

# The TEACH Act

## Its Meaning for the World of Publishing

College Art Association



New York, New York  
February 22, 2003



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# The TEACH Act

## What Is It?

- The TEACH Act IS for the Benefit of Distance Education
- The TEACH Act IS a Protection from Copyright Liability
- The TEACH Act is NOT “Fair Use”
- The TEACH Act is NOT the same as “Classroom Use”
- The TEACH Act is a Limit on Copyright

# What Does it Do?

## Putting the TEACH Act in Context

- Copyright Protects Vast Range of Materials
  - Original Works/Fixed in Tangible Medium
  - No Requirement of Formalities
  - Instant & Automatic Protection
- Many Uses in DE may be Infringements
- The TEACH Act modifies Section 110(2)

# The Policy Requirements

Deciding, Drafting, Disseminating

- Accredited Nonprofit Educat’l Institution
- Development of Copyright Policies
- Copyright “Informational Materials”
- Notice to Students about Copyright
- Access Limited “Solely” to Enrolled Students

# Getting the Technology Right

- Technological Restrictions on Access only for Enrolled Students
- Technological Controls on Downloading
- Technological Controls on Further Transmission
- No Interference with Technological Control Measures embedded on Works

# The Intellectual Content

- Performances of nondramatic literary works
- Performances of nondramatic musical works
- Performances of any other work, including dramatic works and audiovisual works, but only in “reasonable and limited portions”
- Displays of any work “in an amount comparable to that which is typically displayed in the course of a live classroom session.”

## Works Not Allowed

- Works that are marketed “primarily for performance or display as part of mediated instructional activities transmitted via digital networks”
- Performances or displays given by means of copies “not lawfully made and acquired” under the U.S. Copyright Act, if the educational institution “knew or had reason to believe” that they were not lawfully made and acquired

# Interface with Publishing

- Changing Nature of DE
  - Widespread Access
  - Long-Term Access
  - 24/7 Access
- Changing Nature of Publishing
  - Books vs. Information
  - Selective Dissemination
  - On-Demand Retrieval



# TEACH Act and Publishing

- Explicit References
  - Exclusion: Works “Produced or Marketed” for digital DE
  - Preservation of “Technological Measures” used by Copyright Owners
  - Restricted Uses of Textbooks and Other Materials that are “Typically Purchased”
  - Restricted Digitization of Materials

# TEACH Act and Publishing

- Implicit References
  - Lawful Copies Only
  - Restricted Access
  - Restricted Copying
  - Restricted Dissemination
  - Limited Portions
  - “Compliance” Copyright Information
  - Limited Retention of Copies

# The Message

- Congress Gives to the Public
- Congress Preserves and Protects Industry
- Market Forces Directly Shape the Law
- TEACH poses Limited Harm to Publishers
- TEACH puts the Burden on Educators
- TEACH is an Opportunity for DE
- TEACH is an Opportunity for Marketing

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