

# Ligue des Bibliothèques Européennes de Recherche (LIBER)

## European Library Declaration on behalf of European National, Academic and Research Libraries

### Copyright

The Ligue des Bibliothèques Européennes de Recherche (LIBER) is the principal association of the major national, academic and research libraries of Europe. It represents and promotes the interests of national, academic and research libraries in Europe, and its membership includes the majority of national, academic and research libraries in the countries of Europe.

LIBER makes the attached *European Library Declaration* on behalf of the national, academic and research libraries of Europe, taking into account the needs of the national, academic and research community, and requests the European Commission, the Members of the European Parliament, the Council of Ministers and National Governments to pay special attention to the provision of balanced and well-considered solutions to these vital copyright issues that must be resolved over the coming months.

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### 1. Academic libraries are fundamental for research as well as for academic education

#### Academic libraries

- select, collect, catalogue and make available educational and research materials produced by commercial publishers as well as those of non-profit making organizations that exist to supply the needs of universities and research organizations
- make an essential contribution to the financing of research publications
- provide long-term access to research material in an organized co-operative way.

Academic research requires access, in principle, to the whole range of published material. No single researcher or library can purchase the whole spectrum of published material of research interest. As a consequence the researcher needs the library and the library needs the community of libraries.

The ability of libraries to exchange research material for their users on demand is a vital requirement to encourage research in society.

In the electronic world the amount of published material has increased: the existence of the Internet makes it much easier, for example, to deliver pre-prints and other papers promptly to the scientific community without the need for special investment in publishing. However, by comparison with print, the durability of electronic materials and the provision of long-term access to them is much more difficult to ensure.

It is in the interest of the academic and scientific community that national, academic and research libraries can provide them with permanent access to all the necessary research materials regardless of where and when they have been published. To do so these libraries need well-balanced copyright regulations; it is of particular relevance in the electronic environment.

## **2. Limitations and exceptions in the Berne Convention**

Since the establishment of the Berne Convention it has been accepted in international law that authors have exclusive rights to authorize or prohibit the reproduction of their works. The Berne Convention, however, has also accepted limitations and exceptions in special cases which do not conflict with the normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author.

Within this legal framework the different countries of Europe have made national rules to govern these limitations and exceptions. As a result libraries in Europe are able to make and supply a copy of research materials from a published work (directly or via inter-library loan).

In the past these regulations guaranteed the necessary level of information for researchers and students. Even if a library was no longer able to subscribe to a journal for financial reasons it was accepted that it could provide a user on demand with a copy from a published work which was supplied from another library via inter-library loan.

## **3. The WIPO Copyright Treaty: balancing the rights of authors and the broader public interest**

The WIPO Copyright Treaty (Geneva, 1996) states in the preamble to the document that it has been formulated „recognizing the need to maintain the balance between the rights of authors and the larger public interest, particularly education, research and access to information, as reflected in the Berne Convention“. The agreed statement to Article 1.4 states that existing limitations or exceptions apply in the case of electronic information and that new exceptions should be provided for if needed.

The draft Directive is using these possibilities in an extremely restrictive way.

#### **4. Copying for the purposes of education, research and information**

Copying for education, research and information purposes is lawful in most member states of the European Union. This right must be continued into the Digital Age.

Copying of works must be allowed for the purposes of education, research and information.

Copying within libraries, archives, documentation centres, educational establishments, etc. is necessary

- to convert works into digital form or to migrate digital works to a different medium for archival and preservation purposes to ensure long-term availability
- to provide normal users with a reasonable part of digital works on paper or on diskette
- to meet inter-library lending demands for educational, research and information purposes.

#### **5. Right of communication**

The WIPO Copyright Treaty introduces the new exclusive right of public communication which permits members of the public to access these works from a place and at a time individually chosen by them.

Users of academic and research libraries are a defined group of registered readers, not „the general public“ in the broad sense. This should be mentioned in the Directive and combined with clear exceptions made for the purposes of research and education. Libraries must be able to allow users to browse or view lawfully-acquired digital and electronic material for educational or research purposes. Any requirement for authorization or payment for such use removes from users of libraries the fundamental rights that have until now been available to them in their use of libraries. The explanatory notes for the Directive suggest that licensing between parties should resolve these matters, but it is unacceptable that users' rights should depend on whether a copyright owner is willing to make works available for use in a library or not.

#### **6. Declaration**

European national, academic and research libraries call upon the European Commission and the Governments within the European Union to utilize the full range of lawful possibilities offered by the WIPO Copyright Treaty to formulate well-balanced copyright regulations that will cover the needs of edu-

cation, information and research, ensuring equal access to electronic and to traditional printed material. This will be the most effective way to encourage the economic development of the European Community and to advance the wealth of all its members.

