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Public Libraries in Brussels: grant us Public Lending Right for e-books

Next month, the European Commission will be presenting its packages of measures on the required copyright reform. This is the start of a lengthy process of debates in the lead-up to the establishment of a new European directive. For the Netherlands Association of Public Libraries (VOB) this therefore presents the perfect opportunity to address Brussels with a plea for a statutory Public Lending Right (PLR) for e-books. Two attending Members of the European Parliament (MEP) support the public libraries in their entreaty.

The public library sector does not have a tradition of militant lobbying for its own interests. The vice-president of the VOB, Chris Wiersma, who is also the director of *De Nieuwe Bibliotheek* library in Almere in the Netherlands, acknowledges this without any shame. Naturally, though, libraries do have their interests and concerns. And in the digital age even more than ever. No PLR exists for e-books. Therefore, libraries can only lend out e-books for which they have purchased a license from the publisher. It is not possible to purchase e-book titles and make them available to their members at their own discretion, as is permitted for printed books. This needs to change.

Thus, it was with a bit of shy pride that Wiersma pleaded the case with a delegation from the public library sector last week during a *breakfast session* in the Brussels Stanhope Hotel. The director of the Dutch *Bibliotheek Kennemerwaard* library, Erna Winters, explained to the Members of the European Parliament that libraries carry the legal responsibility to provide access to information, so that citizens can form an opinion and fully participate in a democratic society. However, in the digital age this is no longer possible.

"Libraries are confronted with a huge problem in the execution of their legal duty," Winters states. "There is an increasing demand for e-content. The expectation is that by 2025 forty to sixty per cent of the book market will consist of e-books. The European citizens expect their libraries to evolve along with these developments. Libraries are more than prepared to do so. However, within the current copyright law e-books are not considered books, but services. This means that libraries have to negotiate with each publisher about the price, lending term, number of loans, etcetera. If the negotiations do not work out, the library in question is not permitted to purchase the e-book. Their customers – European citizens, your voters – remain deprived of this information."

Winters had further arguments. Europe has about 75 million illiterate citizens. With the large inflow of refugees this number is increasing. Libraries help them – including with developing digital skills. Part of this is optimal access to the digital world. In addition, Europe wants to be a leading knowledge economy. To this end, it needs well-educated, competent and creative people. Therefore, a broader copyright law is necessary, providing more freedom of movement to its creative citizens.

Director Vincent Bonnet of the European Bureau of Library Information and Documentation Associations (EBLIDA) indicated that the digital revolution has finally brought a dream from the 1950s within reach: 'the library without borders'. The idea was: a library that brings books to the reader, wherever that is, instead of the reader always having to visit the library. Partly, this dream has been realised: "Libraries are not just warehouses, but *community hubs* that often feature as the most widely visited public spaces, and in remote areas or in underprivileged neighbourhoods quite commonly as the only public service available."

It is only the lack of PLR for e-books that is preventing the libraries from literally being accessible from anywhere. For example, in February of last year British libraries were only able to actually lend out 3 of the 45 books from the top 100 available as e-books. In addition, libraries with an

archive function cannot archive e-books, as contracts prohibit this. Nor can libraries with cross-border partnerships lend out e-books to each other, as contracts prohibit this. Meanwhile, all the libraries in Europe combined purchase content from publishers for a rough amount of 5.1 billion euros.

The public library sector delegation also brought an author with them to demonstrate that this group is not at all against the lending of e-books. Children's book writer Nanda Roep, who has been self-publishing books for about five years, declared that a third of her income comes from lending fees – plus a third from royalties and a third from fees for shows. In 2010, she sold 10,000 books and her work was lent out 200,000 times. In the digital future this won't be any different: in the past months Roep sold 18 e-books and her e-books were borrowed 450 times.

However, due to a lack of one fixed agreement, which would be in place if e-books fell under the PLR, all authors who do not self-publish their books have no insight whatsoever into what publishers do with their work. A study by the Vereniging van Letterkundigen, *VvL* (Dutch Association of Writers) from last October indicated that many writers and translators were not even aware that their e-books are lent out. "Publishers determine whether the library is permitted to lend out an e-book. Publishers also determine the amount that needs to be paid. Moreover, the publishers then determine how much of the paid amount goes to the author. For clarity's sake: authors are not informed of what amount the publisher demands from the library."

Member of the European Parliament Julia Reda

The German Member of the European Parliament Julia Reda (The Greens–European Free Alliance and Pirate Party Germany) supports the call for the introduction of PLR for e-books. What's more, the 'vast majority' in the European Parliament wants this too, Reda claimed after the conclusion of the meeting. The measure was included in the report on the copyright law reform, compiled by the parliament at its own initiative and accepted in July. Reda was the rapporteur, which is why it is also referred to as the Reda Report. "If the European Commission refuses to implement this, then they will have to come up with solid arguments to back up that decision."

During the gathering of the public libraries, Reda underlined the social and economic importance of libraries. However, she mainly spoke about the best method for introducing the PLR. According to her, an e-book should simply no longer be considered a service, but deemed a product. This would allow e-books to be included in the existing consultation structures, such as that of the Dutch Public Lending Right Office, in which libraries and rightholders negotiate on fair compensation. Moreover, it is aligned with the experience of the consumer and allows for the lowering of the VAT rate for e-books.

Unfortunately, a leaked document indicates that the European Commission is not leaning in that direction. The Commission, as Reda went on to explain later, is only willing to create options for digitizing existing collections and making e-content available in closed networks only. For instance, students logging into the university library while being on site and then viewing e-content from there. "That is quite a limited notion of what e-lending actually is. The Commission demonstrates little ambition. Hopefully, we – meaning the entire parliament – will be able to exert pressure to make them more ambitious."

Perhaps the "aggressive lobby of mainly newspapers and academic publishers," as Reda describes it, played a role in this. It is hard to determine. However: "I do not really understand what publishers are so afraid of. Libraries have been lending books, music and films for decades. This poses no competition; it actually makes those materials more popular. Among library members there is a demand for materials they consider of good quality, own themselves, or would recommend to people in their surroundings. Publishers also need not fear that consumers will too often borrow a popular book digitally: as libraries pay compensation, they run the risk of spending

their entire budget on just one title – as was the case once in Sweden. Libraries will want to prevent that from happening. A balance will emerge in a natural manner."

If book publishers are not careful in their opposition to e-lending, the same might happen as that which occurred with academic publishers. The way in which they wield their market power harms their image, resulting in politicians being less inclined to listen to them. "Academic publishers are forcing libraries to take out licenses on collections, which means that libraries can no longer choose for themselves. They wish to see extra money for texts used for *data mining* and threaten with blocking access if this is done without extra payment. Because libraries do not own the e-content, they are powerless. As a consequence, government – especially also in the Netherlands – provides great support to open access."

According to Reda, it is not at all about denying publishers income, but about levelling the playing field for libraries. At the moment, they are not in a position to negotiate with publishers. "That is also why it was good to hear from an author that this group is not automatically represented by the publishers. Authors would also gain more control over their income from lending with the introduction of PLR for e-books."

Member of the European Parliament Mary Honeyball

The British Member of the European Parliament Mary Honeyball (Progressive Alliance of Socialists and Democrats and the Labour Party) mainly spoke about the importance of the copyright law reform during the meeting. "I have been here for as long as fifteen years. The fact that the Commission is now prioritising this is already a breakthrough. It is particularly important to create clarity around the issue. There are so many different laws throughout Europe. And, secondly, the makers themselves must get a fair fee for their work." This also applies for when their work is lent out, she added.

"For the lending of physical books, a balance has emerged between libraries and rightholders. Now there are digital books as well. It is terrible to have to ascertain that the Commission is turning away from that subject in relation to libraries. It seems as though they have no idea what to do with this. However, this issue needs to be considered. The e-book will not go away. It also needs to become available to library members. If the lack of good regulations disturbs the balance between libraries and rightholders, this would be regrettable – especially for the communities to which libraries play such an important role."

Publishers should not have to argue that e-lending already exists, as for instance the British Publishers Association does, Honeyball claimed afterwards. Certainly not all titles are suitable for e-lending. "And if people will only be able to acquire that title by paying 10 pounds on Amazon, this will only lead to increased piracy. The fear that PLR for libraries undermines their business model does not make any sense. If libraries do not offer this, people will simply look elsewhere to get a title for a small price or for free. And libraries can at least easily technically arrange for only their members to have access."

The preference would hereby solely go out to the *one copy, multiple use* system, as applied in the Netherlands, for instance. "It would mean that more people could read the material than if libraries would only have a limited number of e-books available for lending simultaneously. The more people are reading, the better, is my personal opinion. I believe that we should not underestimate the resulting PR effect. Many non-members will then purchase a book recommended to them by library members."

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