



COLLEGE ART ASSOCIATION

STATEMENT REGARDING FAIR USE AND CONFU**RECOMMENDED ACTION**

9 MAY 1997

The College Art Association (CAA) participated in the Conference on Fair Use (CONFU), specifically in the Digital Images working group, and supports the open process of discussion and negotiation among representatives of both rights holders and users. We participated because we believe in the place of "fair use" in a balanced copyright policy, support the principles in Section 107 of the US Copyright Act, and seek to maintain that delicate balance in the digital environment. We agree with and support the statements of our colleagues from the American Council of Learned Societies (among whose 58 constituent societies CAA is included), the National Humanities Alliance (to which CAA belongs), and the Visual Resources Association (an affiliate of CAA).

At its meeting of April 20, 1997, the Board of Directors of the College Art Association (which is composed of both art historians and visual artists employed primarily in higher education and museums) discussed the impact of the CONFU proposed fair use guidelines on research, teaching, and the creation of original works of art. The Board considered the objections of three committees which have been tracking the progress of and reaction to the development of guidelines—Museums, Electronic Information, and Intellectual Property—as well as the results of a questionnaire on use and applicability of the guidelines which was published on the CAA web site and in the newsletter, the majority of which were negative.

The Board of Directors concluded that each of the three guidelines—for Digital Images, Educational Multimedia, and Distance Learning—would have a profound and adverse effect on all of these activities. The board thus voted unanimously to oppose each of the guidelines in its current form and to urge the participants in the CONFU process to reconsider the philosophical principles upon which these guidelines have been based so that the report takes into account the essentially non-commercial character of scholarly research and the classroom, as well as the necessity for maintaining an environment in which artists can exercise their creativity.

The College Art Association, therefore, DOES NOT ENDORSE (1) distance learning guidelines primarily because of the absence of any discussion of asynchronous delivery; (2) educational multimedia because, as both the American Council of Learned Societies and the Visual Resources Association have noted, there is no indication of an acceptable understanding of fair use, especially with regard to portion limitations; and (3) digital images because, as stated in objections submitted to CONFU November 25, 1996, we believe that it is premature to develop or endorse guidelines; these guidelines, under the guise of fostering fair use, actually restrict and inhibit research and education; procedures for complying with the guidelines put an excessive and unworkable burden on users, especially at smaller, poorly and publicly funded universities and colleges; and the guidelines concentrate on restriction, control, and limitation rather than on fostering productive uses and development of new technologies. Furthermore, the rejection of all three, is essential since they have interconnected implications for the teaching of art history and the creative process in the visual arts.