



EBLIDA Response to the "[Questions for Online Consultation](#)", annex to the Communication from the Commission '[i2010 Digital Libraries](#)', Brussels, 30.9.2005, SEC (2005) 1195, {COM (2005) 465 final}. Response to the questions *seriatim*

January 2006

EBLIDA, the European Bureau of Library, Information and Documentation Associations, is an independent, non-profit umbrella organisation of national library, information, documentation and archive associations in Europe.

Digitisation and online accessibility

1) *What additional measures could be taken at national and European level to encourage digitisation and online accessibility of material in all European languages?*

Additional EU funding, especially for the European activity of the '[Registry of Digital Matters](#)' which should be publicised by the European Commission. The Registry is a continuously updated database of digital works. It is designed to avoid duplicated effort, to build critical mass of digitised materials, and to develop standards for metadata and access.

Priorities should be set by national authorities (e.g. national libraries), according to the UAP principles (Universal Availability of Publications): every country is responsible for its own publications. This would mean, here, that every country should normally digitise material of its own national origin only.

2) *What measures could be taken to promote private investments and new business models such as public-private partnerships for digitising and making historical collections accessible?*

The promotion of private investments may be useful, provided that private partners do not acquire new copyrights. Material in the public domain should remain in the public domain after being digitised. If commercial enterprises take part, they should adopt open source software solutions.

3) *What measures of a legislative, technical, organisational or other nature, could facilitate the digitisation and subsequent accessibility of copyrighted material, while respecting the legitimate interests of authors?*

The Scandinavian model of extended collective licensing would be a suitable method for clearing rights to give access to digitised material. According to this model, it is possible, in specific cases specified by law, to make agreements with collecting societies which are binding also for authors and other right-holders, who are not members of the collecting society.

Legal deposit should be introduced for published material in electronic formats. ([cf. Danish Legal Deposit Act](#). Unauthorised English version)

The Danish Copyright Act allows

- the general public to access material acquired by legal deposit in electronic formats on site in the Legal Deposit Libraries, § 16a (2), and

- o Remote online access to such material for research purposes, §16a (3).

4) *Is the issue of orphan material economically important and relevant in practice? If yes, what technical, organisational and legal mechanisms could be used to facilitate wider use of this material?*

It is high time to solve the problem of orphan material, which has potentially wide importance both for libraries and for conventional publishers. By 'orphan material' we understand: works known to be in copyright whose right-holders are unknown. This material is effectively out of scope for exploitation of any kind, even though the lawful right-holder may have no knowledge of his rights, or no wish to exploit them. We suggest the solution of a 'preclusive claim', whereby after a diligent search to trace the right-holder, libraries might advertise their intention to digitise certain named works unless the right-holder identifies himself within a certain period of time, e.g. 3-6 months. Otherwise the digitisation may proceed without risk of legal action against the library concerned; with a proviso that if the right-holder is subsequently identified, the library should pay a fair remuneration. A related question is the issue of published works which are still in copyright but where the relevant right-holder has no wish to undertake digitisation. In such cases it could be made compulsory for the right-holder or collecting society acting for him to offer a licence for digitisation. Such a regime operates successfully in Canada.

5) *How could public domain material and other material available for general use (voluntary sharing) be made more transparent and widely known in order to facilitate its online availability for subsequent use?*

A good way would be to have the copyright status included in the metadata and encoded in the file in a standardised manner. The DUBLIN CORE: MPEG21 REL provides one method. The *Creative Commons* project also proposes a standard.

For the proper use of Technical Protection Systems and Digital Rights Management Systems it is very important that this work is furthered. The Commission might make contact with the relevant standardisation bodies.

Preservation of digital content

6) *What priority measures – in particular of an organisational and legal nature – should be taken at national and European level to optimise the preservation of digital content with the limited resources available?*

Priorities should be set by national authorities (e.g. national libraries), which should follow the UAP principles (Universal Availability of Publications): every country should be responsible for its own publications. This would mean, here, that every country should normally preserve material of its own national origin only.

7) *Is there a risk that national legal deposit schemes lead to a multiplication of requirements on internationally active companies? Would European legislation help avoiding this?*

No, not if one abides by the UAP principles. Furthermore, 'publication' of electronic works in more than one country would lead to only trivial requirements on international companies because the cost of delivering electronic material to a library is near zero. On the other hand it remains supremely important, from a cultural and scientific point of view, to maintain a comprehensive collection in each national library. The international companies themselves benefit from this as

do all companies and citizens. A related question is the availability of digital works acquired by libraries by legal deposit. The solution proposed in the United Kingdom is for such works to be accessible only within the library building. In the context of digital works this is a very restrictive solution. In Denmark a copy of such a work may be delivered by the national library to any researcher. Researchers may be accredited as such by an institution, for example a university, or may seek self-accreditation, for example, by showing that they have had their work published.

8) How could research contribute to progress on the preservation front? Which axes of work should be addressed in priority by the forthcoming Specific Research

No comments, except that open source solutions should be insisted upon.

The Hague, January 2006