

Thank you, Mr. Chair and Member States' delegates for the opportunity to explore another example of how the convergence of technology and copyright law confronts archivists with dramatic challenges that prevent us from doing our job unless we are willing to ignore the law. To ensure a complete and authentic record, archives must hold all information formats whether analog or digital. When we work with the electronic records that dominate today's archives, the problem of technological protection measures arises on an almost daily basis.

As a university archivist, among the most important materials for me to collect are the personal archives of scientific research faculty. In the past, these so-called "faculty papers" collections included more than paper, such as photographs, audio-visuals, research data, etc. Today, however, when we receive these donations, it is not just a matter of emptying filing cabinets and gathering laboratory research notebooks. Instead, we need to copy all of their electronic files from their laptops and remote disk drives. To obtain the historical record of their scientific and public work, the first level is just a simple bit-by-bit copy, which by itself is not readable or intelligible. Then, once we can locate the software to read the file, some of the content may be behind passwords or other technical protection measures, or stored in a computer program that we have to reverse-engineer to merely read the data. All of this is necessary before we can begin to assess which files are worth keeping and which lack long-term value. In one recent example of the personal archives of an important biophysicist, in addition to 10 linear meters

of "paper" files, we located 18 gigabytes of files on his separate workstations, laptops, and file servers, containing nearly 18,000 separate files in more than 1,400 different file formats dating back to the early 1980s. In the case of a chemist, in addition to 5 linear meters of paper files, there were 30 GB of data, 161,419 separate files, 8,844 folders, and 204 file types.

Although not all of this content was controlled by technological protection measures, our data preservation specialists needed to work around the access controls merely to allow us to see the files for acquisitions purposes. If we determine that it may be of enduring value, further copying and de-coding will be necessary before we can preserve and make it available to researchers. Thus we have another example of where the archival mission requires us to do something which, strictly speaking, copyright does not allow.

Distinguished delegates and colleagues, archivists do not set out to violate the law. We just need to do what is technologically necessary for us to do our work. We believe that appropriate exceptions and limitations should exist for such purposes.

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