

Position Paper

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Lending of e-books by public libraries

E-book lending as a means for economic development

The library stimulates reading, tackles illiteracy, offers lifelong learning, knowledge and education, encourages people to get acquainted with literature, art and culture, and serves as a community meeting place. The library, as a public provision, fulfils an important societal role and is an indispensable link in today's increasingly digitalised society. However, digitisation comes with a new set of societal challenges. The library must meet these challenges in order to continue fulfilling its societal role.

More specifically, the public library must be able to provide access to digital content in the form of e-books. Public libraries are obligated by law to provide people with access to information, and today by definition this includes access to digital information and e-books. E-books are forecast to take between 40 and 60% of the book market by 2025. From a young age, children are taught to work on tablets and get to know the digital world. New generations will turn more to e-books when reading for pleasure.

Moreover, access to e-books can contribute to economic development in terms of stimulating creativity and exchange of knowledge. This is one of the European Commission's key arguments for creating the Digital Single Market. Copyright law should not restrict this process. If the public library to continue fulfilling its role in society, they must be able to provide easy access to e-books.

The context of lending right

One of the greatest barriers in achieving this is that the "lending right" arrangement of copyright law is not applicable to e-books in practice. Public libraries are allowed to lend all physical books that they have purchased to their members, under the condition that the rightful claimant (the author/publisher) is compensated. Libraries then are not required to ask permission before lending a book; this is the lending right. The lending right allows for uniform terms for the use of e-books from the library for patrons as long as a lending right remittance is paid to the authors.

Applying the lending right arrangement to e-books would make them much more accessible to citizens. There is an on-going discussion as to whether the definition of lending in the Rental and Lending Directive stretches to e-books. We argue that it should, and that this should be explicitly stated in the Directive.

The context of lending right

Public libraries are allowed to lend all physical books they bought to their members. This is allowed under the condition that the rightful claimant is compensated. Libraries do not have to ask permission before lending a book. This is called lending right.

Given that the lending right arrangement is not applicable to e-books in practice, libraries are not yet allowed to lend e-books to their members without asking prior permission of the rightful claimant. In addition, an e-book can only be lent if arrangements are in place specifying how long an e-book can be lent to library members. However, under current copyright law, it is impossible to establish a uniform supply of e-books because an individual arrangement would have to be made with every publisher.

Copyright reform

In order for the public library to provide a much needed service to its community, it is essential that the lending right arrangement be applicable to e-books. The current situation of individual arrangements with publishers is impracticable. For physical books, the payment of a lending right remittance is sufficient and this should be the case for the lending of e-books as well.

We propose inserting an exception in the Copyright Directive 2001/29 for lending e-books. The exception should be the same as the one applying to physical books; that books bought by libraries can be lent to members of the library. Moreover the Rental and Lending Directive should be revised in such a way that the definition of 'lending' in Article 2 also refers to lending of e-books.

The role of public libraries

The digitisation of society has led to an abundance of immediately available information. Public libraries take responsibility for helping their communities navigate and select relevant information through provision of digital and information skills training. Self-reliance and a strong skill set are key to full participation in today's society, and public libraries are ideally placed to serve their community's needs in terms of skills development. It is crucial that public libraries are able to continue fulfilling this role as technology advances.

Conclusion

The public library is a unique space where citizens can learn, upskill and become self-reliant. This service is increasingly necessary in today's information-loaded society. In order to move forward, public libraries must keep up with developments in digitisation, which is why access to e-books is so important. E-book lending requires a copyright reform that would extend the application of the lending right to e-books. Therefore, we propose an additional exception in the Copyright Directive that would grant e-books the same lending right status as physical books, as well as a revision of the definition of 'lending' to include e-books.

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