-structured face-to-face interviews with representatives of both the publishing industry and the legal deposit libraries was identified as the most appropriate way to

investigate what effect the attitudes, opinions and behaviours of these two role players have on the implementation of legal deposit in South Africa.

Non-probability sampling in the form of purposive sampling was used to accomplish blanket selection of publishers for the survey. Purposive sampling was the obvious choice of sampling method, as the aim of the project was to identify a particular pre-determined type of publisher, namely commercial publishers as members of the Publishers' Association of South Africa (PASA), for in-depth investigation. Quota sampling, another form of non-probability sampling, was used to identify the categories of publishers that reflect the proportions of the original PASA population groupings for the interviews. No sampling was needed in selecting the legal deposit libraries, as all five libraries were automatically included in the survey.

The data was documented in the form of tape-recorded accounts of the interviews that were later transcribed by an independent person. The first part of the interviews comprised a set of pre-determined questions, and formal coding approaches for analysing the data were therefore not planned. However, the flexibility of the interview structure allowed for additional issues to be presented, and these responses were grouped together into themes. Open-ended questions were introduced in the second part of the interview sessions, and these responses were organised into themes/categories using formal coding principles.

### **1.4.3 Phase two: feasibility studies**

The second research phase used feasibility studies to gather information on the degree and scope of compliance with legal deposit by publishers.

Feasibility studies were regarded as the best way in which a variety of methods could be used to obtain the required results.

A relatively small sample of elements, considered to provide the necessary information, was selected using a combination of purposive and judgement sampling, both of which are forms of non-probability sampling. The elements included ISBN (International Standard Book Number) lists obtained from the National Library, book reviews in South African daily newspapers, and publications in South African libraries as listed on Sabinet Online's SACat database. These elements comprised the sampling frames from which specific units for use in the study were selected. The following sources/sampling units were used: ISBNs with the 0-620 prefix; two daily newspapers, one Afrikaans and one English; and lists of books in academic libraries belonging to the GAELIC consortium.

The aim in this phase of the project was not in-depth analysis of these secondary sources, but rather using the records to check against the records of books received as legal deposit with the aim of obtaining figures that reflect the levels of compliance with legal deposit requirements over a specific time period.

#### **1.4.4 Analysis and interpretation of data**

Analysis and interpretation of the data obtained from the surveys highlighted the areas where problems are experienced by publishers and the libraries regarding issues covered in legislation. The results also suggested reasons for compliance and/or non-compliance, gave insight into various other aspects of the research problem as covered by the open-ended questions contained in them, such as awareness of legal deposit,



communication, and so forth, and provided many valuable suggestions for tracing non-compliant publishers.

The results obtained from the feasibility study were summarised in percentages, tables and charts as the situation presented itself. Analysis of these results indicated how much of the material subject to legal deposit had been received as legal deposit, and the differences in the level of compliance of small, medium and large publishers were calculated.

### ***1.5 Value of the study***

The main contribution of this study is in its pioneering role in identifying the practical issues that are faced in the realm of legal deposit in South Africa. The outcomes of the project provide information on the needs of and problems experienced by publishers and libraries regarding legal deposit, and give an indication of publishers' levels of compliance with legal deposit. This type of investigation has never been done before and fulfils a particular need expressed by the Legal Deposit Committee, the body bearing the ultimate responsibility for the monitoring of the legal deposit programme and the enforcement of legal deposit legislation in the country.

When the study was initiated it was anticipated that the results would form the basis for designing a regular monitoring programme to be implemented under the auspices of the Legal Deposit Committee. This expectation has already been partially realised with the development of an action plan in response to a feedback report presented to the Committee after completion of the first phase of the project.

The success of a research project such as this also lies in its contribution to the decision-making process. This study provides a “state-of-the-art” report that can be used by all role players in the legal deposit system to re-think and re-evaluate their approaches and attitudes towards the execution of legal deposit legislation. This could lead to the development of policies and strategies best suited to the needs of the individual legal deposit libraries and those of the publishers.

The value of this study will be clearly demonstrated if the above re-thinking exercises and subsequent implementing of improved strategies bear fruit in the form of a sustainable system of legal deposit on which the development of an effective system for the legal deposit of electronic publications can be built.

Although this study is specific to the South African situation at the present time, the methods employed and suggestions provided may have a wider scope for implementation than in this country only. Other countries on the African continent for example, could use the methods and suggestions of this study, or adaptations thereof for their own purposes.

The final valuable contribution of this study is the direct contact with publishers and other role players made during the course of the research project which could be used beneficially to establish good relationships and foster a positive and enthusiastic attitude towards the important national issue of legal deposit.

## *1.6 Division of chapters*

This introductory chapter provides an overview of the area of research, covering the core research problem and sub-problems identified for investigation, the goals of the study and the methodology and findings of the practical research project.

The following three chapters present the topics and areas identified during the literature study as central to the research questions.

Chapter two discusses the various elements and issues pertaining to legal deposit legislation. In an attempt to provide a conceptual framework for identifying the characteristics and qualities of South African legislation, the legal deposit systems of the United Kingdom, Australia, Malaysia and South Africa are compared.

Chapter three covers the central activities that constitute the basis for the legal deposit process. The stages in the practical implementation of legal deposit are discussed. Special attention is also given to the especially relevant issues of the monitoring and enforcement of legal deposit. The chapter concludes with a look at further factors that impact on achieving the goal of a successful process of legal deposit.

None of these activities and procedures can be executed without the active participation of the role players in the legal deposit scheme. Chapter four attempts to identify these role players in general, and in South Africa particularly, and looks at the ways in which they fulfil their individual functions or otherwise influence the execution and accomplishment of legal deposit.

Chapter five presents an overview of the two phases of the empirical project. A qualitative investigation determines the opinions and attitudes of the two main role players, the publishers and libraries, towards legal deposit. To further expand on and contribute to the findings generated by this phase of the project, feasibility studies are employed to ascertain publishers' levels of compliance with legal deposit. The methodological approaches, procedures, and assessment/evaluation of the methods that were used, are covered.

Chapter six contains the findings of the two phases of the empirical study. This in-depth analysis of the data provides the information needed to identify gaps in the present legal deposit system and forms the basis for recommending new and/or alternative approaches and implementations as discussed in the next chapter.

Chapter seven considers the implications of the results obtained from the practical research project. Recommendations for future implementation and improvement of the system are made. Decisions regarding these were taken within the context of the information gathered in the literature survey, from the research that was conducted, and from other relevant sources of information.

Chapter eight concludes the study and provides a glimpse of the future challenges that are faced in the implementation of legal deposit in South Africa.