

Position Paper

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Lending of e-books by public libraries

E-books as a means

The library stimulates reading, tackles illiteracy, offers lifelong learning, knowledge and education, lets people get acquainted with literature, art and culture, and functions as a meeting place. The library, as a public provision, fulfils an important societal role and is an indispensable link in the contemporary digitalised society. Digitisation comes with societal challenges and the library has to respond to these challenges in order to keep fulfilling its societal role. To achieve this, it is of great importance that the public library is able to provide access to digital content, like e-books.

It is to be expected that the market share of e-books will be between 40 and 60% by 2025.¹ The public library is obligated by law to provide people access to information and today this also contains providing access to digital information and lending of e-books. Children in Kindergarten are taught to work on tablets and are made familiar with the digital world. New generations will read more and more e-books in comparison to physical books. In order for the public library to be able to continue fulfilling its role, it is necessary that e-books are easily lend to the people.

Moreover, access to e-books is contributes to economic development because of creativity and exchange of knowledge. Copyright law should not be limiting this process. There should be more room for creative developments which are necessary to economic development. This is an important argument of the European Commission for creating the Digital Single Market.

In order to make this happen, copyright law should be reformed, because in practice the lending right arrangement is not applicable to e-books nowadays. Lending right is a part of copyright law and gives the possibility for uniformity in lending books if a lending right remittance is paid to the authors. The lending right arrangement should be applicable in practice to e-books as well, as to make e-books easier accessible to the citizens. At the moment, a discussion is going on as to whether the definition of lending in the Rental and Lending Directive stretches to lending of e-books. This is why this should be explicitly stated in the Directive.

The context of lending right

Public libraries are allowed to lend all physical books they bought to their members. This is allowed under the condition that the rightful claimant is compensated. Libraries do not have to ask permission before lending a book. This is called lending right.

This lending right arrangement is not applicable to e-books in practice. This means that libraries are not allowed to lend e-books to their members without asking permission to the rightful claimant before lending it. Arrangements are made as to how long an e-book can be lend to the members of the library. If such an arrangement is not made, the e-book cannot be lend. It is impossible to set a uniform supply of e-books because an individual arrangement should be made with every publisher. It is hard to explain this to the members.

¹ De bibliotheek levert waarde: strategie 2012-2016, p. 18

Copyright reform

For the public library to provide good service to their members, it is essential that the lending right arrangement is applicable to e-books. The current situation of individual arrangements with publishers is too devious. For physical books, the payment of a lending right remittance is sufficient and this should be the case for lending of e-books as well.

In order to realise this, an exception should be put in the Copyright Directive 2001/29 for lending e-books. The exception should be the same as for physical books; that books bought by libraries can be lend to the members of the library. Moreover the Rental and Lending Directive should be revised in the way that the definition of 'lending' in Article 2 also contains lending e-books.

The Role of public libraries

The digitisation of society has led to an abundance of information, and that information is available sooner. Public libraries have the task to help people with this amount of information by selecting information and by helping the people by teaching them to develop media and information skills. According to the public libraries, people should be able to fully participate in society. Self-reliance and people's own competences are central aspects in today's participation society. Therefore, it is required that people are able to manage their business themselves. To meet this requirement, skills are needed. Libraries have a broad supply of possibilities for citizens to develop these skills and acquire the basics that are needed in this society. It is crucial that public libraries can continue to fulfil this role.

Conclusion

The public library is an institution that provides services to citizens so that they become self-reliant, which is really important in today's society. In order to do this, the public libraries have to keep up with the developments in the digitised society. For the public libraries and its members, access to e-books is essential. This requires a copyright reform which should lead to the lending right arrangement being applicable to lending e-books. Therefore, an addition should be made to the exception for lending physical books and lending e-books should be added to the exception.

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