

## Reject the Term Extension Directive Press Release, Joint Statement January 2009

*The Signatories are the European Consumers' Organisation (BEUC), the European Digital Rights, the Copyright and other Legal Matters (CLM) Committee, the International Federation of Library Associations and Institutions (IFLA), EBLIDA, Consumer Focus, the Open Rights Group, the Electronic Frontier Foundation (EFF) and La Quadrature du Net.*

The European Parliament is being asked to nearly double the term of copyright afforded to sound recordings. Industry lobbyists suggest that extending copyright term will help increase the welfare of performers and session musicians. But the Term Extension Directive, which will be voted on by the Legal Affairs Committee in a few weeks' time, will do no such thing. Instead it will hand millions of Euros over to the world's four major record labels, money that will come direct from the pockets of European consumers. The majority (80%) of recording artists will receive between €0.50 € 26 a year (see *Proposal to extend the term of copyright protection on sound recordings, response of the Open Rights Group*, available at [http://www.openrightsgroup.org/uploads/080829\\_ukipo\\_ectermextension.pdf](http://www.openrightsgroup.org/uploads/080829_ukipo_ectermextension.pdf)).

Helping poor recording artists is a commendable aim. But the Term Extension Directive insults these good intentions. Andrew Gowers, former editor of the *Financial Times*, who conducted an independent review into the intellectual property framework for the UK Government in 2006, has called it out of tune with reality (see Gowers, A "Copyright extension is out of tune with reality", *Financial Times*, 14 December 2008, available at <http://www.ft.com/cms/s/0/ba280756ca0711dd93e5000077b07658.html>). Professor Bernt Hugenholtz, who advises the European Commission on intellectual property issues, has called it a deliberate attempt on behalf of the Commission to mislead Europe's Parliament (see Hugenholtz, B *Open Letter concerning European Commission's 'Intellectual Property Package*, available at [http://www.ivir.nl/news/Open\\_Letter\\_EC.pdf](http://www.ivir.nl/news/Open_Letter_EC.pdf)). If passed, the Term Extension Directive will have serious consequences for Europe's IP policy.

- Any extension of copyright term will take money directly from consumers' pockets. It will also consign a large part of Europe's cultural heritage to a commercial vacuum
- Europe's leading IP research centres have clearly shown the proposal does not do what it purports to do help the poorest performers. It is simply a windfall for the owners of large back catalogues and the top earning performers
- the proposal will undermine public respect for copyright

law and introduce an unworkable and unproven framework for copyright, at the very time when Europe's copyright framework needs to be at its most robust.

We therefore ask you to vote to reject this directive, as per *Amendment 15* of the ITRE opinion (David Hammerstein).

## Country Report France

### The « Hadopi » Law Very complicated and still under discussion By Michelle Battisti, EBLIDA-EGIL Expert Group

The famous Bill that implements the graduate response, quickly adopted by the Senate on the 30 October 2008, will be examined in 2009 by the Chamber of Deputies. The French government wants it to be rapidly passed.

In the present version, libraries would be liable for the access to the Internet that they provide to their users. Because libraries are both likely to be a provider and a subscriber to the Internet, the IABD (Interassociation Archives-Bibliothèques-Documentation represents 17 French associations, <http://www.iabd.fr>) has presented this problem to the Chairman of this law.

### The Copyright Law A new decree but many difficulties in its application

After the EUCD implementation, in August 2006, several new exceptions have appeared in the French Law: exceptions for preservation, for the illustration of teaching and research, for the benefit of people with a disability and reproduction by the press of works in connection with the reporting of current events.

The decree published on the 19 December 2008 for the application of the exception for people with a disability, limits the range of this exception.

The exception « Teaching and Research » should have come into effect from the 1 January 2009. If universities have renewed, for one year, their contracts with several collecting societies, we don't know how the exception will be applied by the other educational establishments.

The IABD has seized the opportunity offered by the Hadopi Bill to present an amendment that would allow disseminating the works reproduced thanks to the exception "Preservation".

Besides, no matter has been referred to the commission

created by the French Copyright Law in order to arbitrate the disputes related to the articulation between the exceptions and the technical protections.

### Other aspects

Still being debated is the question of liability between those who host information (are we talking about ISPs) and publishers, where the liability is much less for the first category in the wording of the national legislation as implemented in accordance with the Directive on Electronic Commerce

- ◆ From 2008, France has a new minister responsible for the Digital Economy. The IABD has organised a workshop on the offer made by publishers to libraries during the seminars he launched in June 2008.
- ◆ In 2008, the Council created by the ministry of culture, has published a report on Orphan works and another one related to Internet service providers.
- ◆ The IABD has answered the questions asked by the European Commission in the Green Paper and opposed to the project that would extend the term of the neighbouring rights in sound recordings.

### New Regulations for Library Coordination and Cooperation in Spain

By María Antonia Carrato Mena, Head of Sub Directorate General for Library Coordination, Ministry of Culture, Spain

Last 1<sup>st</sup> January, the new Regulations for Library Coordination and Cooperation came into effect. These regulations are the result of the development of the Law 10/2007 on Reading, Books and Libraries which was approved last year.

They are both national regulations. It should be pointed out that Spain is a decentralized country in which three territorial levels coexist, each of them with its own autonomy and competences: state, autonomous regions and local administrations. The new regulations deal with two issues, both of which are a competence of the State in library matters: State libraries and library cooperation.

One of the regulations deals with the Council of Library Cooperation, which is the body responsible for the administration of library cooperation among all the public administrations -state, autonomous regions, local administrations and universities-, and all the different types of libraries- national and regional, public, school, academic and special libraries. The Council of Library Cooperation composes a plenary committee, a standing committee, five cooperation technical commissions – one for each type of library already mentioned – and working groups for specific issues. It was established last March and its commissions and committees started working immediately.

The other regulation controls the coordination bodies of the State libraries. Most of these libraries are special libraries and match, basically, the types included in the

IFLA Division of Special Libraries. In this regulation two types of bodies of coordination are planned. A general one, with a representative from each of the Departments or Ministries into which the Spanish General State Administration is divided; and the others, specific ones for each Department or Ministry, composed, each of them, by representatives of the libraries belonging to those Departments or Ministries.

In both cases the aim is to improve the processes and services offered and developed by libraries, so that they are adjusted to international standards, so more citizens can profit from them.

The Law and the Regulations can be consulted here (in Spanish):

- ◆ Law 10/2007 on Reading, Books and Libraries: [http://travesia.mcu.es/documentos/ley\\_10\\_2007\\_lectura\\_lyb.pdf](http://travesia.mcu.es/documentos/ley_10_2007_lectura_lyb.pdf)
- ◆ Regulation on the Council of Library Cooperation: [http://travesia.mcu.es/documentos/rd\\_1573\\_2007\\_reglamento\\_ccb.pdf](http://travesia.mcu.es/documentos/rd_1573_2007_reglamento_ccb.pdf)
- ◆ Regulation on the Coordination of State Libraries: [http://travesia.mcu.es/documentos/rd\\_1572\\_2007\\_regulan\\_ocb.pdf](http://travesia.mcu.es/documentos/rd_1572_2007_regulan_ocb.pdf)

### Unique agreement between libraries and right holders

By Andrew Cranfield, EBLIDA Director

There is some good news from the Netherlands concerning the possibilities for libraries to digitize their collections. The Dutch library umbrella, FOBID, has reached an agreement with the right holders' organization, VOI@E, and Digiti@E Committee (Digitisation of Cultural Heritage) that will help clear the way for libraries to digitize and make their collections available to the public.

The essence of the agreement *is that the libraries that are represented receive permission, on certain conditions, from virtually all right holders to digitise their collections and make them publically available on their own premises for teaching or research purposes. The works concerned must be part of the Dutch cultural heritage and no longer commercially available. The libraries do not need to pay the right holders as long as the works are only made available on their own premises.*

*Separate consent is required, however, if the digitised works are made more widely available, for example by means of remote access or via the Internet. In that case, an agreed payment must be made; agreements in principle can be made regarding payment by the Digiti@E committee. Even then, the library will not need to go in search of the right holders because this will be done by collecting societies such as Lira and Pictoright. (from the press release issued 30<sup>th</sup> January 2009).*

As far as we are aware this is the first agreement of its type anywhere in the world and it will be interesting to follow this initiative and to see whether it can be replicated in other countries.