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EU copyright Directive

- Background and context;
- current status;
- library lobby;
- analysis of the Directive;
- national implementaton;
- current copyright related issues in Europe.
Two main aims of the Directive:

- To implement the WIPO copyright treaty. Extends protection for European authors in a global market.

- To harmonise EU copyright laws. To encourage investment in creativity and protect jobs.
EU copyright Directive

Key dates during 2000-2001

- 28 September 2000
  Common Position agreement.
- 8 January-5 February 2001
  Debate in EP Legal Affairs Committee
- 13-14 February 2001
  Vote in European Parliament, Strasbourg
- 9 April 2001
  Adoption by Council of Ministers
- May 2001
  Publication in Official Journal (expected)
The library lobby

- EBLIDA lobbying since 1997;
- Bad result from first reading in Parliament;
- Pro-active and successful lobby campaign;
- Partnership in strategic alliance - EFPI CC;
- EBLIDA position papers and responses.
EU copyright Directive

Analysis of the Directive

Established within three frameworks:
- international context;
- acquis communautaire with previous Directives;
- legal traditions of EU member states.

Contains 15 Articles and 61 recitals.
EU copyright Directive

Key articles for libraries

Article 2 Reproduction right (Recitals 21-22)
Article 3 Right of communication to the public (Recitals 23-27)
Article 4 Distribution right (Recitals 28-30)
Article 5 Exceptions and limitations (Rec. 31-45)
Article 6 Technical protection measures (Recitals 46-54)
Articles 2, 3 and 4

Articles 2, 3 and 4 give rightholders the exclusive right to authorise or prohibit all forms of reproduction, communication to the public and any form of distribution of their works.
EU copyright Directive

Article 5 Exceptions and limitations

- Twenty-one listed exceptions to Arts 2 and 3;
- all exceptions, except for one, are optional;
- the list of exceptions is exhaustive;
- all the exceptions are subject to Article 5.5 (three step test).
Article 5.1 Only mandatory exception

- Temporary, fleeting copies produced as image or text is transmitted over the Internet;
- must be an essential part of the network transmission process;
- ensures effective operation of live webcasting and the streaming of music and video.
EU copyright Directive

Selected optional exceptions

- Article 5.2(a) Reproductions on paper
- Article 5.2(b) Private copying, any medium
- Article 5.2(c) Library exception, any medium
- Article 5.3(a) Illustration-teaching or research
- Article 5.3(b) People with a disability
- Article 5.3(j) Advertising a public exhibition
- Article 5.3(n) Communication in library only
- Article 5.3(o) Existing analogue exceptions
EU copyright Directive

Article 5.5 (three step test)

All the exceptions may only be applied
- in certain special cases;
- which do not conflict with the normal exploitation of a work and;
- do not prejudice the legitimate interests of the rightholder.
EU copyright Directive

Article 6 Technical protection measures

- Link between the application of TPM and ability of users to avail of their exceptions;
- Some exceptions in the digital environment protected by law;
- But, interactive on-demand services governed by agreed contractual terms not protected.
Article 6.4

- Encourages agreement between rightholders and users;
- ensures protection for exceptions 5.2(a), 5.2(c), 5.2(d), 5.2(e), 5.3(a), 5.3(b), 5.3(c);
- option of protection for 5.2(b);
- but, contracts override exceptions in the "on-demand" environment. Big disappointment.
EU copyright Directive

National implementation

- National transposition within 18 months;
- copyright framework has been safeguarded;
- create strategic alliances;
- national lobby needs to adopt optional exceptions;
- *acquis communautaire* for “economic ends”;
- ensure narrow interpretation of Article 6.4.4.
EU copyright Directive

EBLIDA national implementation lobby

- co-ordinating EU-wide national copyright group;
- sharing information and expertise;
- liasing with Commission and governments;
- monitoring lack of harmonisation;
- supporting national EFPI CC campaigns.
EU copyright Directive

Summary of copyright Directive

- Successful library lobby, effective powerful, single voice;
- damaging library proposals adopted during the first reading in Parliament overturned;
- users have a say in the copyright debate;
- delicate balance struck between rightholders and users;
Summary of copyright Directive (contd)

- copyright framework has been safeguarded;
- unharmonised exceptions;
- private copying exception narrowed further by Parliament during the second reading;
- users have less rights in the online environment, as contracts can override exceptions.
Related copyright issues

**EU Information Society Directives**

- January 2000
  Electronic signatures Directive
- May 2000
  E-commerce Directive
- June 2000
  Dual use goods and technology regulation
- May 2001
  Copyright Directive
Related copyright issues

- **EC review of the database Directive (1996)**
  EC planning to review late 2001; study of national implementation.

- **Management of copyright**
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