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EDITORIAL 3

ARTICLES

At the intersection of public service and the market: Libraries and the future of lending – *Rebecca Giblin and Kimberlee Weatherall*

Most library uses of books occur outside the purview of copyright and the market. Loans fall outside copyright’s exclusive rights; libraries have exceptions for many activities that involve copying. Author remuneration for library uses via the public lending right is governed by distinctly non-market considerations. This changes when works take digital form: electronic lending involves copies and transmissions which copyright owners have a right to license. As a result, libraries’ ability to engage in electronic lending is governed by private contract, which means market forces largely determine the terms on which libraries can provide access – and whether they may do so at all. This has potentially significant implications: libraries have traditionally played an important role in furthering the public’s interest in access to content and other societal goals including the encouragement of Australian authorship. This article provides a doctrinal mapping of the regulation of physical and digital lending. It also identifies avenues of investigation which need to be explored to inform the practices of libraries and policymaking. What could we lose by a wholesale operation of market forces? And what could we gain?

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Information, intellectual property and the global information system for plant genetic resources for food and agriculture – *Charles Lawson*

The International Treaty on Plant Genetic Resources for Food and Agriculture (Plant Treaty) establishes a mechanism for the accessing and sharing of some plant materials. An essential element of that accessing and sharing is information about the materials including information (and data) about the characterisation, regeneration and evaluation of the materials. A Global Information System (GLIS) will allow much of this information to be made available and shared. This article reviews the information obligations imposed by the Plant Treaty and its associated Standard Material Transfer Agreement on the collection and disclosures of information and other legal obligations that will likely shape the form and function of the GLIS. The article concludes that the GLIS will need to carefully distinguish between information that is freely available and information that is subject to legal restrictions.

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Legal support for the interests of Aboriginal and Torres Strait Islander peoples in the commercial development of new native plant varieties: Current status and future options – *Kylie Lingard*

Australia’s Aboriginal and Torres Strait Islander peoples have many different needs and aspirations in relation to their traditional plants (herein “interests”). Aboriginal and Torres Strait Islander peoples face particular challenges in realising these interests in the commercial development of new native plant varieties. This article offers a set of legal and

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