What is UCITA?

The Uniform Computer Information Transactions Act (UCITA) is a proposed state contract law developed to regulate transactions in intangible goods, such as computer software, online databases, and other information products in digital form.

Why are libraries concerned?

UCITA would validate terms in shrinkwrap and clickable licenses that restrict uses by libraries that are otherwise allowed under copyright law. Currently, many software and information products are sold as shrink-wrapped packages or as products downloaded through the Internet from a vendor's web site.

Obtaining software and information products through the Internet is a convenience for everyone, libraries included. However, when a buyer breaks the wrapping or clicks "ok" with his or her mouse, that buyer is entering into a contract or license with terms that may restrict otherwise legitimate uses of the product, such as legally transferring the software or digital works; publicly discussing the product; or providing access to other users.

Moreover, unlike with contracts that are actively negotiated, the buyer likely does not even know that he or she has agreed to those contract terms. In other words, UCITA would allow an end run around currently legitimate practices under the copyright exceptions for fair use, first sale, and preservation.

Where did it come from?

UCITA was originally intended to be a revision to Article 2 of the Uniform Commercial Code (UCC), which has been adopted in almost all of the states and territories of the United States and which ensures consistent rules governing contract law from state to state. The National of Commissioners on Uniform State Laws (NCCUSL) and the American Law Institute (ALI) are charged with drafting changes to the UCC. Because ALI and NCCUSL failed in 1999 to agree on a draft, the proposed statute

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is being introduced in each state as a stand-alone addition to the state's legal codes.

Who are the proponents and the opponents of UCITA?

Publishers and large software producers are the primary supporters of UCITA. Libraries, consumer protection groups, and a number of businesses have opposed the enactment of UCITA as it has been introduced in several states starting in the fall of 1999.

What can academic librarians do?

Don't wait until UCITA has been introduced in your state! Contact your state legislators, your state's attorney general, and others to find out what may be happening in your state *before* the legislative proposal gets introduced. Behind-the-scenes work by supporters of UCITA has often prevailed with state legislators.

Once UCITA is on the horizon or introduced, get involved in the advocacy efforts to defeat or amend the legislation. Work with your state library association to develop a coalition. Meet with your state legislators and explain how UCITA will impact libraries, universities, schools, and others in your state.

What is ALA doing?

Although UCITA must be a state-by-state effort, the ALA Office of Government Relations is working to coordinate and help state advocates share information. (Check the ALA Web site at http://www.ala.org/washoff/ucita.html.) ALA will conduct three workshops at the following regional library conferences: New England Library Association, October 1–3, in Worchester, Massachusetts; Southeastern Library Association, October 11–13 at Jekyll Island, Georgia.; and Mountain Plains Library Association, October 25–28 in Omaha, Nebraska, as well as at the ALA Midwinter Meeting in Washington, D.C., in January 2001.

Check on the status of your state on the Web site (http://www.4cite.org/HotNews.html) of the coalition 4CITE (For a Competitive Information and Technology Economy), to which ALA and other library associations belong. ∎