ENHANCEMENTS:

- The case for fair use will be at its strongest when the database includes information such as rich metadata that augments the research or reference value of its contents.
- Assertions of fair use will be particularly persuasive when libraries cooperate with other institutions to build collective databases that enable more extensive scholarship or reference searching.

EIGHT: COLLECTING MATERIAL POSTED ON THE WORLD WIDE WEB AND MAKING IT AVAILABLE

DESCRIPTION:
Gathering impressions of ephemeral Internet material such as web pages, online video, and the like is a growth area in academic and research library collection-building, with activities typically focusing on areas in which the institution has an established specialty, or on sites specific to its local area. Such collections represent a unique contribution to knowledge and pose no significant risks for owners of either the sites in question or third-party material to which those sites refer. In the absence of such collections, important information is likely to be lost to scholarship.

Selecting and collecting material from the Internet in this way is highly transformative. The collecting library takes a historical snapshot of a dynamic and ephemeral object and places the collected impression of the site into a new context: a curated historical archive. Material posted to the Internet typically serves a time-limited purpose and targets a distinct network of users, while its library-held counterpart will document the site for a wide variety of patrons over time. A scholar perusing a collection of archived web pages on the Free Tibet movement, or examining the evolution of educational information on a communicable disease, seeks and encounters that material for a very different purpose than the creators originally intended. Preserving such work can also be considered strongly transformative in itself, separate from any way that future patrons may access it. Authors of online materials often have a specific objective and a particular audience in mind; libraries that collect this material serve a different and broader purpose and a different and broader network of users. Libraries collect not only for a wide range of purposes today, but also for unanticipated uses by future researchers.
PRINCIPLE:
It is fair use to create topically based collections of websites and other material from the Internet and to make them available for scholarly use.

LIMITATIONS:
• Captured material should be represented as it was captured, with appropriate information on mode of harvesting and date.
• To the extent reasonably possible, the legal proprietors of the sites in question should be identified according to the prevailing conventions of attribution.
• Libraries should provide copyright owners with a simple tool for registering objections to making items from such a collection available online, and respond to such objections promptly.

ENHANCEMENTS:
• Claims of fair use relating to material posted with “bot exclusion” headers to ward off automatic harvesting may be stronger when the institution has adopted and follows a consistent policy on this issue, taking into account the possible rationales for collecting Internet material and the nature of the material in question.
• The more comprehensive a collection of web impressions in a given topic area is, the more persuasively the inclusion of any given item can be characterized as fair use.

For more information, consult
arl.org/fairuse
centerforsocialmedia.org/libraries
pijip.wcl.edu/libraries