



CJEU Advocate General opinion on e-lending A step forward...

The Hague, 16 June 2016

The European library community welcomes the Opinion¹ of the Advocate General of the **Court of Justice of the European Union** in the case of *VOB v Stichting Leenrecht (C174/15)* **published today**. The case looks to establish whether an e-book is a book with regard to the EU Rental and Lending Directive.

In the view of Advocate General Szpunar, *the lending of electronic books is comparable to the lending of traditional books*. It follows that *the general regime of the lending right, which provides in particular for fair remuneration for authors under the public lending exception, is applicable*.

We welcome this view as a very sensible recognition that library lending includes remote lending of e-books in any format to library patrons, for a limited period of time, and not for direct or indirect economic advantage.

The European library community reiterates its view that in today's society, libraries offer a vital service to European **citizens** and a unique outlet for **creators**. Libraries are fundamental channels to greater access to European **cultural diversity, education and research**, greater **promotion of authors** to existing and new audiences and a **stronger creative knowledge economy**, notably but not exclusively through their annual purchase of content². Their mission of giving access to information for all relies on the support of an up to date copyright framework that recognises e-lending as a routine part of daily library activities.

EBLIDA President, Jukka Relander said, *"Libraries are one of the most frequented public spaces in our society. They are a democratic tool to help build an innovative and inclusive society and realise projects benefitting all socioeconomic groups ahead of policy developments. However, without a consistent legal framework that recognises library copyright needs, libraries can't effectively fulfil the expectations of European citizens. The Advocate General's Opinion is a positive outcome and further evidence that including e-lending in the right to lend is common sense. It also signals that library activism enables policy to keep pace with societal changes. The Opinion is a first step towards greater legal certainty for Europe's libraries and clear recognition of libraries' public service missions of providing equitable access to information. EBLIDA will continue to advocate for the right to e-read, ensuring the same rights for the same content in whatever format, to the benefit of European citizens."*

IFLA President, Donna Scheeder said, *"Libraries everywhere work every day to do the best by their users. With e-books established among readers as a normal means of accessing literature and knowledge, IFLA continues to urge governments to ensure that copyright laws do not discriminate between technologies, and publishers to offer fair terms to libraries. Today's Opinion represents an important step in this direction."*

The European library community notes that the CJEU Advocate-General's Opinion challenges some current national laws and programmes for e-lending, but the question of **market distortion**, whereby publishers may refuse to make e-book titles available to libraries for lending, **remains unsolved**. Should the Court uphold the AG's Opinion, we stand ready to provide expertise and support to legislators to bring about inclusive legislation which meets library patrons' expectations and offers legal certainty for all.

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¹CJEU Press Release <http://curia.europa.eu/jcms/upload/docs/application/pdf/2016-06/cp160064en.pdf>

Full text of the Advocate General's Opinion will in due course be available here <https://tinyurl.com/h4va9az>

² European libraries spend approximately €4.8billion on purchasing content every year or \$5.5billion. Outsell report (2014), "Library Market Size, Share, Performance and Trends".