

**Strange bedfellows: Internet democracy, UCITA, and the FY2000 budget**

As we go to press, the FY2000 federal budget, including library and education programs, is still unresolved. Outside of Capitol Hill, other library issues are moving forward. In early November, ALA and its partners received an initial grant from the Markle Foundation as part of a \$1 million initiative to promote democracy and involve the general public in Internet governance. (Look for more details from the Office for Information Technology Policy at ALA Midwinter or contact Rick Weingarten at [rww@alawash.org](mailto:rww@alawash.org).)

Another hot issue is the Uniform Computer Information Transaction Act (UCITA), a draft model law that governs contracts for "transactions and information." This law is expected to be introduced in every state legislature soon.

In general, UCITA was developed to regulate business-to-business transactions in tangible goods. However, contract law increasingly impacts the everyday consumer as well as the business (and library) user.

Producers of intangible goods (such as computer software, online databases, and other information products in digital form) seek to use "licenses" or licensing agreements when they sell their products. Licenses are contracts governing the "use" of a product while sales of goods tend to deal with ownership of the product.

For example, a small business owner, a librarian, and a consumer using the same software may be subject to the same license restrictions, even though the ways they are using the software may be very different.

Since its creation and delivery to the states, UCITA has been criticized or opposed by librarians and library users, numerous law professors, the American Intellectual Property Association, the Federal Trade Commission, the attorneys general of 26 states, software developers, and trade

associations for the entertainment industry, among others.

Publishers and software producers are the primary supporters of UCITA. It is controversial for many reasons, including: (1) UCITA would replace the public law of copyright with the private law of contract, (2) UCITA would undercut traditional fair use of products, and (3) UCITA would undermine libraries in preservation and lending of information products.

In July, NCCUSL passed UCITA and sent the act to the state legislatures for consideration. In August, Oklahoma held the first state public hearings on UCITA. Virginia also has held hearings. Other states, including Indiana, are in the process of introducing the act. Although UCITA is expected to be introduced in all 50 states in the next 18 to 24 months, it is unlikely it will be ratified by every state.

As this is a setback for libraries, consumers, and state educational institutions, it is critical that library supporters contact their state legislators to oppose UCITA.

All state library associations, as well as chapters of school library and academic library associations, are strongly encouraged to get involved with this issue in their respective states.

ALA has started a coordinated effort to support state associations and others concerned about UCITA. Please contact your state library association or the ALA Washington Office Legislative Counsel, Miriam Nisbet, at [mmn@alawash.org](mailto:mmn@alawash.org) or phone her at (800) 941-8478 for more on how to get involved.

Information is also available at [www.ala.org/washoff/ucita.html](http://www.ala.org/washoff/ucita.html) and from the Digital Future Coalition, of which ALA is a member, at [www.dfc.org](http://www.dfc.org). ■

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