# Interlibrary Loan Copyright Policies in Indiana

Discovery to Delivery Conference * 2022

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# Academic Libraries of Indiana

- Represents all academic libraries
- Advances higher education excellence by strengthening the services, resources and expertise of member libraries
- Mission is to build community and advance collaboration among academic libraries in Indiana while providing cost-effective services, professional development, and shared resources

# ALI Resource Sharing Committee

- Identify and analyze resource sharing models, innovations, trends, and strategies

- Recommend policies and promote best practices that expand the resource sharing capacity of ALI libraries;

- Maintain deep collaboration with the Indiana State Library in the organization of a statewide resource-sharing conference

- Participate in the evaluation of systems and technologies to facilitate discovery and remote circulation of materials

# Copyright Task Force

- Formed in Fall 2019

- COVID!

- Survey April 2021

- Data analyzed Fall 2021

- Report posted on ALI RSC website December 2021

For this survey, when we talk about copyright law and CONTU, we are specifically referencing:

**Section 108 (g)(2):** Section 108(g)(2) of the United States Copyright Act of 1976 states that libraries can legally obtain copies of copyrighted materials so long as they are not borrowing "such aggregate quantities as to substitute for a subscription to or purchase of such work" (§108(g)(2)).

**CONTU Guidelines**: One-way libraries can determine "aggregate quantities" when borrowing journal articles is by following the CONTU guidelines (aka "The Rule of 5"). The CONTU guidelines state that up to and including five requests for articles published within the last five years (prior to the date of request) within the requesting calendar year is not considered "aggregate quantities". Anything beyond those 5, could be (CONTU, 1978).

# Goals of Survey

- How libraries in Indiana interpret, implement and disseminate information about their adherence to copyright law, especially CONTU

- How this information has changed over time, given the recent shift away from strict adherence to the CONTU guidelines.
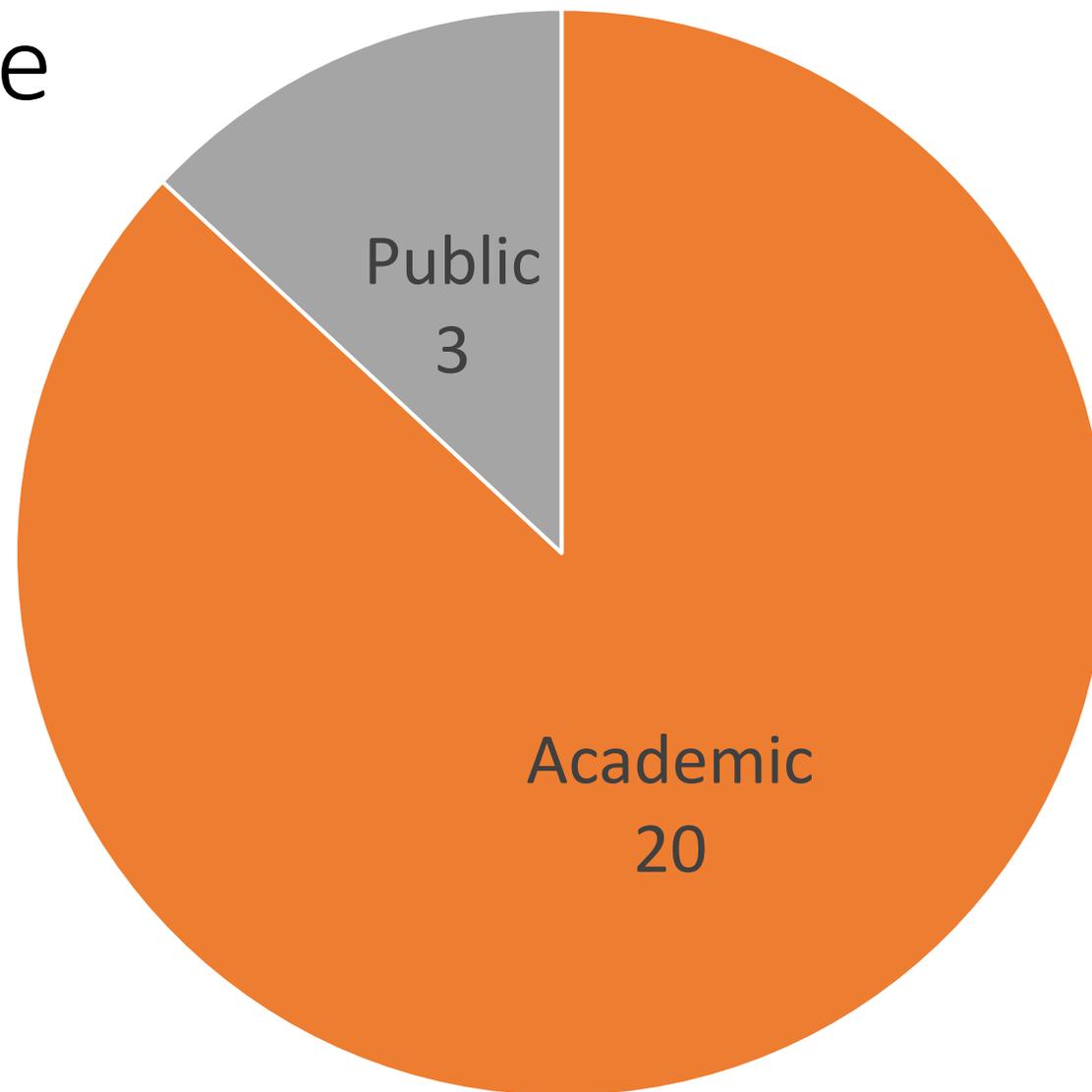
# Survey Distribution

- Link was emailed to Library Directors via ALI Directors List
- Call to participate also sent to these lists:
  - inlibraries
  - Aisle
  - inpublib
- Emails sent April 6, 2021

# Participation

- 31 responses
- Most responses were dated within a week of April 6
- Deleted responses labeled TEST and completely blank ones
- N = 23

# How does your library ensure copyright compliance for ILL non-returnables?

| | |
|---|---|
| Mostly follow CONTU | 8 |
| Strictly follow CONTU | 5 |
| Copied policy from another library | 4 |
| Use locally created policy | 3 |
| Don't know | 3 |

# Does your library have a written copyright policy document for ILL?

| | |
|---|---|
| No | 15 |
| Yes | 7 |
| Don't know | 1 |

# Is your library's ILL copyright policy

- Internal document = 4
    - 2 said they would share
- Publicly available = 3
    - https://iue.libguides.com/iueill/copyright-law
    - https://confluence.valpo.edu/display/BP/Copyright+Compliance
    - https://bsu.libguides.com/ill/copyright


- N = 7

# Who is responsible for ILL copyright compliance?

| | |
|---|---|
| ILL department or team member | 16 |
| Another department or employee in the library | 3 |
| This responsibility is shared between multiple departments | 3 |

# When did you last evaluate/change your copyright policy for ILL?

| | |
|---|---|
| We are currently evaluating our policy | 4 |
| Within the last year | 7 |
| 1-3 years | 0 |
| 4-10 years | 1 |
| 11+ years | 3 |
| Don't know | 7 |

# Is your library considering revising your ILL copyright policies in the near future?

| Yes | 3 |
|------------|----|
| No | 11 |
| Don't know | 4 |
| Blank | 5 |

# Comments about the copyright policies and practices at your library

- We're interested in looking beyond CONTU but I have not seen enough guidelines to help assist libraries without a large staff or good relationship with legal before we move forward.

- We adhere strictly to U.S. copyright law only. We do not follow CONTU guidelines as they are outdated.

# Next Steps

- Investigate public libraries use of CONTU more thoroughly

- Produce white paper/best practices based on policies currently in use in Indiana

- Post best practices on ALI RSC webpage and promote!

- Repeat survey in 3 years to see the status of CONTU adherence

# Moving Away from CONTU - To Dos

- Read the ARL White Paper: Modern Interlibrary Loan Practices: [Moving beyond the CONTU guidelines](#).

- Review your library's license agreements. Make sure they do not specify compliance with CONTU. You can go one step further and have a fair use provision.
  - Depending on your library, this task could be handled by an electronic resources librarian, acquisitions librarian or director/administrator.

# Moving Away from CONTU - To Dos

- Determine what level of ILL borrowing would be a "substitution for a subscription to or purchase of the work" (17 U.S.C. § 108(g)(2)).
  - Factors include:
    - number of issues published per year;
    - number of articles published per year;
    - cost of annual subscription (web site, Ulrichs, EBSCO, etc.);
    - number of patrons placing requests from a title;
    - compare a title's borrowing patterns/use over time;
    - requests for title purchase

There is no single, right answer as each library's responses to these questions will vary.

# Moving Away from CONTU - To Dos

- Libraries that are unable to create their own internal policies/practices (or do not have institutional support to do so) should advocate for industry-wide updates to CONTU, as these guidelines are demonstrably out of date.

- All libraries should continue to monitor news for updates to CONTU (or the elimination of CONTU), as this would change the environment for making policy decisions.

# Moving Away from CONTU - To Dos

- In terms of scheduling, create a policy to submit copyright orders on an annual basis, instead of at the time of each individual transaction.

- If a library is paying copyright more often, then it is potentially paying more in copyright fees than copyright law requires.

- Also, processing copyright in bulk is often more time-efficient than processing many individual orders.

# ALI RSC Report

- https://academiclibrariesofindiana.org/resource-sharing/resources

# ARL White Paper

- Moving beyond the CONTU guidelines
- https://www.arl.org/resources/modern-interlibrary-loan-practices-moving-beyond-the-contu-guidelines/

# Thank you!

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