

## 3 The process of implementing legal deposit

### 3.1 *Introduction*

The implementation of legal deposit depends not only on satisfactory or even superior legislation, but also requires certain procedures to be in place to ensure the successful execution, monitoring, and management of a legal deposit programme. The aim of this chapter is to identify the particular activities and the supporting structures that are necessary for a legal deposit institution to achieve its legal deposit goals. Discussed within the framework of the legal deposit process, this constitutes a significant portion of the background information against which the empirical research for this particular legal deposit project was conducted and the subsequent analysis and interpretation of the results was undertaken.

The first section of the chapter examines the stages of and the various tasks associated with the process of practically implementing legal deposit in a national library or other legal deposit institution.

This is followed by a discussion on the monitoring and enforcement of legal deposit. Procedures for tracing non-compliant publishers, methods of enforcing compliance with legislation, and knowledge of the levels of compliance lie at the heart of the effective management of a legal deposit system.

The remainder of the chapter considers the various managerial, political, economic, legal and other internal and external factors that affect the

process of legal deposit and consequently impact on the practical execution of a system of legal deposit in a country.

## **3.2 *Stages in the legal deposit process***

### **3.2.1 Background**

In any organisation certain processes form the foundation for the fulfilment of work tasks within that particular organisation. The identification and design of these processes can have a positive or a negative effect on how effectively and efficiently the core activities of the organisation are implemented and the necessary tasks are completed (Williams & Johnson, 2004: 167; Watson, T.J., 2002: 58).

Although Lor (1997) expounds to some degree on the general processes associated with executing the legal deposit function of a national library, and Rugaas (1990: 44, 45), in the same vein, touches upon the legal deposit tasks of the national library, there is a definitive lack of literature detailing the processes and activities concerned with practically implementing legal deposit for print publications.

This shortcoming is also apparent with regard to electronic material. Other general problems and issues surrounding the preservation of electronic publications have been addressed quite extensively in the literature such as studies by Andrews and Law (2004: 222), Beagrie (2003), Knudsen (2006), Lavoie, (2000), Marcum (2000), Martin (2001), and UNESCO (2003), but research that specifically covers the activities related to digital legal deposit is, as for print, still somewhat lacking. Some processes are mentioned in a recent article on the future of preserving South African websites by Lor, Britz and Watermeyer (2006: 42-44) but

merely as part of the broader discussion. Muir's development of an inclusive model identifying the various stages and processes of legal deposit, focusing on the delivery of electronic publications, is a valuable contribution towards filling this gap (Muir, 2001). Another venture, namely the collaborative Networked European Deposit Library (NEDLIB) project launched in 1998 and involving eight European national libraries, a national archive, two Information Technology organisations, and three publishers, also provides a description of the activities involved in the process of implementing the legal deposit of electronic publications. The aim of the project was to explore the technical and managerial issues surrounding the processes relating to the legal deposit of electronic publications. One important product was the design of a Deposit System for Electronic Publications (DSEP), linking the functions of deposit to the digital library environment, to serve as a basic infrastructure upon which a networked European deposit library could be built (Beaudiquez, 2001; Marcum, 2000; NEDLIB, n.d; Van der Werf-Davelaar, 1999).

The relative scarcity of available examples from the literature aimed exclusively at print means that, for the purposes of the discussion on the stages in the legal deposit process, to start from the assumption that the basic tasks associated with the process of implementing legal deposit would be applicable to both the print and electronic environments (CDNL, 1996; Field, 2002: 25; Lor, 1997). Based therefore on the available information covering these issues, the following have been identified as the core stages and corresponding activities on which the practical implementation of legal deposit, irrespective of the format of the publication, is based.

## 3.2.2 Identification

Acquiring the material subject to legal deposit starts with the depository institutions identifying such material (Muir, 2001: 657). Identification is closely related to the tracing and enforcement procedures covered in section 3.3 of this chapter, but practically these measures will also form the first stage in the process of implementing legal deposit. Some current and widely used methods for identifying printed books include the use of ISBNs (International Standard Book Numbers) and CIP (Cataloguing in Publication), and for digital material the use of URNs (Uniform Resource Names) and DOI (Digital Object Identifiers).

### 3.2.2.1 ISBNs (*International Standard Book Numbers*)

ISBNs serve as unique identifiers of particular titles and editions of books and some other forms of printed media. The International ISBN agency, located in Berlin, Germany, is the coordinator of the ISBN system. Blocks of ISBNs are allocated by the agency to specific regional groups or countries. Within each regional group or country the national centre responsible for the allocation of ISBNs allocate blocks of numbers to specific publishers according to their publishing output (International ISBN Agency, 2005). ISBNs facilitate inventory control and quick retrieval from databases, and as they are attached to bar codes are used in electronic point-of-sales systems<sup>4</sup>. As unique identifiers of monographs (i.e. books etc.) ISBNs can thus be extremely useful for identifying publications subject to legal deposit. In countries where the national library is also the agency responsible for administering ISBNs, legal deposit and ISBN activities usually complement each other (Lor, 1997).

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<sup>4</sup> The new 13-digit number that will be in use from 1 January 2007 will be identical with the EAN-13 number currently encoded in the bar code. The EAN (European Article Number) is a superset of the original 12-digit Universal Product Code (UPC) system developed in North America. EAN-13 barcodes are used worldwide for marketing retail goods (International ISBN Agency, 2005).

### 3.2.2.2 *CIP (Cataloguing in Publication)*

Another effective tool for identifying legal deposit material is CIP information. CIP involves preparing a catalogue entry for a book well in advance of printing and publication which then appears in the printed book (Prabha, 1996). CIP services are administered by national libraries or can be contracted out to other institutions for example the Bibliographic Data Services in the United Kingdom (British Library, 2005a). In the United States the Library of Congress has fairly recently established Electronic CIP (E-CIP), a tool that speeds the process and reduces costs (Farrel, 2001: 5). Although using CIP services is voluntary for publishers, it does provide depository institutions a possible means of tracking new publications and at the same time eases the cataloguing burden of other libraries and encourages standardisation (Crews, 1988: 574; Farrel, 2001: 5).

### 3.2.2.3 *Identification of digital material*

Various systems for identifying objects in the digital arena have been developed, and as with identifiers in the print environment, could be used to trace digital material for legal deposit purposes. URIs (Uniform Resource Identifiers) are short strings of characters that identify resources on the Web. A Uniform Resource Name (URN), as a subset of the URI, identifies a resource or unit of information independent of its location. URNs have been embraced by both networking and library communities (Arms *et al.*, 1996). The Digital Object Identifier (DOI) is an implementation of the URN and URI concepts. A DOI name provides a means of identifying an object on a digital network and associates it with related current data. It differs from bibliographic identifiers such as the ISBN as it can be associated with defined services and is immediately actionable on a network. The DOI is specified by the NISO (ANSI.NISO Z39.84) standard (DOI, 2006).

### 3.2.3 Selection

The comprehensiveness of a country's legal deposit collection (see chapter 2, section 2.4.9) is a major aim of legal deposit systems (Jasion, 1991; Muir, 2001: 653). This ideal rests on the principle of collecting and preserving a nation's published heritage without making any judgements on the value of material, be it of moral, political or artistic nature (Lariviere, 2000). From a practical point of view, however, many legal deposit acts make provision for depository institutions to be selective in what they acquire (Lariviere, 2000; NEDLIB, n.d.).

There are differing opinions as to the acceptability of depository institutions' deciding whether they wish to acquire all or only a selection of materials. Some argue that as broad a coverage as possible is preferable, as selectivity would prejudge material, and even ephemeral and unimportant or "unsuitable" (Graham, 2001: 21) categories of works could have cultural and sociological importance and be of value for research in the future (Ceeney, 2003: 273; Haddad, 1999). Not only would this wide collection approach prevent "good" or "bad" collection policies (Ceeney, 2003: 273) but it would also ensure that the national bibliography would not be covering only mainstream materials that "professional publishers" consider to be of research value (Beaudiquez, 2001).

Others argue, however, that considering the increase in information and the inability of libraries to cope with expanding collections, selection policies may be more feasible than comprehensiveness in legal deposit collections (Davies, 1998: 160). This approach is especially prevalent with regard to electronic publications (Lor, Britz & Watermeyer, 2006: 42; Muir, 2001: 658). Staff, time, storage capacity, technical and technological capabilities, and the needs of individual institutions are all factors that

influence selection decisions (Coult, 2001: 3; Eden et al., 1999: 273; Line, 1995: 2).

### 3.2.4 Acquisition

Mechanisms for acquiring or buying library material usually form part of a library's existing operational system. In the case of legal deposit libraries, however, "some responsible entity *sends* [researcher's italics] objects to depositories" (Muir, 2001: 659). There are three main issues surrounding the acquisition of publications that can impact on the efficient execution of the legal deposit process, namely time of delivery, number of copies to be deposited and the costs involved in depositing.

#### 3.2.4.1 *Time of delivery*

The legislation of a specific country determines how soon after publication legal deposit material has to be delivered. Depository institutions generally hold that the depositing of books should take place as soon as possible after publication. This ensures that users have access to new publications, and that material that could go out of print quickly will still be deposited in time. It also ensures the timeliness and currency of the national bibliography and other databases (Beaudiquez, 2001; Lariviere, 2000; Lor & Geustyn, 2001).

From the publishers' point of view, electronic publications are better deposited early rather than late as this suits the life cycle of publishing (Cedars, 1999). Publishers of print materials, however, have to contend with various factors once a book gets to the production stage, such as possible printing, binding, and distribution delays (Graham, 1994: 139; McDowell, 1997: 34). These can all affect the prompt and efficient delivery of books for legal deposit.

#### 3.2.4.2 *Number of copies*

In his guidelines for legal deposit legislation, Lariviere (2000) recommends that legislation should provide for the deposit of a minimum of two copies of a publication, one for preservation and one for use. Even though the deposit of only one copy of a publication was already in earlier years regarded as being insufficient (Partridge, 1938: 9), publishers are still consistently voicing their displeasure with the compulsory deposit of multiple copies of their publications (Lariviere, 2000; Whitaker, 2001: 25). Some European countries such as Belgium, the Netherlands and Switzerland require only one copy of a book on legal deposit. There are, however, countries that require significantly more and this often creates discomfort with publishers (Graham, 1994: 131; Voorbij & Douwma, 1997: 166; Whitaker, 2001: 24-25) leading to bad relationships with depository institutions.

#### 3.2.4.3 *Costs*

From the very early stages of legal deposit, the free delivery of publications by publishers as is required by legal deposit legislation has been controversial (Partridge, 1938: 13). Although there are countries, for example Japan, where publishers are compensated for providing their publications for legal deposit (Lariviere, 2000), such concessions are not the rule. Publishers query the arrangement whereby they alone bear the burden of supplying free copies of their publications, and they argue that material should rather be purchased by the depository institutions (Davies, 1998: 165; Graham, 1994: 112; Whitaker, 2002: 25). Although the practice of providing free copies is of concern to all publishers, the cost issue can be a significant problem for especially smaller or private publishers with short-run, limited, or high-cost publications (Davies, 1998: 165; Hattingh & Hamman, 1998: 112). On the other hand most libraries, as depository institutions, do not have the money to realistically purchase all

legal deposit material. There are also significant costs involved in the processing, cataloguing and storage of the ever-expanding stock of “free” material received on legal deposit (Beaudiquez, 2001; Davies, 1998: 160; Lor, 1995: 98; Russon, 1999).

### **3.2.5 Accession activities**

The major tasks associated with processing the legal deposit material received by repository institutions include creating a national bibliography, describing publications using accepted international standards, and preserving and storing the material received on legal deposit.

#### **3.2.5.1 *Creating a national bibliography***

Compiling a national bibliography/database of legal deposit material is acknowledged as an accepted and important function of the National Library or depository institution (Lariviere, 2000; Ratcliffe, 1999: 80). An effective legal deposit system forms the basis for the creation of such a national database. As this bibliographic information is taken up in international databases and published in foreign catalogues as well, national bibliographies not only provide public access to and information on legal deposit material in a specific country but are also valuable for publishers as they serve to promote and provide access to a country’s publications globally (Beaudiquez, 2001; Lariviere, 2000; Lor, 1995: 97).

#### **3.2.5.2 *Describing materials received***

Before the information contained in databases can be used, it must be retrieved. The use of accepted bibliographic standards for describing the material received as legal deposit, especially with the aim of creating the

national bibliography, is thus essential (Haddad, 1999). As part of the accession process, depository institutions perform functional checking for the correct version, medium, format, etc. of the publication, as well as quality checking to ensure that basic bibliographic information (including ISBNs) has been provided for the publications received as legal deposit. The amount and type of information collected at this stage of the legal deposit process not only affects the accessibility of the material, but in the case of digital publications will also have a significant effect on the long-term preservation of the material (Muir, 2001: 660).

### **3.2.5.3 *Preserving and storing material***

The preservation of material received as legal deposit is the most generally accepted and most often quoted function of legal deposit (Lariviere, 2000; Jasion, 1991: 7; Lor, 1995: 96) and is the theme that runs through the whole legal deposit process (Muir, 2001: 654). Various preservation issues associated with managing and administering the material, such the methods for preserving and storing material, physical facilities, and storage capacity, all influence the effective fulfilment of the preservation responsibility of the depository institution (Cline, 2002: 4; Coult, 2001: 3; Eden *et al.*, 1999: 273; Rugaas, 1990: 44). In addition factors such as format, media stability, technological obsolescence and so forth are especially problematic in the electronic environment (Lor, Britz & Watermeyer, 2006: 43,44; Muir, 2001: 661).

### **3.2.6 *Access /delivery***

Providing free public access to legal deposit collections is one of the core activities associated with legal deposit (Lariviere, 2000; Lor, 1995: 97; Muir, 2001: 671; NEDLIB, n.d.). Legislation, however, does not always specify that the public have a right of access to the legal deposit collection

(Jasion, 1991: 161; Lor, 1995: 96). Such an omission is seen as regrettable. Focusing too much on preservation aspects such as collecting, organising and storing publications is pointless if the publications are never to be used (Cornish, 1998a: 242; Lor, 2003b: 147). The challenge thus lies in balancing the conflicting requirements of the preservation of and access to legal deposit material (Cline, 2002: 5; Lor, 1995: 96). The issue of access has also created a certain amount of tension in the way that legal deposit is practically implemented especially for publishers, who are often uneasy about possible uncontrolled access to their publications (Cornish, 1998a: 242; Lariviere, 2000; Muir, 2001: 671). Document delivery and copyright are the two main issues of concern in this regard.

### **3.2.6.1 Document delivery**

Document delivery/interlibrary loan has become one of the major means by which information is shared internationally. In the current technological age, accomplishing this flow of information is becoming easier and the role of rapid resource sharing more crucial (Cornish, 1998b: 96). For publishers this “unrestricted” (Graham, 1994: 153) access to legal deposit documents has long been troublesome. The main issue of concern is the way in which the commercial interests of publishers may be affected (Russon, 1999). Legal depository libraries are generally sensitive to this and aim to provide means of access to material that will not compromise the possible sale of a work (Davies, 1998: 164; Lariviere, 2000). For example, in many legal deposit libraries, such as the British Library, legal deposit copies of works may be used in the reference library only and may not be used as a base for interlibrary loan or document supply services (Davies, 1998: 163).

### **3.2.6.2 Copyright**

Closely related to access and document delivery is the copyright issue. From the publishers' point of view copyright, as the means of protecting the moral rights of authors and controlling the commercial exploitation of a work, "remains at the centre of our stage and the defence of it our very livelihoods" (Davies, 2001: 34). It is an issue that generates debate all over the world (Ceeney, 2003: 274; Scott, 2002). Although publishers generally agree with the basic principles of reasonable access to and use of their work in legal deposit institutions, they feel that access should be balanced with remuneration for copyright owners (Davies, 2001: 33). However, depository institutions do not have the financial means to comply with these wishes, and also copyright legislation generally makes special provision for the copying of and access to legal deposit material (Lariviere, 2000; Scott, 2002). Legal deposit institutions should be aware of the perceived conflict between them and copyright owners (Cornish, 1998b: 95; Scott, 2002) as understanding and trust between all parties is required if the aim of providing access to works in a non-exploitive manner that does not disrespect the author's or publisher's rights is to be achieved (Muir, 2001: 654; Scott, 2002).

## **3.3 The monitoring and enforcement of legal deposit**

### **3.3.1 Introduction**

The literature on legal deposit and the issues surrounding its implementation clearly shows that a gap exists with regard to meaningful discussions on or practical examples of monitoring and enforcement procedures. Crews (1988) and Jasion (1991) give some indication of legal measures taken by various countries to enforce compliance by way of

finances or other means. The same type of general information is provided by Lariviere (2000) in his *Guidelines to legal deposit legislation*. Other sources containing guidelines on library legislation and policy (Council of Europe/EBLIDA, 1998), and guidelines for national library legislation (Lor, 1997), refer to issues such as recommendations for sanctioning non-compliance with legal deposit, but as they aim to provide general legislative information for national and other libraries, they cannot be realistically expected to provide more specific information on legal deposit matters. Depository institutions bear the responsibility not only of identifying material subject to legal deposit and processing the material received, but also for monitoring and enforcing compliance with legal deposit legislation. Identifying means of doing so is critical for the purposes of this study.

### **3.3.2 Tracing non-compliant publishers**

In practice, depositories do not necessarily receive all the material that has been published nationally. Tracing publishers who do not deliver their material is one of the central issues of concern in this study. Though little information is available in the literature on ways in which non-complying publishers can be traced, two studies deserve mention.

In the first, Chapman (1997) reports on the BNB/MARC currency survey. This is an annual performance measurement survey conducted by the British Library that looks at the proportion of titles with United Kingdom (UK) imprints currently being acquired by UK libraries for which a BNB/MARC record is available, and also checks whether this proportion is increasing or decreasing over the long term. Thus publications available in randomly selected public and academic libraries in the United Kingdom and Ireland can be compared against British Library deposits (i.e.

BNBMARC files), and deductions made, such as how many publications are not received as legal deposit within a specific time frame. Some of the methods used in the survey, such as the checking and rechecking mechanisms, and verifying against online publishers' directories, could be adapted for the South African context.

A study was also conducted in the Netherlands by Voorbij and Douwma (1997) to assess the coverage of the deposit collection (i.e. publications received as legal deposit) of the *Koninklijke Bibliotheek* in The Hague. Although the researchers did not specifically identify ways to monitor compliance, a number of their methods such as using ISBN lists and targeting databases of specific categories of material for checking against the national bibliography, could be of value for local implementation.

### **3.3.3 Enforcement of legal deposit**

The issues surrounding the enforcement of legal deposit legislation are directly related to the implementation of legal deposit by depository institutions and the compliance of publishers in depositing their publications.

#### **3.3.3.1 Enforcement procedures**

Although some countries manage legal deposit without specific legislative measures, it is strongly recommended that a system of legal deposit in a country be developed based on legislation, so that the procedures are taken seriously by publishers (Lariviere, 2000). To be effective, a law must be enforceable, and to be enforceable it must place pressure on publishers to comply by means of a penalty structure/penalty clause for contravention of the law; the penalty can be financial or some other

measure (Bell, 2000: 169; Council of Europe/EBLIDA, 1998; Crews, 1988: 551; Lariviere, 2000).

However, legislation alone does not necessarily guarantee compliance. Problems surrounding the enforcement of compliance with legal deposit go back a long way. Historians claim that, despite its “official and royal character” (Lariviere, 2000), the Montpellier Ordinance of Francis 1 in 1537, the decree that introduced the principle of legal deposit, was not always obeyed. In the United Kingdom in the 1700s and 1800s authors and publishers “resorted to all kinds of shifty expedients to elude their obligation” (Partridge, 1938: 68). This problem is seemingly ongoing. In spite of the penalties contained in current legal deposit legislation, there is a perception that agencies and depository institutions are not as effective as expected in claiming missing documents (Knutsen, 2003: 35; Line 1995: 2). The difficulty could lie in the penalty structures themselves. If penalties are too low, they may not be significant enough to compel publishers to comply, and such a clause contained in legislation is therefore of no practical value (Crews, 1988: 566; Jasion, 1991: 8; Lor, 1995: 100). Libraries and other depository institutions are also, more often than not, hesitant to strictly enforce penalties as the cost of litigation would, in most cases, be more than the cost of the item in question (Crews, 1988: 552; Lor, 1995: 100; IFLA National Libraries Section, 2004). In general the prevailing opinion is that enforcing penalties should be used only as a last resort. It may be more advisable to not use criminal sanctions for non-compliance, but to rely on the civil remedies of negotiation and cooperation and the goodwill of the publishers to comply with legislation, as this could on the whole be more beneficial to all parties involved (Davies, 1998: 165; IFLA, 2004; Lariviere, 2000; Library Association, 1997).

### 3.3.3.2 *Court cases*

Limited information is available in the literature on examples of specific cases of non-compliance and how they were handled in court. One article that touches on the subject very superficially concerns the unresolved case in the United States of a publisher that ceased sending its publications to the Library of Congress (T.G., 1995: 211). In the same article a case from 1985 is recounted in which Law & Technology Press argued in the United States Court of Appeals that copyright deposit (i.e. legal deposit) was an “unconstitutional burden on the press” (T.G., 1995: 212). The court ruled against the publisher.

Further mention of cases of non-compliance is made by Crews (1988: 565) who reports that in the period of 1980-1988, 45 cases of non-deposit were reported to the Department of Justice for legal action in the United States, of which only four were eventually taken to court. Jasion (1991: 8) speaks of at least four court cases published in Canada, Denmark, the United States of America and the United Kingdom, in which legal deposit provision was upheld.

In the United Kingdom one of the first recorded court cases against non-delivery was in 1812 (Harris, 1998: 40). The most “prolific” time for enforcement and court action, however, was during the Keepership at the British Museum of Panizzi when from May 1850 to July 1876 proceedings were taken against 158 publishers (Harris, 1998: 218, 219; Whitaker, 2001: 25). On the whole, though, serious court action taken against publishers was not the norm (Partridge, 1938: 84). The last recorded case that was taken to court in the United Kingdom was in the 1920’s (Byford, 2005; Harris, 1998: 518).

In South Africa the only case that could be traced, between Pippa Skotnes and the South African Library, began in 1993 and lasted until 1997 and has

become legendary. Skotnes regarded copies of her (very expensive) book as an “art work” and not a book, and therefore refused to supply a legal deposit copy to the (then) South African Library. This was the first dispute of this nature in the 124 years that the South African Library had served as a legal deposit library. The Supreme Court ruled in favour of the Library, after which the publisher took the case to the Appeals Court where the application was dismissed with costs (Westra, 1997: 129).

### 3.3.4 Measurement of compliance

Even if tracing and enforcement procedures are in place, a country has to know to what extent publishers comply with legal deposit. This information will not only assist in identifying non-complying publishers and areas where coverage is insufficient, but could also be valuable in developing ways by which compliance with legal deposit can be improved. Figures indicating the levels of legal deposit compliance for individual countries are not commonly available in the general literature. The figures that are available, however, seem to contradict the general perception of a wide range of non-complying publishers (as mentioned in second paragraph of section 3.3.3.1).

Crews gives some indication of statistics in his 1988 article in which he reports that the *Bibliothèque Nationale* in France claims to receive 90-100% of all the material it desires (Crews, 1988: 564), the Swiss National Library with its voluntary system of legal deposit claims nearly full compliance from publishers (Crews, 1988: 567), and the United States receives 90% of its domestically published material (Crews, 1988: 575).

Although Line (1995: 2) contends that the legal deposit of certain types of literature, including commercial literature, is poor in the United Kingdom,

other writers claim otherwise. Davies holds that overall cooperation from publishers for the deposit of material has been good (Davies, 1998: 161), and the BNB MARC survey discussed in section 3.3.2 of this chapter indicates a level of non-compliance of about 10% (Chapman, 1997). In a recent e-mail correspondence John Byford, the legal deposit librarian at the British Library, estimates a receipt of 97% of all material liable for legal deposit (Byford, 2005).

In Australia, Whitehead (1995) and Triffett (2006) maintain that compliance with legal deposit is high, in the range of 90-95%. In the Netherlands, the comprehensive study that was done to determine the coverage of legal deposit of material including books, dissertations, periodicals and grey literature (Voorbij & Douwma, 1997) showed, in spite of the voluntary system of legal deposit, that with the exception of grey literature, there is a high percentage of compliance ranging from 88% to 97%.

In some countries in Eastern and Central Europe, however, where publishing as a result of political transformation has fairly recently been released from state control, many publishing houses were being established without a view of adhering to legal deposit legislation at all (Cornish, 1994: 67; Lehmann, 1994: 108). In the Czech Republic for example, there is much disagreement between publishers and libraries about legal deposit and although the number of copies to be submitted has been reduced from 27 to five, publishers are still loath to deliver (Stoklasova *et al.*, 2002).

### *3.4 Factors affecting the process of legal deposit implementation*

#### **3.4.1 Introduction**

All the processes and elements that comprise a system of legal deposit are interrelated, and decisions taken at one stage of the process will affect those taken at another stage (Muir, 2001: 655). Libraries as depository institutions furthermore, like other organisations, do not exist in a vacuum. They are subject to a wide range of external and internal factors that can influence the decisions that are taken within the organisation, which in turn inevitably have an effect on the successful fulfilment of the organisation's tasks and functions (Gordon, 2005: 229; Williams & Johnson, 2004: 41). Some of the more significant factors that directly impact on the effective implementation of legal deposit are the following.

#### **3.4.2 Management**

Managers play an important role in any organisation. They are responsible for a wide range of issues ranging from managing resources and activities, and making decisions to best accomplish organisational goals (Watson, T.J., 2002: 65; Williams & Johnson, 2004: 11), to directing and motivating employees to ensure that they work effectively and efficiently (DuBrin, 2000: 12; Watson, T.J., 2005: 134). The manager's role is also important in legal deposit institutions. For any legal deposit system to be implemented effectively its processes have to be managed both strategically and operationally. For this purpose, experienced managers are essential (Brophy 2000: 180; Gordon, 2005: 10). In addition, without employees adequately trained in functions ranging from cataloguing and

classification to solving intricate technological problems, a legal deposit system cannot function satisfactory (Letshela & Lor, 2002; Lor, 1995: 103; Rugaas, 1990: 28).

### **3.4.3 Economic factors**

A manager has the authority to commit organisational resources, including financial resources, to achieve organisational goals (DuBrin, 2000: 3). Economic conditions are different in different types of organisations, but in any organisation financial decisions have considerable impact on the implementation of activities and completion of tasks (Williams & Johnson, 2004: 45). The nature and scale of most library services are determined by the allocation of resources. In the realm of legal deposit significant costs are involved in terms of staffing commitments and the processing of publications (Beaudiquez, 2001; Lor, 1995: 98). Different strategies for preserving published material will furthermore have different economic implications, as preservation and storage cost money both in the print and electronic environment (Coult, 2001: 3; Muir, 2001: 655; Neal, 2002: 155; Russon, 1999; Smethurst, 1992: 33).

### **3.4.4 Communication**

Effective communication in an organisation is essential for its success (Shockley-Zalabak, 1995: 6). Communication in an organisation differs from general communication in that it is a process of giving and receiving feedback with the ultimate aim of achieving results (Hattersley & McJannet, 2005: 37; Williams & Johnson, 2004: 231). Any library, including a legal deposit library/institution, that does not recognise the importance of freely flowing communication will fail in what it has set out to achieve

(Gordon, 2005: 114). Good communication between all the role players is therefore essential if legal deposit is to be successfully implemented.

#### **3.4.5 Technological factors**

As technology becomes more sophisticated and widespread, so the variety of and the subsequent changes in the use of these technologies become important factors in the everyday running of an organisation (Gordon, 2005: 169; Williams & Johnson, 2004: 49). It is an acknowledged fact that the emergence and rapid development of technology has brought about a qualitative and quantitative transformation of the whole information industry (Brophy, 2000: 161; Limb 2004). For the implementation of legal deposit, these technological issues and the associated (managerial) problems are of considerable concern (Lariviere, 2000). New technologies have provided many possibilities and advantages in the organisation of and access to legal deposit publications and information in print medium. However, in the realm of the legal deposit of electronic publications the implications of new technologies are most noticeable specifically with regard to preservation strategies and the properties and durability of storage media (Lor, Britz & Watermeyer, 2006: 42; Muir, 2001: 661; Woodyard, 2000).

#### **3.4.6 Legal factors**

Legal requirements such as contract, employment and labour issues usually relate to economic issues in general businesses (Gordon, 2005: 297; Williams & Johnson, 2004: 51). Although all of these issues are relevant in the libraries as well, libraries are also directly concerned with the legal issues surrounding copyright (Gordon, 2005: 196). To fulfil both legal deposit's preservation and access purposes, legal deposit legislation and

international conventions such as the Berne Convention make provision for the use of copyright material without recompense for the copyright owner, as long as this does not prejudice the economic interests of the owner of the work (Cornish, 1998b: 104; Lariviere, 2000). The balance between these two factors is of critical importance if a legal deposit system is to function effectively.

#### **3.4.7 Political factors**

Political decisions can influence the economy, society and laws of a country and therefore directly affect the way in which organisations run their business (Williams & Johnson, 2004: 42). In libraries, where this influence is most keenly felt when they have to compete with other services for money (Gordon, 2005: 248), political and related economic developments are directly responsible for many of the financial constraints that make it difficult for legal deposit institutions to meet their obligations to the full (Letshela & Lor, 2002; Lor, 1995: 102; Rugaas, 1990: 48).

### **3.5 *Summary***

This chapter provided the necessary background to and understanding of the stages and practical activities underlying the process of legal deposit, the need for procedures for monitoring compliance with legislation, and the external and internal factors that influence the way in which legal deposit is implemented in a country. The complexity and wide range of issues discussed clearly indicates that quite a number of stakeholders will be involved in the implementation of a system of legal deposit, each with their own interests and responsibilities. Chapter 4 discusses the roles of the various people and institutions involved in this process.