

## 7 Assessment and recommendations

### 7.1 Introduction

The final stage of this investigation into legal deposit involves offering guidelines and suggestions for improving the current system of legal deposit in South Africa. The aim is to contribute to a sustainable system of effective legal deposit in the foreseeable future. For the discussions in this chapter, the following were considered:

- Information obtained from the comprehensive literature study covering the broad range of issues reported on in chapters two, three, and four; and
- Results of the empirical research project:
  - The semi-structured interviews that yielded data as to how publishers and legal deposit libraries experience many different aspects of legal deposit in their specific contexts;
  - The feasibility study which provided figures for compliance with legal deposit by small, medium and large publishers, and so indicated areas that need specific attention in future legal deposit implementing and monitoring actions and programmes; and
  - To a lesser degree, the insight gained from the discontinued attempts to obtain compliance figures which also contributed to recommendations for the future.

## ***7.2 Legal deposit implementation***

### **7.2.1 Introduction**

This discussion will as far as possible follow the various activities and elements of legal deposit legislation and its implementation discussed in chapters 2 and 3, and the themes and categories that emerged from the data analysis set out in the previous chapter. Other relevant information is woven into these broad outlines. Areas that are regarded as crucial for the successful future implementation and management of legal deposit are highlighted, and recommendations as well as practical suggestions for future action are provided.

### **7.2.2 Issues covered by legislation**

The South African Legal Deposit Act (South Africa, 1997) was enacted in 1997. As mentioned in chapter 2, section 2.1, an objective, comparative study of selected national deposit laws to determine levels of compliance with international recommendations for legal deposit legislation judged South Africa as one of the top achievers, with a compliance rating of 83% (see chapter 2, section 2.1). This was confirmed by the results of the interviews which showed that publishers and libraries do not consider many issues pertaining to legislation as seriously problematic. The following are the ambiguous and/or uncertain areas mentioned during the interviews.

#### ***7.2.2.1 Number of copies to be delivered and costs of delivering***

The interviews conducted with the publishers and the libraries, show that the majority (+/ 75%) of the publishers interviewed are unhappy with the

number of libraries that each have to receive a copy of a publication. This sentiment is echoed in the literature, where the number of copies of publications to be delivered to libraries is seen to cause dissatisfaction (see chapter 3, section 3.2.4.2).

The costs associated with providing multiple copies of publications are not regarded by the larger publishers as problematic, but both the larger publishers and the libraries did mention that costs could possibly pose a problem for small publishers. Although less than 50% of the smaller publishers interviewed mentioned costs as being problematic, in the literature studied the cost of providing a number of free copies of publications for legal deposit is regarded as a problem for smaller and private publishers (see chapter 3, section 3.2.4.3).

In 1994 an attempt was made to address the issue of delivering multiple copies of publications for legal deposit. A draft policy by the ANC's Centre for Education Policy Development (CEPD) proposed that the five legal deposit collection sites be reduced to two (retaining Cape Town and Pretoria), arguing that it is unfair to have publishers produce five free copies of their publications (Louw, 1994: 6). The proposal was, however, not implemented and the five legal deposit libraries were maintained in the new Legal Deposit Act of 1997.

The authoritative opinion regarding the number of depositories and free delivery of material is that, since legal deposit is in the interests of the people of South Africa, the burden of delivering free copies to five libraries is justified. However, the results of this investigation into legal deposit requested by the Legal Deposit Committee itself, particularly the opinions of the publishers obtained from the interviews, suggest that the Committee should pay serious attention to the question of reducing the

number of legal deposit libraries, and possibly suggest an amendment to the current legislation.

### *7.2.2.2 Time of delivery*

The Legal Deposit Act's decree that publishers must dispatch their publications within 14 days of publication was identified as a definite problem for publishers. Compared to the legislation of the three countries examined in chapter 2 (section 2.4.7), all of which expect delivery of material within a month of publication, the South African 14-day period seems uncommonly short. The interviews furthermore indicated that not one of the libraries was at all concerned with the timing of deposits.

If neither the publishers nor the libraries heed this legislative directive, the feasibility of such a brief time period for delivering legal deposit material can thus be queried. It is therefore recommended that the Legal Deposit Committee take note of this issue, and if the legislation cannot be changed, at least look into the possibility of adapting the Regulations which can be amended more easily.

### *7.2.2.3 Types of publications for delivery as legal deposit*

Understanding the terms used in an Act is important in interpreting such legislation. This is especially critical with regard to the categories of materials subject to legal deposit. The interviews with the publishers and libraries highlighted two problems with the interpretation and wording of the Legal Deposit Act. The first problem, voiced by the libraries, is the question of what constitutes a "publication", with specific reference to legal deposit of ephemeral and other similar types of material that are (incorrectly) provided with ISBNs (see chapter 6 section 6.2.3.4). The second problem concerns both publishers and the libraries and involves luxury editions of publications and interpretation of the term "serious

financial hardship” as contained in the Act. Both these issues are, however, clearly dealt with in the Act.

The Legal Deposit Act of South Africa regards published to mean *inter alia* “produced to be generally available in multiple copies or locations to any member of the public, whether through purchase, hire, loan, subscription, licence or free distribution” (see Appendix A, section 1). In keeping with the internationally accepted guidelines provided for legal deposit legislation, the Act thus covers all types of published material including ephemeral publications, and definitions and terms are very clearly explained in the Regulations accompanying the Act (see Appendix B).

Section 5.1 of the Act (see Appendix A) furthermore makes provision for legal deposit libraries to grant exemption for types of document not required by them, or for publishers to be exempted from supplying documents or granted financial relief under certain circumstances such as “serious financial hardship”. These aspects are further expanded upon in the Regulations, which explain what constitutes a luxury edition of a book, and how many copies and to which library such an edition of a book should be supplied (see Appendix B, Part 1 and Part 111).

Thus some recommendations can be made to address the problems encountered with uncertain interpretations of the Legal Deposit Act:

- Persons responsible for working with legal deposit in the libraries should be motivated to become sufficiently informed about all the information contained in the Act itself as well as the Regulations pertaining to the Act. A legal deposit system that functions satisfactorily can only be attained if personnel are knowledgeable, dedicated and motivated.

- Individual legal deposit libraries should, as is provided for in section 5 of the Act, develop specific selection policies regarding the types of publication they want or do not want to accept as legal deposit, in consultation with and on recommendation of the Legal Deposit Committee. Clear policies covering all areas of uncertainty would serve to dispel any ambiguities<sup>12</sup>.
- All relevant legislative issues and policy decisions must be communicated to publishers.<sup>13</sup>

### **7.2.3 Monitoring of compliance with legal deposit**

Issues surrounding the monitoring and enforcement of legal deposit are critical for the successful implementation of legal deposit in a country. In South Africa five legal deposit libraries are responsible for the practical implementation of legal deposit legislation, with a Legal Deposit Committee (see chapter 4, section 4.5.4.1(i)) directed by law to oversee the monitoring of compliance with and enforcing adherence to legal deposit legislation in South Africa. The results of the interviews with both publishers and the libraries showed that considerably too little time and attention are being paid by the libraries to these matters. The unease of the Legal Deposit Committee that prompted this study is therefore justified. The main gaps that were revealed by the interviews are:

- a lack of mechanisms for identifying material subject to legal deposit and for tracing non-compliant publishers
- inadequate structures for supporting the practical implementation of legal deposit by the legal deposit libraries, and

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<sup>12</sup> Policies and procedures are covered in section 7.2.4.1 of this chapter.

<sup>13</sup> Issues of communication are dealt with under section 7.2.4.2 of this chapter.

- a lack of procedures for ascertaining the level of compliance with legal deposit.

### *7.2.3.1 Mechanisms for identifying legal deposit material and tracing non-complying publishers*

Identifying publications subject to legal deposit and tracing non-compliant publishers are two of the most important processes in the effective and efficient implementation of legal deposit in a country. It is essential that policies and procedures for accomplishing this be put in place in all the places of legal deposit. These policies and procedures would have to include specification of:

- the mechanisms for identifying and tracing to apply
- how often the checks should be done e.g. daily, weekly, monthly
- whether the National Library in Pretoria should be solely responsible for regular checking
- or if not, how the duties should be divided between the five legal deposit libraries
- how the relevant information should be communicated to and between the libraries, and
- clearly spelled-out follow-up procedures.

Based on the suggestions offered by publishers and libraries during the interviews, the insight gained from the feasibility study conducted, and information found in the literature, the following can be regarded as basic

means for introducing and sustaining a system of identifying legal deposit publications, and for checking publishers' compliance with legal deposit legislation.

i. *Use of ISBN lists*

The National Library in Pretoria is responsible for providing blocks of ISBNs to publishers. When a series of numbers has been used up, publishers are expected to return their duplicate lists of numbers allocated for individual titles to the National Library for control purposes. The library also keeps records of all the individual numbers with a 620 prefix that are allocated directly to first-time or once-off publishers. The interviews clearly show that neither the duplicate publishers' lists nor the individual 620 lists of ISBNs held by the National Library in Pretoria are used to check the deposit of legal deposit material. This was confirmed in informal conversation with the head of the ISBN section at the library which revealed that she had never personally thought of using ISBNs for control purposes, and that the possibility had never been discussed in any conversations of which she was part (De Klerk, 2006).

Both the publishers and the libraries proposed using ISBNs for identifying and tracing books not sent as legal deposit and for pinpointing errant publishers. The feasibility study showed this to be a viable suggestion for the libraries and using ISBNs for legal deposit purposes is acknowledged in the literature as being extremely useful. For publishers, ISBNs are used worldwide in the industry as unique identifiers of individual editions of monographs, and many directories require an ISBN for listing (see chapter 3, section 3.2.2.1). The use of ISBNs as an identification and control measure would therefore be practical since South Africa has a long and successful history of ISBN use (Lor & Geustyn, 2001), and the percentage of books published in South Africa without ISBNs is in all probability very small.



ii. *CIP (Cataloguing-in-Publication) data*

Interestingly both the publishers and the libraries suggested using some form of pre-publication information such as CIP for identifying and tracing publications subject to legal deposit. Many national libraries provide free CIP services or contract agencies to provide such services on their behalf as in the United Kingdom (see chapter 3, section 3.2.2.2). CIP data provides a bibliographic record for a book before it is published. It has the advantage of *inter alia* promoting legal deposit to new publishers who use the service, serving as a type of alerting service to identify (new) items of interest, which helps libraries and booksellers select books for purchase, and also providing depository institutions with a means of tracking new publications. South Africa does not have a national CIP programme. Taking into consideration the many advantages such as programme offers and the widespread international use of CIP, it is suggested that the National Library look into the feasibility of establishing a national CIP programme in South Africa

iii. *Use of a national union catalogue/database*

Although neither the publishers nor the libraries mentioned the use of a national database/union catalogue for legal deposit identification and tracing purposes, such catalogues are valuable bibliographic resources used internationally for this purpose (see chapter 3 section, 3.3.2) and should not be overlooked.

The feasibility study shows that meaningful statistics can be obtained through the use of SACat, a product of Sabinet Online. It is therefore recommended that, apart from the sample chosen for this study, the various other products and databases available through Sabinet Online (see chapter 4, section 4.5.4.2(iv)) be included as possible sources for future checking of publications sent as legal deposit.

iv. *Other resources in the general book trade*

The National Library, together with the other legal deposit libraries, will need to identify a wide spectrum of other possible sources against which to compare and verify the delivery of publications and to identify non-compliant publishers. The interviews indicated that some verification and monitoring is being done on an *ad hoc* basis, when time and staff permit. These practices, however, must be evaluated for practical implementation, procedures established, and staff assigned to do the necessary work.

The following are a few suggestions for activities that use resources in the general book trade. This is by no means a comprehensive list, but can be used as a springboard for further action. The libraries may already be performing some of these tasks informally, such as monitoring magazines and newspapers, but it is recommended that they cooperatively endeavour to put in place formal procedures,<sup>14</sup> and expand the field by developing new areas of implementation.

- The active utilisation of trade literature such as booklists should be looked into. Libraries can for example initiate co-operative ventures with bookshops whereby they receive updated lists of all new acquisitions on a regular basis. Larger national stores could be the responsibility of the National Library and the libraries in a specific city could cover the local stock in smaller stores in the various regions and provinces.
- In the same vein, libraries could consult with SABA (see chapter 4, section 4.5.4.2 (iii)) to investigate the possibility of obtaining suitable catalogues or similar products from them.

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<sup>14</sup> Further discussion on cooperation can be found under section 7.2.3.2(iii) of this chapter.

- The feasibility study shows that using information contained in book reviews that appear weekly in many newspapers is a workable proposition. The responsibility for fulfilling this weekly task could easily be divided amongst the libraries on a regional basis.
- Using various sources for the book trade is another option for monitoring legal deposit. Examples of the use of these resources are found in the United Kingdom (UK), where Whitaker & Sons' BookBank, and BookData's Bookfind are used to check for UK imprints, and in the Netherlands, where checks were done against *Boekblad*, a journal for the book trade, and *Brinkman's Cumulatieve Catalogus*, which gives a comprehensive overview of Dutch publishing.<sup>15</sup> In South Africa we have a similar type of resource in BookData/SAPnet, which offers an extensive database of the latest and most up-to-date records of books published and distributed in South Africa (see chapter 4, section 4.5.4.2(iii)). New records are added on a weekly basis and titles can be searched using the special search facility SA BookSearch.
- Publishers' catalogues are logical sources for use in the libraries' monitoring activities. The project conducted by Snyman and Venter (see chapter 5, section 5.4.5.3) demonstrates that personal contact with publishers is a pivotal factor in obtaining lists of publications. It is suggested that this valuable source of information be targeted as a means of keeping up-to-date with all categories of newly published material, and that strategies for 'coercing' publishers into providing their catalogues to the respective legal deposit libraries on a regular basis, be looked into.

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<sup>15</sup> Reference is made to both these studies in chapter 3, section 3.3.2.

- Publishers listed in the PASA Directory (see chapter 4, section 4.5.4.2(i)) can be compared with the publishers listed in the Publishers' Directory compiled by the National Library (see chapter 6, section 6.2.5.1).

### 7.2.3.2 *Supporting structures/mechanisms*

Even if all of the above measures for tracing publishers and their publications are in place, a reliable infrastructure and mechanisms for supporting the practical implementation and monitoring of legal deposit will be necessary. Some of the most significant measures identified in the interviews and from the literature are the following:

i. *SANB (South African National Bibliography)*

The main purpose of a national bibliography is to reflect the current state of the publishing output of a country (see chapter 4, section 4.2.2.3). The National Library in Pretoria is responsible for compiling the SANB and any verification of receipt of legal deposit material thus has to be done against the records contained in the SANB.

The function of the SANB as an essential tool for monitoring compliance with legal deposit was confirmed during the interviews. The libraries believe that the national bibliography is potentially indispensable for keeping track of their legal deposit collections. Crosschecking by the individual libraries would serve the dual purpose of highlighting gaps in individual collections, and those in the SANB. The publishers who are aware of the existence of a national bibliography feel that it could be valuable for verifying their own material for legal deposit.

A major shortcoming with regard to legal deposit-related activities that was pointed out during the interviews, however, is the fact that the SANB

is not up-to-date. The head of the SANB section at the National Library in Pretoria confirmed that the backlog is currently approximately 3 to 4 years (Battison, 2006). Even if formal procedures are put in place for identifying publications and monitoring compliance with legal deposit, as suggested above in section 7.2.3.1, this would be of no practical use without an up-to-date national bibliography.

Although attempts are in process to eradicate the backlog (gleaned from personal discussions with Battison (2006) and Ramohlola (2006)) the seriousness of the issue for attempts to sustain an effective system of legal deposit in South Africa cannot be overemphasised. It is therefore strongly recommended that not only the current retrospective cataloguing project be given priority treatment, but also that attention be directed at making sure that the processing of new legal deposit material received by the National Library in Pretoria is kept up-to-date.

ii. *Integrated list of publications*

Another shortcoming highlighted during the interviews is the absence of an integrated list of all the material received as legal deposit by the five libraries. This was a major grievance at the time when the interviews were conducted in 2003, but the development and recent establishment of the Millennium Database solves this problem. The suggestion offered during the interviews, namely that regular lists of the publications received by the various libraries as legal deposit be circulated, is also satisfied by the database. It must be emphasized, however, that the advantages of this product for monitoring compliance with legal deposit can only be exploited to the full if the SANB is kept current and if regular checking procedures are in place at all the places of legal deposit.

iii. *Cooperative efforts*

Lack of cooperation is a problem mentioned by both the publishers and the libraries in the interviews. This is regrettable as the shared knowledge and endeavours of the places of legal deposit, and the understanding and involvement of all the role players, can contribute to improving the legal deposit system. A number of areas can be explored to improve cooperation:

- Sharing cataloguing responsibilities between the five legal deposit libraries is one way of cooperating. Combining the physical work involved in processing the publications received as legal deposit eases the financial burden of individual libraries as well as the work load of cataloguing staff.
- Another possibility that should be looked into is shared collection policies. The burden placed on libraries by the increasing volume of published (print) material has been discussed (see chapter 3 section 3.2.3). This problem is exacerbated in the electronic environment with its increasingly large volumes of material, and for future effectiveness in preserving our legal deposit material, legal depositories in South Africa need to look at similar endeavours in other countries and aim to be vigilant and pro-active in this regard.
- Cooperation with other role players in the book trade is essential, especially between the relevant organisations and the National Library as was pointed out in the interviews:
  - A close and active relationship with PASA is a good starting point. New publishers joining PASA could be informed of their legal deposit responsibilities and PASA could actively promote the delivery of publications.

- The legal deposit libraries should also be aware of cooperative efforts in the book trade from which they might benefit or in which they could become involved in (see chapter 4, section 4.5.4.2 for an example of such an endeavour).
- Cooperation with printers is also vital. They are often the first people to handle a book even before publishing and could be a vital source of information about legal deposit especially for smaller or private publishers.

### 7.2.3.3 *Measurement of compliance*

Assessing the extent of compliance with legal deposit has many practical advantages, and it seems logical that a country such as South Africa which has had a working legal deposit system for more than a century, and currently has world-class legal deposit legislation in place, should have compliance measurement procedures and statistics available. This is, unfortunately, not the case. The feasibility study, which checked ISBN lists, book reviews in newspapers, and books on a national database against records of publications received as legal deposit, was an attempt to fill this gap. The studies were valuable in showing that measuring compliance with legal deposit is practically possible in South Africa.

The feasibility study also provided examples of potentially workable methods and techniques of measurement for implementation by the legal deposit institutions. These methods can be applied or adapted and/or other methods added, to obtain relevant information and statistics for developing strategies for tracing and enforcing compliance. It is therefore recommended that the legal deposit libraries commence with developing

their own programme of regular checking for compliance as soon as possible, taking the following into consideration:

- As the institution responsible for compiling the SANB, the National Library in Pretoria is the obvious choice for taking the major responsibility for controlling and administering such a programme, but this would not exclude the possibility of sharing some of the checking amongst the other four libraries.
- Individual libraries can also start a programme of doing their own regular spot checks and communicating the information to Pretoria.
- The information in the literature (see chapter 3, section 3.3.2) suggests that, to provide for late deliveries and the possibility of private publishers taking longer to actually publish (after receiving ISBNs for example), to concentrate on records of at least three years ago. The time of year and publishing cycles should also be taken into account. On a practical level, aspects such as the currency and comprehensiveness of the SANB would have to be taken into consideration in this regard.<sup>16</sup>
- From results obtained through such checks/measurements, individual publishers' performances and their depositing patterns can be monitored, gaps in categories of materials identified, and possible reasons for non-compliance determined.

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<sup>16</sup> See section 7.2.3.2(i) of this chapter for discussions of the SANB.



#### *7.2.3.4 Organisational and managerial factors affecting the implementation of legal deposit*

As was discussed in chapter 3, section 3.4.2, no organisation can be successful and productive without able and effective management. This is also true in the legal deposit arena. Managers have a wide spectrum of responsibilities, for example developing policies, allocating resources, developing the skills and abilities of staff, and making decisions that will impact not only on organisational performance but also on the organisational culture. The management-related areas that impact on the implementation and monitoring of legal deposit and that seriously need attention are discussed below:

#### *7.2.3.5 Policies and procedures*

A lack of policies and procedural guidelines is a major shortcoming pointed out by the libraries during the interviews. Two main problem areas are the following:

i. *Lack of selection and disposal policies*

Except for the Library of Parliament, which has clear guidelines concerning the various categories of publication it does not wish to receive as legal deposit, not one of the other libraries is aware of either selection policies/procedures or of any guidelines regarding the disposal of legal deposit material. As discussed above in section 7.2.2.3, section 5 of the Legal Deposit Act provides for individual libraries' developing selection policies for the types of publication they want or do not want to accept as legal deposit, in consultation with and on recommendation of the Legal Deposit Committee. Similarly, section 7.5(a) of the Act makes provision for the disposal of documents.

ii. *Lack of procedures and guidelines around non-compliance*

The conspicuous lack of structured procedures within the legal deposit libraries themselves regarding the tracing and follow-up of non-compliant publishers, together with the complaints of the libraries against the Legal Deposit Committee for its failure to provide procedural guidelines for taking action in specific cases of identified non-complying publishers, is a cause for concern.

The management in any organisation is responsible for making policy decisions to accomplish organisational goals (see chapter 3, section 3.4.2), and effectively communicate these decisions if results are to be achieved (see chapter 3, section 3.4.4). It is therefore suggested that, where written policies do not exist regarding the issues mentioned above, each individual legal deposit library, in conjunction with the Legal Deposit Committee, undertake to see that this is accomplished. Where policies and procedures do exist, albeit as informal arrangements, they should be formalised and communicated to the relevant person(s) responsible for implementing the legal deposit activities and tasks in the specific institution(s).

#### **7.2.3.6 *Communication***

Both the publishers and the libraries emphasized that communication between the role players in the legal deposit process is severely lacking. It is strongly recommended that the libraries as places of legal deposit and the Legal Deposit Committee, as the overseeing body, pay serious attention to finding ways and means by which the current lack of communication can be addressed, especially in the following areas pointed out during the interviews:

i. *Communication with publishers*

Communication in an organisation, either internally or with the external market/client, is a process through which the organisation creates and shapes events and achieves set goals and results (see chapter 3, section 3.4.2). In the case of the legal deposit libraries this is especially true, as the aim of their activities is to get their external market, the publishers, to deposit publications as legislation demands. If publishers are either unaware of their legal deposit obligations or confused about the relevant procedures because these have not been effectively communicated to them, this goal will not be achieved.

ii. *Communication between legal deposit libraries*

Organisational communication is a process of interaction that develops between organisational members and plays a major role in shaping an organisation and working towards a purpose (see chapter 3, section 3.4.4). Though the various legal deposit libraries function as individual entities, they are collectively responsible for ensuring the successful implementation of legal deposit and in this sense could be regarded as one “organisation” with a common goal and purpose. Without meaningful communication between the libraries regarding legal deposit, relevant and important information cannot be transmitted, cooperation cannot take place and the expected results cannot be achieved.

iii. *Communication with the Legal Deposit Committee*

The Legal Deposit Committee has to be especially sensitive to what the libraries perceive as a total lack of communication with them regarding the issues involved in effectively monitoring legal deposit. As the “managing” body responsible for overseeing the implementation of the legal deposit system, the Committee should provide for the giving and receiving of feedback on both management and general employee level. Without satisfactory communication, which includes sufficient support

and motivation, the persons responsible for the actual legal deposit processes will not perform optimally, legislation will not be effectively enforced and the system will thus be unsuccessful.

#### **7.2.3.7 *Promotion and marketing***

The interviews clearly show that the majority of the individuals in the publishing concerns, who are not directly involved with legal deposit, including some managers, are distressingly ignorant of what legal deposit really entails. Both the publishers and the libraries acknowledged that, except in rare cases of self-publishers who receive the relevant information when applying for ISBNs, authors are most probably also not aware of legal deposit. Although the majority of the publishers interviewed do deposit their publications willingly, they are not acquainted with the directives contained in the Legal Deposit Act. They were, for example, unaware of the time period stipulated for depositing publications, and only one of the publishers knew about the possible penalties for non-compliance.

This general lack of awareness is disturbing in the light of the results of the feasibility study. Especially noticeable from the analyses is the high degree of non-compliance by smaller and private publishers. Bringing the concept of legal deposit and the associated legal responsibilities to the attention of all publishers and of the general public in South Africa, is therefore of utmost importance if the libraries and the Legal Deposit Committee are serious about their duties. Both monitoring and tracing mechanisms (7.2.3) and communication (7.2.4.2) can be harnessed as valuable tools for marketing and creating awareness. Various other marketing and promotion initiatives such as articles in journals, advertising in newspapers and radio and television promotion, were

mentioned during the interviews as possible methods, and should be seriously considered.

Something that was not mentioned in the interviews, which caught the attention of the researcher is the lack of legal deposit information provided on the Web site of the National Library of South Africa (NLSA), and the total absence of sites and information for the other places of legal deposit.

i. *Web page: National Library*

A national library has a variety of important functions and activities to fulfil, but the responsibility of collecting and preserving the national published heritage of its country is regarded as one of its core functions (see chapter 3, section 3.2.5.3 and chapter 4, section 4.2.2.2). In South Africa this role is affirmed by the goals and functions of the National Library as described in the National Library of South Africa Act (South Africa, 1998). It therefore stands to reason that legal deposit should be afforded a prominent mention on the National Library's Web site.

To investigate the reasonableness and acceptability of this assumption, a comparative overview of the web sites of the British Library, the National Library of Australia, the National Library of Malaysia, and the NLSA was done. The Web pages were all accessed on the same day, 11 September 2006, and the following was found:

- The British Library

On the home page of the British Library a 'quick link' to legal deposit is provided (see Appendix E). The subsequent legal deposit page offers a wide range of information on the advantages of legal deposit for authors and publishers, categories of publications exempt from delivery, names

and addresses of all the other depositories, special notes for publishers on ISBNs and ISSNs, and so on.

- The National Library of Australia

The home page of the National Library of Australia does not contain an immediate link to legal deposit information, but a drop-down menu provides information for publishers with a link for legal deposit among other things (see Appendix F). Information provided here explains what is covered by legal deposit legislation, the benefits of legal deposit for publishers, and a section on the particular legal deposit requirements of each of the other State deposit libraries in Australia, with additional links to CIP information and so forth.

- The National Library of Malaysia

The Web site of the National Library of Malaysia (Perpustakaan Negara Malaysia, 2006) is problematic. No direct or obvious link is provided and a search for legal deposit on the 'site search' gives no results. On the home page there is a link to 'General services' with a further link to 'Services for Publishers' but this contains information on ISBN, ISSN and CIP only. Nothing relating to legal deposit whatsoever is found. After much searching a link to 'Corporate information' can be found, with a drop-down menu of which the tenth topic is the Deposit of Library Material Act, but no explanation or further specific information on legal deposit is offered.

- The National Library of South Africa (NLSA)

When the NLSA Web site was accessed in September 2006, it proved to be equally as frustrating as the above Malaysian site in terms of searching for legal deposit information. As part of an historical overview legal deposit was mentioned in the section 'Where do we come from?' but no link to further information provided. The menu on the right hand side of the

home page was slightly more fruitful, on which 'Services' appeared, with a drop-down menu for 'Services for publishers'. In the very last paragraphs of the description of these services, publishers were informed about ISBNs and ISSNs. This "service" also provided access to the shared online catalogue of the five legal deposit libraries, but an inexperienced publisher would be unlikely to know the significance of such a link, as no information as to the legal deposit connections of the libraries was supplied.

However, the researcher was aware that the NLSA web site was being updated. The revised version was accessed in February 2007, and provided a much-improved service. A link to "Services" is now found on the "Welcome" page and brings you to a list of choices. One of these is services "for publishers and authors", which opens to a page with a choice of links to various information, including some on legal deposit. Another click opens a fourth page with the needed information on the Act, places of legal deposit, and so on (see Appendix G).

Although these improvements in providing legal deposit information on the NLSA web site are noted with pleasure, it is still disappointing that four or five "clicks" are needed before any relevant legal deposit information is accessed. It is a pity that the "quick links" found on the welcoming page do not link directly to legal deposit information, as in the case of the British Library mentioned above. Legal deposit is also only listed fourth on the list of services for publishers and authors, after the Publishers; Directory, ISN Agency and information on ISBN-13. No direct contact information to the legal deposit coordinator based at the Pretoria Campus of the National Library is provided. It is suggested that these issues be looked into.

ii. *Web pages: other legal deposit libraries*

In addition to the National Library, the other legal deposit libraries should also have appropriate sites with the necessary legal deposit information. Not one of the three other legal deposit libraries in South Africa, namely the library in Manguang (Bloemfontein), the Msunduzi Municipal Library (Pietermaritzburg), and the Library of Parliament, has an independent Web presence. Some information is available at other sites:

- General (but not legal deposit) information on the Manguang Library is obtained only by accessing the Bloemfontein Online site (Bloemfontein Online, 2006).
- Full legal deposit information is supplied on the Natal Society Library site which is maintained by the Natal Law Society Library (See Appendix H) but unless one knows that the Natal Society Library is in fact currently (also) named the Msunduzi Library, one will not be able to find the relevant information.
- The Library of Parliament fulfils many functions and understandably is found as a sub-section under the general web site for the South African Parliament (Parliament of South Africa, 2006), yet no legal deposit information is provided there.

iii. *Legal deposit information provided by other role players*

This lack of information supplied by the places of legal deposit becomes even more obvious compared with the legal deposit information supplied by some of the other role players in the book business.

- SA BookNews, an online news and information service which was launched in June 2006, lists a booklet with the title *ISBN and places*



*of deposit: what do they mean for a writer?* on its Resources page (see Appendix I).

- Although the Publishers' Association (PASA) does not have legal deposit information online, it does provide a comprehensive overview of what legal deposit entails, together with places of legal deposit contact details in the print copies of both the 2005 and 2006 publishers' directories.

#### **7.2.4 Factors affecting the successful implementation of legal deposit**

Not all of the issues discussed in the following section were identified by either the publishers or the libraries as factors that directly affect the implementation and monitoring of legal deposit. However, the importance of the issues, deduced from the literature studied, means they cannot be disregarded.

##### **7.2.4.1 Technological issues**

At the time of the interviews, issues concerning technology were proving to be problematic for the libraries, especially in terms of access to the collections of other libraries, and the question of cooperative cataloguing practices. At the time, all the persons interviewed "knew about" the so-called Millennium project that was intended to address these issues (see also 7.2.3.2 (ii)), but not one had any further knowledge or information as to when the project would be implemented or what it would entail.

Although the web-based integration of catalogues has in the meanwhile been implemented, the fact that the legal deposit personnel in the libraries are not kept informed throughout such development phases is worrying, especially in terms of the future legal deposit of electronic publications. In

a recent article, Lor, Britz and Watermeyer (2006: 45) report that a current study of the issue of legal deposit of South African web pages strongly suggest that the task be allocated to one of the places of legal deposit, most probably the National Library. If this happens the National Library will have to make sure that technology-related decisions are not made only at management level, but that all legal deposit personnel are involved and provided with relevant and timely information.

#### **7.2.4.2 *Copyright***

Neither the publishers nor the libraries directly mentioned problems with copyright and legal deposit. This is, however, a concern, both in the print and electronic environment.<sup>17</sup> In South Africa the Publishers' Association, through the PICC, is actively involved in the copyright issue trying to address identified gaps by means of amendments to current legislation (see also chapter 4, section 4.5.4.2(ii)). It is recommended that the persons working with legal deposit in the libraries become more informed about these initiatives and, with the future in mind, about the potential copyright problems surrounding the legal deposit of electronic material.

#### **7.2.4.3 *Attitude towards legal deposit***

Ambivalence on the part of both the publishers and the libraries regarding the importance and value of legal deposit was clearly evident from the interviews. Although nearly all of the publishers interviewed regularly deposit their publications, only 30% of them feel positive about the principle of preservation. Very few could furthermore see any benefits of a system of legal deposit for them as publishers. The libraries professed to regard the effective implementation of legal deposit as very necessary and valuable for a country, but neither they nor the publishers think it

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<sup>17</sup> Refer to the discussions on copyright and legal deposit in chapter 3, section 3.2.6.2 and chapter 4, section 4.4.4.

important enough to inform authors about the preservation of their work. Legal deposit is also never discussed in the libraries outside of the immediate work environment.

Improved communication and widespread advocacy of legal deposit, as discussed above, could in all probability lead to improved attitudes and increased consciousness of legal deposit and its advantages among publishers and the public in general. The demoralised and somewhat despairing attitude of many of the staff responsible for legal deposit in the libraries, clearly illustrated in their concluding remarks during the interviews, should, however, be of grave concern.

A well-known South African author commented in 1989 on the “commitment and diligence of (South African Library) staff members...” in their pursuit of tracing even relatively unimportant publications subject to legal deposit (Schoeman, 1989: 72). The interviews suggest that this commitment is not in evidence any longer. The establishment of a Legal Deposit Committee to co-ordinate and promote the implementation of legal deposit is a positive step towards achieving a successful legal deposit system. The fact that the Committee commissioned the current investigation into the monitoring of the system testifies to the fact that it takes its responsibility seriously. The question as to whether the Committee has successfully motivated and communicated its vision to the persons who are responsible for the activities surrounding the practical day-to-day implementation of legal deposit processes is, however, not so clear. In addition, the failure of the directors of the legal deposit libraries, as Legal Deposit Committee members and as managers, to inspire their employees towards accomplishing the legal deposit goals of their institutions in an enthusiastic and dedicated manner is regrettable.

#### **7.2.4.4 *Economic and political factors***

Political and related social and economic developments are factors that can significantly influence the successful functioning of a system of legal deposit (see chapter 3, sections 3.4.3 and 3.4.7). Lack of staff and finances are two issues mentioned by all the libraries as holding back many initiatives for effectively implementing legal deposit. In any organisation, financial decisions impact on the activities and tasks undertaken. In the same manner, the scale and nature of activities and services in libraries are determined by the allocation of resources, which include both enough staff and sufficient money with which to work.

The Legal Deposit Committee is a parliamentary committee established to oversee legal deposit in the country, and consequently has the responsibility of using its position to affect government decisions pertaining to legal deposit. The issues raised by the libraries during the interviews, and the problems highlighted during personal discussions with national library staff, suggest that insufficient support and funding from the state has impacted negatively not only on the procedures for the execution of tasks as discussed under section 7.2.3, but also on the general attitude towards the legal deposit process as highlighted above in section 7.2.5.3.

Section 8 of the Legal Deposit Act (see Appendix A) provides the Legal Deposit Committee with the authority to communicate with the relevant individuals and sections of parliament regarding legal deposit. The Committee therefore has the responsibility of influencing debates and decisions in Parliament with the aim of getting recognition and support from the government. The government plays a major role in encouraging, promoting and supporting national endeavours such as legal deposit, and although it is not within the scope of this study to volunteer any specific

suggestions in this regard, the importance of the matter should not be underestimated.

### **7.3 Summary**

The results of the empirical research and information obtained from the literature were used in this chapter to assess problem areas in the practical implementation of legal deposit, and to provide recommendations for the improvement of procedures and methods of administering the legal deposit process. Areas critical to the successful implementation of a legal deposit system were highlighted. These include areas of uncertainty regarding legislation, and the many crucial monitoring and enforcement issues that form the bulk of the discussions. The chapter concluded by looking at communication, management, marketing and promotion, policies and so forth, all of which are important for successfully implementing legal deposit.

This exploratory investigation into the practical problems surrounding the legal deposit of books, and the recommendations subsequently provided can form the basis on which an effective and sustainable system of legal deposit for all types of material, including electronic publications, can be built in South Africa.