# REVIEWS

**Heather Briston, Menzi L Behrnd-Klodt and Aprille C McKay**, *Rights in the Digital Era*, Modules 4–7, Menzi L Behrnd-Klodt and Christopher J Prom (eds) with an introduction by Peter B Hirtle, Society of American Archivists, Chicago, IL, 2015. 238 pp. with index. ISBN 1 931666 73 3. USD$34.99 (Paperback).

*Rights in the Digital Era* is the second instalment in the series Trends in Archives Practice, and consists of four modules:

Module 4, Understanding Copyright Law, by Heather Briston, presents an accessible, no-nonsense guide to the basic copyright issues likely to be experienced by a digital archivist or librarian, including rights in published and unpublished materials, duration of term, fair use, orphan works and licensing for a wide variety of digital materials including audiovisual material. It covers practical issues pertinent to digital repositories such as due diligence in researching ownership for digitisation projects, and basic exceptions, and applies these to a case study of digitisation of the University of California, Los Angeles special collections to provide a worked example in context. Although focused on US copyright law, many of the principles also apply to the European Union and Australia – although care should be taken in other jurisdictions. Briston notes that copyright law is complex and dynamic, but thankfully she extols the virtues of a risk-based approach and reminds archivists that: 'Risk assessment by archivists balance the nature of the materials against institutional goals, policies and culture to provide a decision-making structure for particular actions regarding copyrighted materials … Risk management is individual and situational' (p. 36, 37). This module of the book also points the reader to useful online resources such as best practice guides and checklists, although most of these references do not use persistent URLs and therefore may have disappeared by the time the archivist follows them!

Modules 5 and 6, by Menzi L Behrnd-Klodt, investigate the issues in balancing access and privacy in manuscript collections; and in public, organisational and business records, respectively. It is possible that the reader could find the introduction to Module 5 somewhat bewildering. But hope is not lost. As Behrnd-Klodt notes, 'Given the range of issues mentioned above, it may seem tempting for the archivist to throw up his or her hands and close access to any set of records holding materials that seem to bear a privacy concern' (p. 90). Given the muddle of potentially conflicting laws and issues, especially in a digital world which mixes the personal and professional, we are taken through risk-based practical approaches for balancing access to digital archives, which in my experience are sound.

The Society of American Archivists' core values on access and use are covered, as are basic tenets of privacy law and ethics, and working with donor agreements. Behrnd-Klodt provides intriguing examples of the balance between privacy and access in the context of cultural considerations – such as access to the records of Saddam Hussein, political victims of East Germany's secret police, and the archives of Nelson Mandela, although these are somewhat hidden in the notes (please note, the Bodleian Libraries' policy on access to archives is much less restrictive than quoted here). Finally, the

module ends with a fascinating and realistic case study adapted from a real-life situation, involving access to a scientist's unpublished journals which reveal explicit notes of an affair. However, I wanted some of the digital angles to be explored more fully beyond the section on page 88 on 'The digital effect'; as this page notes, '[N]umerous mechanical devices threaten to make good the prediction that "what is whispered in the closet shall be proclaimed from the house-tops"'. I felt also that the treatment of database rights was an omission. While database rights derive from an EU directive, a database can qualify as a copyright work in the United States and most digital archives will have to deal with them.

Module 6 builds on the previous chapter by exploring US Freedom of Information law, particularly the Freedom of Information Act of 1966, in the context of public records and the balance with privacy protection for individuals established by the Privacy Act of 1974. There is an intriguing consideration of access to Presidential records, a public–private hybrid. Perhaps most usefully, Professor Sol Bermann's 'Data element balancing test' is referenced, which provides a simple three-step analytical framework for balancing the risks and benefits of providing online access to public records. There is also broad coverage of issues relating to student records, medical records and business or organisational records, including relevant legislation such as the Health Information and Technology for Economic and Clinical Health Act 2009, and attorney–client privilege. It was interesting to read this module as a practitioner working in a United Kingdom library and archive, and compare the similarities and differences with the United Kingdom context. Again the chapter finishes with an interesting case study of the Timothy Nugent Papers and official records from the Division of Rehabilitation-Education Services at the University of Illinois.

Module 7, by Aprille C McKay, provides a pragmatic guide to acquiring, documenting and managing rights in archives with a focus on digitisation. This very accessible and readable chapter gives well-structured and practical information on documenting ownership and clearing rights for online access. Notice and takedown policies, terms of use and Creative Commons licences are covered. It also provides an interesting discussion around pricing for access to digitised content, a topic which is notoriously controversial and for which practices vary wildly from institution to institution, but which are often influenced by copyright. No book on copyright would be complete without use of the dreaded 'M' word ('Metadata'), and later in the chapter there is expansion on the statement 'Deciding how to implement rights-management metadata is an area that is still being developed by the archives community' (p. 206). This enormous challenge is one that both digital archives and software vendors need to tackle collectively. McKay gives a summary of permissions statements in Encoded Archival Description (EAD) XML, rights information in Metadata Encoding and Transmission Standard (METS) and the Preservation Metadata: Implementation Strategies (PREMIS) digital preservation metadata standard. McKay even mentions my favourite digital preservation software tool of the moment, Archivematica.

Overall I found this book to be pragmatic, accessible, and one which advocates appropriately for a risk-based approach. It breathes life into complex issues with case studies and provides useful templates which digital archivists can adapt to their own institutional situations. Thumbs up.

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