

CDNL Annual Meeting, Gothenburg, 12 August 2010

Annex to Scope note for Discussion Group A

BRITISH LIBRARY: INTERNATIONAL SURVEY ON ELECTRONIC LEGAL DEPOSIT

1. In 2009, the British Library conducted a survey of national libraries, to ascertain the current state of play internationally with regards the legal deposit of electronic publications. A questionnaire was issued to all members of the Conference of European National Librarians (CENL), in which all the member states of the Council of Europe are represented (including the EU countries), plus the remaining G8 countries and a number of other nations.
2. Excluding the UK, a total of 35 responses were received from 34 nations; both the State Library in Moscow and the National Library in St Petersburg responded for Russia. This total comprised responses from the national libraries in 23 EU nations, a further 6 European nations outside the EU, and Australia, Canada, Japan, New Zealand and USA.
3. In order to aid comparison with the UK, the questionnaire distinguished between different categories of material: offline publications (A1), freely available online material (A2), commercial and protected online publications (A3), and enquiry-driven structured data sets (B2/B3).
4. For each category the questionnaire basically asked:
 - whether or not e-legal deposit or equivalent legislation had already been enacted, or would be in place before 2010;
 - whether the legislation had actually been implemented and put into effect;
 - whether material is already being deposited *under legislation*; and
 - broadly what terms of access are applied.

Passage and implementation of legislation

5. In 26 of the 34 (76%) responding countries, e-legal deposit legislation has already been passed and implemented, at the very least for offline publications. Two more expected it to be in place by 2010. Thus only six responding countries (18%) have not already passed and implemented, or plan, legislation. These exceptions are: Australia, Cyprus, Malta, Netherlands, Switzerland and USA. *[See paragraph 12 below]*
6. National libraries in 12 countries (35% of respondents) are already able to collect free online material under legal deposit, and are doing so in practice, including domain-wide harvesting in periodic 'snapshots'. They are:
 - Norway (since 2001)
 - Iceland (since 2003)
 - Canada and Denmark (since 2004)
 - Estonia, France, Germany, Latvia, Lithuania, New Zealand and Slovenia (all since 2006), and
 - Finland (since 2007)
7. The same 12 advise that they are also entitled to collect e-books, e-journals and other commercial or protected online publications under the same legal deposit legislation. Nine of them (all except Finland, Latvia and Norway) were already doing so in 2009, either experimentally or on an ongoing basis.
8. Austria and Sweden both reported that they had legislation going through this year, which will also enable them to collect such material under legal deposit from late 2009 or early 2010.
9. Six national libraries (in Denmark, Finland, France, Germany, New Zealand and Norway) advised that their existing legislation even includes an obligation to deposit or to enable collection of structured data behind query-driven services such as national railway journey planners or telephone number enquiry systems. However, it was not clear whether any of these libraries had actually put this part of their legislation into practice yet, beyond initial testing.

Access arrangements

10. Within a short questionnaire it was difficult to ask precise questions about the terms of access for reading and copying which apply to different categories of material.

However the 12 nations above who are collecting online material under legal deposit gave approximate indications as shown in the table below.

National Library	Freely available online material (A2)	Commercial and protected online publications (A3)	Notes
Canada	Available remotely and without restriction in the library	Unrestricted within the library	No downloading / electronic copying permitted
Denmark	Available remotely and without restriction in the library	Available remotely and without restriction in the library	BUT only for post-Masters graduates for scholarly and statistical research
Estonia	Available remotely and without restriction in the library	Unrestricted within the library	May need to impose restrictions for some commercial publications
Finland	Unrestricted within the library	Unrestricted within the library	
France	Unrestricted within the library	Unrestricted within the library	BUT reader passes only given to scholarly researchers (subject to interview)
Germany	Available remotely and without restriction in the library	Restricted to one concurrent user per item	
Iceland	Unrestricted within the library	Unrestricted within the library	Plans for making content available remotely within the near future
Latvia	Unrestricted within the library	Subject to restriction (of what kind was not specified)	
Lithuania	Available remotely and without restriction in the library	Unrestricted within the library	
New Zealand	Available remotely and without restriction in the library	Restricted to 3 concurrent users per item	
Norway	No access permitted	Not specified	Access embargoed because of personal data issues rather than legal deposit terms. The library is seeking a special licence from the data commissioner
Slovenia	Unrestricted within library (and soon to be available remotely)	Unrestricted within the library	

- From this it would appear that the terms of access for research are similar to - or in many cases more generous than - those that have been proposed for the same categories of e-publication in the UK.

State of play in responding countries without e-legal deposit

12. As stated above, only six responding national libraries (18%) have not already passed and implemented, or plan, legislation. The exceptions are Australia, Cyprus, Malta, Netherlands, Switzerland and USA.
- In Australia, the national library undertakes selective web archiving with the permission of publishers and creators.
 - In the Netherlands, which has a tradition of voluntary, not legal, deposit for printed books and journals, the Koninklijke Bibliotheek collects electronic publications for its deposit collection (e-Depot) on the basis of voluntary arrangements with publishers (the Dutch Publishers Association as well as individual publishers, such as Kluwer and Elsevier).
 - In Switzerland, the Swiss National Library does not have legal deposit for electronic resources (nor indeed for printed publications which are delivered to the Swiss National Library under an agreement with the Swiss Publishers Society). The electronic collection is being built up selectively from publications freely available on the internet, theses, and federal electronic publications, but without legislation.
 - In the United States, the Library of Congress (LC) reported that it was engaged in a process to have legislation introduced that would allow LC to demand deposit of electronic resources as determined useful for building its collections. As envisioned, the legislation would enable LC to initiate a demand for content on a case-by-case basis, rather than on a wholesale basis. This process was being pursued in 2009.

Conclusions

13. The conclusions we draw from the survey are as follows:
- E-legal deposit is now widespread. 82% of respondents have either implemented it already, at the very least for publications on CD, or they reported they would do so by 2010. Only 18% have not and, in such cases, national libraries are actively collecting material on a selective and/or voluntary basis.
 - In response to the rapid growth of online publishing, 46% of the e-legal deposit laws implemented at the time of the survey (54% by 2010) also permit collection of freely available websites and commercial or protected online publications.

- National libraries are benefiting from e-legal deposit to avoid a digital black hole. 35% of respondents are using it to collect online material, including domain-wide harvesting in periodic 'snapshots', in one case since 2001.
- There is little purpose in collecting material unless it can be made accessible. It would appear from responses that the terms of access for research are similar, or in many cases more generous, than those that have been proposed for the same categories of e-material in the UK.

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