

Appendix I

Transitional and Supplementary Provisions of the Copyright Act of 1976¹

SEC. 102. This Act becomes effective on January 1, 1978, except as otherwise expressly provided by this Act, including provisions of the first section of this Act. The provisions of sections 118, 304(b), and chapter 8 of title 17, as amended by the first section of this Act, take effect upon enactment of this Act.

SEC. 103. This Act does not provide copyright protection for any work that goes into the public domain before January 1, 1978. The exclusive rights, as provided by section 106 of title 17 as amended by the first section of this Act, to reproduce a work in phonorecords and to distribute phonorecords of the work, do not extend to any nondramatic musical work copyrighted before July 1, 1909.

SEC. 104. All proclamations issued by the President under section 1(e) or 9(b) of title 17 as it existed on December 31, 1977, or under previous copyright statutes of the United States, shall continue in force until terminated, suspended, or revised by the President.

SEC. 105. (a)(1) Section 505 of title 44 is amended to read as follows:

“§ 505. Sale of duplicate plates

“The Public Printer shall sell, under regulations of the Joint Committee on Printing to persons who may apply, additional or duplicate stereotype or electrotypes plates from which a Government publication is printed, at a price not to exceed the cost of composition, the metal, and making to the Government, plus 10 per centum, and the full amount of the price shall be paid when the order is filed.”

(2) The item relating to section 505 in the sectional analysis at the beginning of chapter 5 of title 44, is amended to read as follows:

“505. Sale of duplicate plates.”

(b) Section 2113 of title 44 is amended to read as follows:

[To assist the reader, section 2113 of title 44, now designated section 2117, appears in Appendix VII, *infra*, as currently amended.]

(c) In section 1498(b) of title 28, the phrase “section 101(b) of title 17” is amended to read “section 504(c) of title 17”.

(d) Section 543(a)(4) of the Internal Revenue Code of 1954, as amended, is amended by striking out “(other than by reason of section 2 or 6 thereof)”.

(e) Section 3202(a) of title 39 is amended by striking out clause (5). Section 3206 of title 39 is amended by deleting the words “subsections (b) and (c)” and

inserting “subsection (b)” in subsection (a), and by deleting subsection (c). Section 3206(d) is renumbered (c).

(f) Subsection (a) of section 6 of the Standard Reference Data Act (15 U.S.C. 290e) is amended by deleting the phrase “section 8” and inserting in lieu thereof the phrase “section 105”.²

(g) Section 131 of title 2 is amended by deleting the phrase “deposit to secure copyright,” and inserting in lieu thereof the phrase “acquisition of material under the copyright law,”.

SEC. 106. In any case where, before January 1, 1978, a person has lawfully made parts of instruments serving to reproduce mechanically a copyrighted work under the compulsory license provisions of section 1(e) of title 17 as it existed on December 31, 1977, such person may continue to make and distribute such parts embodying the same mechanical reproduction without obtaining a new compulsory license under the terms of section 115 of title 17 as amended by the first section of this Act. However, such parts made on or after January 1, 1978, constitute phonorecords and are otherwise subject to the provisions of said section 115.

SEC. 107. In the case of any work in which an ad interim copyright is subsisting or is capable of being secured on December 31, 1977, under section 22 of title 17 as it existed on that date, copyright protection is hereby extended to endure for the term or terms provided by section 304 of title 17 as amended by the first section of this Act.

SEC. 108. The notice provisions of sections 401 through 403 of title 17 as amended by the first section of this Act apply to all copies or phonorecords publicly distributed on or after January 1, 1978. However, in the case of a work published before January 1, 1978, compliance with the notice provisions of title 17 either as it existed on December 31, 1977, or as amended by the first section of this Act, is adequate with respect to copies publicly distributed after December 31, 1977.

SEC. 109. The registration of claims to copyright for which the required deposit, application, and fee were received in the Copyright Office before January 1, 1978, and the recordation of assignments of copyright or other instruments received in the Copyright Office before January 1, 1978, shall be made in accordance with title 17 as it existed on December 31, 1977.

SEC. 110. The demand and penalty provisions of section 14 of title 17 as it existed on December 31, 1977, apply to any work in which copyright has been secured by publication with notice of copyright on or before that date, but any deposit and registration made after that date in response to a demand under that section shall be made in accordance with the provisions of title 17 as amended by the first section of this Act.

SEC. 111. Section 2318 of title 18 of the United States Code is amended to read as follows:

[To assist the reader, section 2318 of title 18, as currently amended, along with related criminal provisions, appears in Appendix VII, *infra*.]

SEC. 112. All causes of action that arose under title 17 before January 1, 1978, shall be governed by title 17 as it existed when the cause of action arose.

SEC. 113. (a) The Librarian of Congress (hereinafter referred to as the “Librarian”) shall establish and maintain in the Library of Congress a library to be known as the American Television and Radio Archives (hereinafter referred to as the “Archives”). The purpose of the Archives shall be to preserve a permanent record of the television and radio programs which are the heritage of the people of the United States and to provide access to such programs to historians and scholars without encouraging or causing copyright infringement.

(1) The Librarian, after consultation with interested organizations and individuals, shall determine and place in the Archives such copies and phonorecords of television and radio programs transmitted to the public in the United States and in other countries which are of present or potential public or cultural interest, historical significance, cognitive value, or otherwise worthy of preservation, including copies and phonorecords of published and unpublished transmission programs—

(A) acquired in accordance with sections 407 and 408 of title 17 as amended by the first section of this Act; and

(B) transferred from the existing collections of the Library of Congress; and

(C) given to or exchanged with the Archives by other libraries, archives, organizations, and individuals; and

(D) purchased from the owner thereof.

(2) The Librarian shall maintain and publish appropriate catalogs and indexes of the collections of the Archives, and shall make such collections available for study and research under the conditions prescribed under this section.

(b) Notwithstanding the provisions of section 106 of title 17 as amended by the first section of this Act, the Librarian is authorized with respect to a transmission program which consists of a regularly scheduled newscast or on-the-spot coverage of news events and, under standards and conditions that the Librarian shall prescribe by regulation—

(1) to reproduce a fixation of such a program, in the same or another tangible form, for the purposes of preservation or security or for distribution under the conditions of clause (3) of this subsection; and

(2) to compile, without abridgment or any other editing, portions of such fixations according to subject matter, and to reproduce such compilations for the purpose of clause (1) of this subsection; and

(3) to distribute a reproduction made under clause (1) or (2) of this subsection—

(A) by loan to a person engaged in research; and

(B) for deposit in a library or archives which meets the requirements of section 108(a) of title 17 as amended by the first section of this Act, in either case for use only in research and not for further reproduction or performance.

(c) The Librarian or any employee of the Library who is acting under the authority of this section shall not be liable in any action for copyright infringement committed by any other person unless the Librarian or such employee knowingly participated in the act of infringement committed by such person. Nothing in this section shall be construed to excuse or limit liability under title 17 as amended by the first section of this Act for any act not authorized by that title or this section, or for any act performed by a person not authorized to act under that title or this section.

(d) This section may be cited as the “American Television and Radio Archives Act”.

SEC. 114. There are hereby authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act.

SEC. 115. If any provision of title 17, as amended by the first section of this Act, is declared unconstitutional, the validity of the remainder of this title is not affected.

Appendix I • Endnotes

1. Appendix I contains the Transitional and Supplementary Provisions of the Copyright Act of 1976, Pub. L. No. 94-533, 90 Stat. 2541, that do not amend title 17 of the *United States Code*.

2. The Intellectual Property and High Technology Technical Amendments Act of 2002 amended section 105(f) by substituting “section 6 of the Standard Reference Data Act (15 U.S.C. 290e)” for “section 290(e) of title 15.” Pub. L. No. 107-273, 116 Stat. 1758, 1910.