To: Joint Steering Committee for Revision of AACR

FROM: Jennifer Bowen, ALA representative

SUBJECT: Proposals to simplify AACR2 Ch. 21 special rules

General Observations

The CILIP follow-up mentions possible difficulties arising from the removal of special rules, including the possibility that different catalogers will come to different conclusions. As a way to possibly minimize this problem, ALA recommends the use of the reference structure within RDA to refer catalogers who are used to consulting special rules for certain materials back to the appropriate general rules.

ALA notes that if RDA follows the approach of eliminating the special rules and incorporating them as exceptions elsewhere in the rules in Part 2 in the name of simplification, this may in effect not be any simpler than to have the special rules identified discretely, even if they are in electronic format.

Art Works (21.16-21.17)

21.30F. Other related persons or bodies.

In response to the LC follow-up comments on this rule (p. 4 of *5JSC/Chair/5/Sec follow-up*): ARLIS/North America prefers having the primary access point for these catalogs be the artist's name. If it were not for an existing LC Rule Interpretation for Rule 21.1B2, this would be the practice in the art library community, and often is anyway since catalogers appreciate consistency.

Musical Works (21.18-21.22)

The LC recommendations focus on moving the music-related rules that are worth keeping to what is now numbered 21.9 (including 21.18A, 21.18C1, 21.19C, and 21.21). There are additional, less explicit recommendations to move other rules under those for mixed or shared responsibility as appropriate (21.19A, 21.29B, and 21.20). If RDA is to continue to include rules that maintain distinctions in treatment for adaptations of texts and revisions of texts, ALA recommends that the music rules and examples should go with those relevant sections, rather than being placed together in a general rule as the LC response appears to suggest.

Sound Recordings (21.23)

ALA has held additional discussions with representatives from the Association for Recorded Sound Collections and the Music Library Association regarding rules for primary access points for sound recordings. These discussions have been successful in reaching some areas of agreement between these communities, and have resulted in some clear recommendations for these rules, including recasting them as rules for primary access for **performances**.

ALA believes that the two goals for rewriting rules for primary access for performances should be to create rules that are both principle-based as well as easy to apply. Balancing these two goals is not an easy task, but we believe that our recommendations achieve this balance.

Recommendations

ALA recommends that the following rules be included in an appropriate location within Part II of RDA:

> **General Rule for Primary Access for Performances:**
> For a resource containing a performance of a single work, use as the primary access point the person or corporate body responsible for the creation of the intellectual or artistic content of the performance. Creative responsibility goes well beyond the responsibility associated with performing a previously-existing work, and generally includes adaptation, improvisation, or substantial re-composition.
>
> In case of doubt concerning the level of creative responsibility of a person or corporate body performing a previously-existing work, use the primary access point for the previously-existing work as the primary access point for the resource.
>
> **Secondary Rule for Primary Access for Performances:**
> For a resource containing performances of multiple works, if one person or corporate body has creative responsibility, as defined under the general rule, for all of the performances embodied within the resource, use as the primary access point for the resource the person or corporate body responsible for the creation of the intellectual or artistic content of the performances.
>
> If no single person or corporate body has creative responsibility for all of the performances embodied in the resource, follow the general rules for choice of primary access applicable to the resource.

We note that additional guidance will need to be given in the rules for situations where two or more performers have equal responsibility for the creation of the intellectual or artistic content of the performance(s) embodied within the resource. Such guidance should refer back to the rules for multiple creators with equal responsibility.

Rationale

ALA strongly recommends that any principle-based solution reflect appropriate common citation practice. Common citation practice in some communities emphasizes the importance of performers in situations where a "performer" is actually acting in a more primary role (for adaptations, re-compositions, and performances that include substantial improvisation) that includes primary responsibility for the intellectual and/or artistic content of the resource. To abandon this common practice within RDA (i.e., to always provide primary access for resources that exhibit these characteristics either under title or under the original work's composer) would not do justice to the role of such "performers-with-creative-responsibility" and would not assist knowledgeable users in certain disciplines who expect to find these resources cited under the performer(s) that they recognize as the author(s) or creator(s) of what they consider to be new, original works.

FRBR provides allowances for this situation (page 16):

> Because the notion of a *work* is abstract, it is difficult to define precise boundaries for the entity. The concept of what constitutes a *work* and where the line of demarcation lies between one *work* and another may in fact be viewed differently from one culture to another. Consequently the bibliographic conventions established by various cultures or national groups may differ in terms of the criteria they use for determining the boundaries between one *work* and another.

and also on page 17:

> By contrast, when the modification of a *work* involves a significant degree of independent intellectual or artistic effort, the result is viewed, for the purpose of this study, as a new *work*. Thus paraphrases, rewritings, adaptations for children, parodies, musical variations on a theme and free transcriptions of a musical composition are considered to represent new *works*.

FRBR does not specifically address new works resulting from performances involving improvisation, but the tradition in the field of jazz, for example, is to emphasize the creative input of the performer (if that performance includes improvisation) over the creative input of the original composer, and the current AACR2 rules do take this into account.

While the current rules support primary access under performers whose role goes beyond that of performance, they also allow some performances of previously-existing works to be entered under principal performer even when the performer does not have principal responsibility for the intellectual content of the resource. ALA acknowledges that this purely pragmatic approach should not continue in RDA. However, eliminating this practice will force us to confront the difficulties in providing catalogers with enough guidance so that they can easily apply a principle-based rule and without resulting in records that are unacceptably inconsistent.

ALA would appreciate suggestions for clarifying the wording of the rules recommended above. However, we strongly recommend that certain aspects of the proposed rules be worked into the new rules:

1. the phrase "… creation of the intellectual or artistic content of the performance" and a further definition of exactly how this phrase should be interpreted to differentiate it from performing a previously-existing work. The words "adaptation, improvisation, or substantial re-composition" are especially important in this regard.

2. An "in case of doubt" directive, to facilitate the application of the rule by catalogers who may be unfamiliar with the actual level of creative input of a given performer.

Terminology

One of the problems that has become apparent during discussions of this issue is imprecise terminology. The Music Library Association has suggested the use of the terms "musical artist" and "musical event" to encompass artistic contributions, as opposed to "performer" and "performance", which imply that a previously-existing work is being performed. While such new terms might perhaps clarify the situation for musical performances, additional discussion (and additional new terms) would then be needed for other non-musical artistic events. In any event, it will be important for the terminology used in these rules to be considered carefully so that any confusion can be eliminated.

Impact on Catalogs

The implementation of the above rules would result in fewer resources entered under principal performer than current practice under AACR2, although the impact on catalogs would not be as great as it would be by further restricting primary access under principal performer. Some formerly primary access points would become secondary access points, but access would still be provided within the catalog. ALA believes that the inconsistencies in access created in existing catalogs under this approach would be tolerable, as access to performers would still be provided.

Examples

ALA urges careful consideration of the examples to be included in the rules for primary access for performances as a way to increase the usability of these rules. ARSC has offered the following suggested examples, and we request that the Examples Group consider them for use within the appropriate rules within Part 2.

A performance of a genuine adaptation or re-composition:

A straight-through sound recording of a live performance of an aurally-transmitted work for which authentic performance practice dictates substantial improvisation:

Morgan Lewis' How high the moon; performed and adapted by Charlie Parker; renamed Ornithology
Primary access under Parker as a new work

A performance of another author's work:

A straight-through sound recording of a live performance of an aurally-transmitted work for which authentic performance practice dictates some improvisation but there is substantial fidelity to the original work such that the performance cannot be considered an adaptation or re-composition:

Charlie Parker's Ornithology; performed by Dizzy Gillespie
Primary access under Parker as original composer

Performances by one person for which there are no original works:

Straight-through sound recordings of live performances of free improvisation (no pre-existing work):

Organ improvisations by Jean Langlais
Primary access: Langlais [new work]

Solo guitar improvisations by Derek Bailey
Primary access: Bailey [new work]

Performances by more than one person that are strictly performances:

Planet Sleeps [by multiple groups from 16 countries]
Primary access: title

Legal Materials (21.31-21.36)

The LC follow-up notes the close connection between the Chapter 21 rules for legal works and the Chapter 25 rules for "Laws, Treaties, Etc." (25.15-25.16). ALA anticipates that the rules for Part 3 will be discussed further in the near future, and has saved the majority of its comments on the Part 3 rules for that discussion. However, a few comments on the Part 3 recommendations from LC are included in this document.

21.31A1. Laws, etc.

The CCC follow-up states:

> At the general rule, 21.31A1, one is directed to 21.13 for annotated editions of laws and commentaries. However, the 6th example at 21.31B1 appears to be an annotation even though the rule for annotated editions, etc., is 21.13. This has always caused some confusion.

ALA recommends that this example be removed or further information be given that explains why this particular title is not entered as instructed (at the end of 21.31A1) in 21.13. It seems likely from the instruction to enter under jurisdiction/uniform title for the laws that the work is primarily text of the laws rather than annotations, but no explanation is given to support that assumption.

21.31B. Laws of modern jurisdictions

ALA agrees with the LC follow-up suggestion to delete the term "modern" from the caption so that rule 21.31B1 can become applicable to the law of any jurisdiction, including the fundamental law of a jurisdiction, as long as examples currently in 21.31C1 are incorporated into 21.31B.

21.32. Administrative regulations, etc.

The LC follow-up states:

> The current rules require that the cataloger determine if the regulations are also laws in order to know which rules are to be applied. Such determination is often difficult to determine when faced with cataloging legal materials from all over the world. Consider entering administrative regulations under the promulgating agency when the agency is named on the resource.

ALA agrees that this distinction is often difficult to make. However, if a law is specified, we suggest that access for it be retained, even if the promulgating agency is the primary access. We suggest that the wording given in 21.32A2 be incorporated into this rule because it allows entry for the law and provides clear direction when the evidence on the primary source of information is ambiguous or insufficient.

21.35A/25.16B1/25.16B2. Treaties, intergovernmental agreements, etc.

ALA strongly disagrees with the LC follow-up suggestion to enter all treatises under an uncontrolled title (further comments on the CCC comments below)

21.35A2

ALA agrees with the approach described in the CCC follow-up to eliminate the distinction between 21.35A1 (Treaties, etc., between two or three governments) and 21.35A2 (Treaties, etc., between four or more governments) and to use the uniform title for the treaty as the primary access point in all cases, as long as the authority record includes references to the various jurisdictions.

21.35E. Protocols, amendments, etc.
21.35E/25.16B3

ALA recommends that protocols, amendments, etc. should continue to be established under the same uniform title as the treaty, rather than under their own titles as suggested in the LC follow-up. In many instances the title of these resources is insufficient to distinguish the resource from others or to connect it to the main treaty.

Laws: Chapter 25 Rules

25.15A1. Collections

The LC follow-up recommends simplifying the provisions for the title of a collection of laws governing one jurisdiction to use the title proper of the collection. ALA would like to point out that uniform titles for collections of laws, particularly for the U.S. state codes, provide order in large files. Relying on title proper for state codes will make them more difficult to find in a large file if a searcher does not know the exact title. With the uniform title, “Laws, etc. (compiled statutes ...)”, a user can retrieve all compilations with an author search of jurisdiction combined with the title word statutes. Although the addition of a genre term, example: “Compiled statutes – jurisdiction name”, may be helpful, such a search key does not and should not replace the ability to retrieve a resource by an author/title query.

25.15A2. Single Laws, etc.

The LC follow-up recommends simplifying the provisions for the title of a single law governing one jurisdiction by using the title of the law on the resource. ALA notes that using the title of the law as given on the resource will create difficulties for the user’s ability to find and identify all resources concerning the same law. For example, a commentary on a law may or may not include the full text of the law, but may refer to the law using various titles. A U.S. example is the “Pension reform act of 1974”, sometimes also called “ERISA”, which has the citation title of “Employee retirement income security act of 1974.” A resource on this law may use the various forms interchangeably, and the uniform title brings them together in the file. Other countries have similar issues. In Germany there is usually a short title, e.g. “Arzneimittelgesetz” and a long title “Gesetz über den Verkehr mit Arzneimitteln”. In France, the same code may be called “Code du travail”, “Code annoté de la législation ouvrière”, “Nouveau code du travail annoté”, etc. with a uniform title “Code du travail (1973)” to bring them together.

Certain Religious Publications (21.37-21.39)

21.37. Sacred scriptures

ALA notes that the issue of the form of the heading, “Bible. O.T.” will eventually need to be reexamined when the rules currently in Chapter 25 are addressed. We hope that this will be addressed when we are asked for comments specifically on ch. 25. We urge further consideration of the term “sacred works and scriptures.”

21.37A

If this rule is eliminated, consideration should be given to retaining the instructions in this rule regarding the provision of added entries. These instructions could be incorporated into 21.30 (or the comparable rule within RDA).

21.39A1

The ALA follow-up contained a discussion item regarding changing the wording of the footnote for this rule to change the definition of liturgical works. The original proposal was agreed to by the American Theological Library Association and the Catholic Library Association. The Association of Jewish Libraries has requested additional discussion on this issue among the three groups. ALA will submit the outcome of these discussions to the JSC for discussion during review of the Draft of Part 2 of RDA.