

Current Copyright Issues Relevant to the European Library Community

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Outline

- Recent studies and policy papers
- Issues most relevant to libraries:
 - Mass-scale digitization of library holdings and archives
 - Harmonizing limitations and exceptions for libraries
 - Other issues:
 - Evaluation of Database Directive
 - Term extension of sound recordings

Recent EC studies and policy papers

- IViR studies for European Commission
 - Recasting of copyright for the knowledge economy (2006)
 - Evaluation of Information Society Directive (2007)
- EC Communication on ‘Creative Content Online in the Single Market’, COM(2007)836 final
 - Commission Staff Working Document
- EC Green Paper on ‘Copyright in the Knowledge Economy’, forthcoming

Mass-scale digitization of library holdings and archives

- Problems:
 - EU InfoSoc Directive permits digital preservation and archiving, but access only via on-site networks
 - Transaction costs of mass-scale rights clearance
 - Unlocatable right holders ('orphan works')
 - EC Rec. 24/8/2006: MS's must facilitate use of orphan works
 - Possible solutions:
 - Comp. licensing following reasonable search (Canadian model)
 - Extended collective licensing (Nordic model)
 - Collective licensing agreements with warranty
- à Solutions must be 'exportable' throughout Europe!**

Harmonizing limitations and exceptions for libraries

- Problem:
 - EU InfoSoc Directive has not really harmonized L&E's
 - Divergence of national L&E's creates obstacles to Community-wide library services
- Possible solutions:
 - Coordinate L&E's at national level
 - Give mandatory status to number of L&E's (IViR 2007)
 - International instrument on L&E's (Hugenholtz/Okediji '08)
 - Chilean proposal at WIPO SCCR (March 2008)
 - EBLIDA should codify basic set of L&E's for libraries:
 - Preservation, format shifting, private copying, disabled, etc.

Evaluation of EU Database Directive

- Problems:
 - Lack of clarity, danger of data ‘lock-up’, no proven positive impact on EU economy
- Possible solutions (EC Evaluation Report 2005):
 - Repeal Directive
 - But how? With what effect?
 - Repeal or adjust sui generis right
 - Harmonize L&E’s with InfoSoc Directive
 - ‘Do nothing’

Terms Extension of Sound Recording

- Problem:
 - EC has announced term extension for neighboring rights of performing artists (50 à 95 years)
 - But record industry is really behind this
 - Term extension of sound recordings will have consequences for spoken books, audio records, etc.
 - Undermines mass digitization projects
- Possible solution:
 - Oppose term extension!

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