

### **Librarians, others oppose "Smithsonian Networks" venture**

Early in April, the Smithsonian Institution announced the creation of "Smithsonian Networks," a joint venture between the Institution's Smithsonian Business Ventures Unit and Showtime Networks.

According to Jeanny Kim, vice president for media services at Smithsonian Business Ventures, filmmakers and researchers who wish to have "more than incidental" access to Smithsonian archives or Smithsonian curators or scientists would have to offer their project to this new business venture. Librarians and other groups believe that this policy will discourage independent filmmakers from creating projects for other media outlets. Further, the policy will discourage an independent filmmaker from making a documentary and releasing it on the Internet or on a noncommercial basis.

ALA has several concerns about this new venture. First and foremost, the Smithsonian Institution has refused to disclose any details of the agreement. In a letter to members of the Smithsonian Institution, a spokesperson states: "This is a business contract that does not involve federal funds. Such contracts are confidential as they contain proprietary information that no company should have to share publicly."

But the Smithsonian Institution is not merely a business venture. It is a publicly chartered guardian of America's national heritage, created by the U.S. Congress "for the increase and diffusion of knowledge among men." The Smithsonian Institution's FY2005 Annual Report noted that the Institution receives 75 percent of its revenue from federal appropriations, government grants, and government contracts. The Institution is governed by a Board of Regents appointed from all three branches of government. The

Smithsonian is a public trust in the truest sense of the term.

The Institution, as a public trust, operates as custodian of this country's shared heritage. Because the arrangement with Showtime Networks has raised grave concerns among the public, ALA believes it is imperative that the Institution disclose the details of this agreement. The Smithsonian Institution, by subscribing to the "intent and spirit" of the Freedom of Information Act, should keep in mind that the aim of the law is "a general policy of full agency disclosure."

While disclosure of the terms of the contract is our first concern, our broader concern is the troubling principle established by the venture of a "right of first refusal." The prospect of potentially requiring that an independent filmmaker, a video blogger on the Internet, a historian, or educator who makes "non-incidental" use of the Smithsonian collections or needs access to staff first present their project for commercial exploitation by this new business venture is an anticompetitive practice that is extremely troubling.

The Center for American Progress has spearheaded a campaign—in which ALA is participating—to ask the Smithsonian Institution to do the following:

- Disclose the terms of the contract with Showtime Networks and any other commercial agreements that limit access or use of the collections.
- Annul the contract with Showtime Networks, as it was awarded without public comment and without a competitive procurement process.
- Hold hearings to gather comment from a broad cross section of the public before undertaking any further actions that limit access to the collections for which the Smithsonian acts as guardian or limit access to the talented and highly capable staff of the Institution.

Please stay tuned to ALAWON for further developments on this issue. *zm*

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