

8 Looking towards the future

8.1 *Issues for further consideration*

8.1.1 Introduction

This investigation into legal deposit was not merely an academic exercise, but contains a wide range of practical suggestions and recommendations for the successful execution of legal deposit. In addition to those proposed, however, a number of other factors need to be considered if the future of legal deposit in South Africa is to be secured.

- Firstly, the activities currently being implemented and those planned for the future by the Legal Deposit Committee as detailed in their action plan (NLSA, Legal Deposit Coordination, 2005) will have a decisive impact on the future of legal deposit, and
- Secondly, this study concerned the legal deposit of books only, but the deposit of all other types of material has to be looked into. The legal deposit of government publications and electronic publications will be discussed here:¹⁸
 - The legal deposit of government publications is a critical area that needs to be given specific attention if South Africa is really serious about preserving its published heritage.

¹⁸ Although other types of publication are not discussed, the importance of such publications, and specifically audio-visual material, should not be disregarded.

- In the digital environment the issues surrounding legal deposit are becoming increasingly complex and it would be extremely short sighted if the important subject of legal deposit of electronic publications were not also addressed.

8.1.2 Legal Deposit Technical Sub-committee Action Plan

After completing the first phase of investigation for this research project, a feedback report was submitted to the Legal Deposit Committee in January 2005. On 1 August 2005 a national coordinator for legal deposit, based at the National Library's Pretoria Campus, was appointed. In response to the researcher's feedback report, an action plan for legal deposit was presented at the September 2005 meeting of the Legal Deposit Technical Sub-committee. In the action plan, the main tasks to be accomplished are identified, and specific targets with their respective time frames are set. An in-depth exposition of the action plan is not intended here, but some significant aspects need to be pointed out.

Many of the issues raised in the feedback report were addressed in the plan. These included issuing standardised letters acknowledging receipt of publications, suggestions for legal deposit communication activities in and between libraries *via* the intranet, cooperative cataloguing activities, the attendance of Technical Sub-committee meetings by officials and legal deposit specialists from the libraries, and the recommendation that a dedicated staff member from each library sit on the Legal Deposit Committee itself to report back to staff in the libraries. Feedback on how and which of the goals have been achieved, was to be provided at the next

meeting of the Technical Sub-committee in February 2007¹⁹ (Ramohlola, 2006).

Apart from the contributions mentioned above, many of the activities and goals mentioned in the action plan are couched in vague and general terms with time frames mostly consisting of expressions such as “ongoing” or merely “2006”. This lack of specific, practical suggestions for achieving set goals in reality thus means that libraries have to come up with their own plans to implement the tasks. This is a major shortcoming, since both management and staff of the libraries have up to now shown themselves to be unable or unwilling to achieve of meaningful actions for bettering legal deposit in their institutions.

More critical is the area of web-based information. A specific time frame of February 2006 was set for having legal deposit on the web sites of all the legal deposit libraries. As was discussed in section 7.2.4.3 of the previous chapter, this has not materialised. The Subdirectorate of Meta-information of the Department of Arts and Culture, which is directly involved in legal deposit, was furthermore commissioned to create websites with information on legal deposit (no further specifications provided). A search on the Internet by the researcher produced no “hits” for any such sites. Considering the indisputable impact of the Internet in the world today and the crucial role of legal deposit in the electronic environment, as is discussed in section 8.1.4, this is a matter that needs urgent attention.

¹⁹ Feedback on the results of the feasibility study was given to the Committee by the researcher in February 2007 prior to the meeting, but cut-off dates for completion of this doctoral study precluded obtaining and documenting any comments and/or actions taken by the Committee.

8.1.3 Legal deposit of government publications

The Legal Deposit Act of 1997 covers the deposit of all material, which is material published by commercial publishers and individuals, but also by the government (South Africa, 1997). Government publications are a continuous source of current information (Carpenter, 2003: 54). Providing access to this information stands at the heart of democratic governance (Lor, 2003a: 6), and is a principle that is endorsed by the Constitution and recognised by the government (Ntunja, 2001: 7; Lor & Van As, 2002: 102). To accomplish the preservation of government publications, the Legal Deposit Act provides for the establishment of OPDs in each of the nine provinces. These OPDs are not meant to be “merely scaled down legal deposit libraries” (Lor & Van As, 2002: 115), but rather to be proactive in promoting public awareness of and access to these publications.

For the substantial task of establishing the OPDs, the National Council for Library and Information Services (see also chapter 4 section 4.5.4.1(ii)) was recommended as the focal point for coordinating policy in this field (Lor & Van As, 2002: 118). Whether this has actually happened, the researcher has been unable to establish. It seems as if the National Library is currently taking the responsibility for overseeing the practical establishment of OPDs in various centres. The process has, however, been very slow and the only really successful centre that is up and running is the OPD in the Free State Province (Ramohlola, 2006).

Works that can be called government publications are “legion” (Carpenter, 2003: 50). Government publications in many countries such the United States are furthermore increasingly being published on the Web (Hawkins, 2004: 36; Kumar, 2006: 226). It is predicted that in South Africa the OPDs, once they are established, will also be less concerned with print material and more with providing access to digital information

(Lor & Van As, 2002: 115). It is therefore of the utmost importance that the libraries and other institutions that will function as OPDs have sufficient structures in place, and that they make sure that skilled, client-orientated librarians (Lor, 2003a: 23) are appointed to ensure that the dissemination and systemisation of official government publications is done in a manner that ensures effective promotion of and access to these essential national documents.

8.1.4 Legal deposit of electronic material

The rapid expansion of publishing in the digital arena has necessitated rethinking of the basic concepts underlying legal deposit (Lor, 1995: 109; Rugaas, 1990: 42). This discussion of the implementation and administration of legal deposit will therefore not be complete without touching upon the issues surrounding the legal deposit of electronic publications.

International guidelines on legal deposit legislation stress the need for providing for the deposit of electronic publications in such legislation (Lariviere, 2000). The importance of this issue can be seen in the number of surveys that have been done to determine the extent of coverage of electronic (digital) publications in legal deposit legislation world-wide.

- One of the earliest projects was a survey undertaken by the National Library of Canada by means of a questionnaire sent to all national libraries in February 1989. The questionnaires collected information on the acquisition and bibliographic control of electronic publications (McCormick & Williamson, 1990: 52).
- In 1998, a questionnaire was sent to the membership of the Conference of National Libraries (CDNL) to seek information regarding the

inclusion of information for electronic sources in national bibliographies. At that stage, the legal deposit of electronic publications was still in a state of flux in many countries as legislation was still being updated (Byrum, 1999).

- Muir and Davies undertook a survey to determine the scope of electronic legal deposit arrangements in 2000 (Muir & Davies, 2000).
- This was followed by a comprehensive overview by Martin (2001) on the status of the management of networked electronic publications. The report included information on legislation, deposit arrangements, publisher negotiations, access to publications and implementation plans and dates.
- A recent survey by Bazan (2004) which investigates 20 countries, gives a good indication of the characteristics of different national legal deposit legislations, including information concerning legislative issues on the legal deposit of electronic publications.

From these surveys and from the literature, it is evident that many countries already have or are in the process of developing legislation that includes electronic publications.

Apart from the important issue of specific legislation, many individual and cooperative national strategies to collect, archive, and preserve digital content for current and future generations have also been developed over time, of which the following are good examples.

- The United Kingdom (UK) and Australia were very much on the forefront of the preservation debate in 2002 (Warner, 2002: 64). One of the first projects in the UK was the CEDARS (Curl Exemplars in Digital ArchiveS) project funded by the Joint Information Service Committee of the Higher Education Funding Councils (JISC) and the British Library (Muir & Davies, 2000: 163). The objective of the

project was to explore digital preservation issues including the acquisition of digital objects, their long-term retention, sufficient description and eventual access (Cedars, 1999).

- Australia has been seriously examining digital preservation issues since 1994 (Woodyard, 2000). PADI (Preserving Access to Digital Information), a National Library of Australia initiative, gave concise information about legal deposit of digital publications in various countries (Warner, 2002; Woodyard, 2000). The PANDORA Project of the National Library of Australia was initiated to develop policies and procedures regarding electronic publications and is now building a full-scale electronic collection of publications selected for national preservation (Martin, 2001; Muir, 2001: 676; PANDORA Archive, 2004; Woodyard, 2000).
- In the United States of America the National Digital Information Infrastructure and Preservation Programme (NDIIPP) of the Library of Congress has been developing a national programme to preserve the increasing amount of digital information since 2000 (Andrews & Law, 2004: 222; Beagrie, 2003).
- The Nordic countries have been engaged in pioneering work concerned with harvesting the World Wide Web. The Royal Library in Sweden (*Kungl. Biblioteket*) inaugurated the Kulturarw3 project in 1996 with the aim of testing “methods of collecting, preserving and providing access to Swedish electronic documents which are accessible online in such a way that they can be regarded as published” (Arvidson, Persson & Mannerheim, 2000). This is done by periodically running a robot to capture sites that relate to the cultural heritage of Sweden (Marcum, 2000; Martin, 2001). Finland does similar work through its EVA project (Martin, 2001).

A combined effort between the Royal Library in Copenhagen and the State Library in Denmark in 2001 resulted in the Net Archive project, aimed at archiving of Danish web pages. With the implementation of the new July 2005 Act on the legal deposit of electronic materials, Denmark is now able to harvest all relevant Internet information (Dalgaard, 2005).

- The *Koninklijke Bibliotheek*, the national library of the Netherlands, has been experimenting in preserving electronic publications since 1994 (Steenbakkens, 1999: 93, 103), and is now working towards a full-scale system (Muir, 2001: 676). The national library was also the leader of the NEDLIB project launched in 1998. This project (see also chapter 3, section 3.2.1) addressed the major technical and other implementation issues confronting national deposit libraries and provided a forum for the exchange of best practices in developing digital deposit systems (Beagrie, 2003; Marcum, 2000; NEDLIB, n.d.; Van der Werf-Davelaar, 1999)

South Africa clearly lags far behind with strategies for preserving digital material. Soon after the new South African Legal Deposit Act of 1997 (which included the deposit of all electronic publications) was promulgated, it became obvious that the NLSA would not be able to implement all the conditions of the Act referring to electronic publications immediately. It did not have the technological capacity, was plagued with a lack of human resources to do research and development work and to operate the systems once they had been installed, and finances were inadequate (Letshela & Lor, 2002). It was therefore decided to phase in the implementation starting with certain audiovisual materials and static electronic publications. Preserving other material that is published on the Web is, however, also an area of critical concern if collections that fully reflect the country's cultural heritage are to be maintained. It is thus

gratifying to report that a project managed by the Foundation for Library and Information Service Development (FLISD) on behalf of the National Library, is currently underway to plan for the legal deposit of electronic publications, including web sites (Lor, Britz & Watermeyer, 2006).

8.2 Challenges for the future of legal deposit in South Africa

Legal deposit of print publications is already a success story in the rest of the world (Ceoney, 2003: 272), but the results of this research project clearly indicate that this is not the case in South Africa. This needs to be rectified, because although there are admittedly many particular problems associated with the legal deposit of electronic publications, it is generally agreed that the basic principles of a good legal deposit system for the print environment can be successfully applied in the electronic environment (CDNL, 1996; Field, 2002: 25; Lor, 1995: 109). The challenge for legal deposit in South Africa is therefore not only to keep up with the electronic age but, as was demonstrated in this study, also to develop effective and sustainable strategies for the preservation of print publications, strategies and approaches which could also serve as a foundation for the future preservation of electronic publications.

The role of the NLSA in ensuring not only the “revival” of legal deposit but also its survival, and by implication the survival of the national print and electronic published heritage of South Africa, is critical in this regard (Brophy, 2001: 19; De Beer, 2003: 74; Jasion, 1991: 7; Lor, Britz & Watermeyer, 2006: 45). Its current responsibility for the legal deposit of print publications makes it the logical choice to coordinate the legal deposit of electronic publications, as was demonstrated when the spokesperson for the FLISD project concerned with the future

preservation of digital material (see above) suggested that the place responsible for capturing, organising and preserving electronic publications should most probably be the National Library which could be regarded as “an institution with a long-term commitment to the preservation of the national heritage” (Lor, Britz & Watermeyer, 2006: 49).

The National Library of South Africa (previously the State Library and the South African Library) has a long and imposing history of legal deposit (see chapter 4, section 4.5.1.2), and also of many innovative projects directly relating to legal deposit. Under the competent leadership of Hans Jurgen Aschenborn, Director of the (then) State Library, for example, the national bibliography in 1968 became the second in the world to be fully computerised (Lor & Geustyn, 2001). Another good example of an exemplary initiative was that of Peter Lor who, in his capacity as National Librarian of South Africa, was instrumental in developing the new Legal Deposit Act that, at the time of its promulgation, was one of the first in the world to make provision for the legal deposit of electronic publications.

However, the importance the NLSA and the other legal deposit libraries currently give to their role as stewards of the national cultural heritage is debatable. The disappointing results disclosed by this investigation suggest that the libraries have to some extent sidelined legal deposit. Other matters reinforce this impression:

- A recent announcement from the NLSA, that some of the money that was received as a grant from the Carnegie Corporation of New York would be spent on the retrospective cataloguing of the NLSA collection and that there would be a drive towards acquiring a “comprehensive collection of books and reference materials” (Malotle, 2005) written in the eleven official languages of South Africa, can perhaps be seen as positive initiatives.

However, there is firstly no mention of the necessity of looking into a programme of acquiring missing retrospective legal deposit material either by purchase or other means as suggested by Lariviere (2000). Only the cataloguing backlog-issue is addressed.

It is in addition extremely disturbing that absolutely no mention is made of legal deposit in especially the second initiative, the collection of books mentioned above. With no explanations given for those actions, the impression is created that the obviously South African, perhaps even new, material is going to be only bought with the money received, with no attempt to acquire them through the existing compulsory legal deposit processes.

- Although the impression cannot be fully proved, the NLSA does seem to have surrendered any efforts at taking the responsibility for activities and planning for the future of the legal deposit of electronic materials to the FLISD project discussed above. The Legal Deposit Committee action plan (NLSA, Legal Deposit Coordination, 2005) makes no mention of specific plans to address the issue in future, and during a recent extensive discussion with the legal deposit coordinator on a variety of legal deposit issues, the subject of electronic publications was also never introduced (Ramohlola, 2006).
- The current backlog in the compilation of the SANB is another serious concern in plans for the successful implementation and monitoring of legal deposit, as was pointed out in chapter 7, section 7.2.3.2(i). Although the above mentioned project for the retrospective cataloguing of the NLSA is extremely important, the researcher has been unable to find evidence in personal

conversations with the relevant national library staff in Pretoria (Battison, 2006; Ramohlola, 2006), that extra personnel and/or money is being allocated to ensure that compilation of the current SANB stays ahead with all the new material that is continuously received.

These examples clearly indicate that the “passive collection” (Vitiello, 1994: 81) of publications, as has been the practice of deposit libraries in South Africa until recently, is not sufficient. Even if all the above problems are adequately addressed, overall shortages in staff, financing, and lack of expertise are major obstacles hindering the effective administration and management of legal deposit and any hope of high levels of compliance. The reality seems to be that the necessary dramatic change in the current financing and resources situation of the National Library and the other legal deposit libraries is not imminent. One way of solving this problem lies in cooperation (Field, 2002; Lor, Britz & Watermeyer, 2006: 45; Phillips, 1997: 45; Whitehead, 1995). Broad-based collaborative efforts between a wide range of parties are already necessary and will become even more so in the future. Actively promoting and seeking such collaboration is vital, especially with a view to the future implementation of legal deposit of electronic publications.

8.3 Concluding comments

This project aimed to provide an overview of the current legal deposit situation of print publications in South Africa. Many weaknesses and problem areas were identified and recommendations for overcoming these gaps and improving the practical implementation and monitoring of legal deposit provided. This project has been valuable in providing a clear

picture of the current legal deposit scenario but does not solve all the problems.

The legal deposit libraries firstly need to examine the position of legal deposit on their list of priorities. The successful implementation of a legal deposit programme is an ongoing process that depends on an explicit and strategic focus (Lor, 2003b: 148) which must be executed by dedicated and effective personnel and supported by adequate infrastructure and committed management. None of this is possible without the full commitment of the library staff and management. This is a core issue that needs to be urgently addressed by all concerned.

The difficult road of preserving electronic publications still lies ahead. The project managed by the FLISD on behalf of the National Library, to plan for the deposit of web-based material, is a first step. However, further research into the question of who will take responsibility for preserving the publications, and into the development of well coordinated and sustainable methods of actually putting the processes into practice is urgently needed.

It is imperative that legal deposit is not seen as “merely a quiet backwater of library and information services” (Lor, 1995: 110). It is time that everyone, governing bodies, libraries, researchers and the general public, appreciates and recognises the exceptional value of legal deposit and thus the undeniable importance of and need for an effective functioning legal deposit system. The longer this important national issue is ignored and pro-active action is postponed, the more of our national published cultural heritage will be irrevocably lost.