

The Recasting of Copyright and Related Rights for the Knowledge Economy: Institute for Information Law, University of Amsterdam

By Andrew Cranfield, EBLIDA Director

At the end of last year the Institute for Information Law (IViR) published its report examining the *acquis communautaire* in the field of copyright and related rights. One of the main objectives of the seven directives that make up the *acquis* has been to harmonize the field of copyright at the European level. The authors of the report are sceptical as to the success of this project, pointing out that the territoriality of copyright has been a major hindrance in the process of harmonization and as long as this is not addressed harmonization can in the words of the authors *achieve relatively little*.

Of special interest to libraries are the debate on an extension of the term of protection for holders of rights in performances and phonograms, limitations as set out in the Information Society Directive and the use of orphan works. In line with the Gowers Review this report argues that an extension of the term of protection for these right holders would benefit very few performing artists (i.e. those still popular after 50 years) and only serve to curtail creative endeavours using public domain material.

EBLIDA shares the report's analysis that the list of limitations as defined in the Info Soc directive is detrimental to the fast moving developments of the information society and that *a non-exhaustive list of limitations would allow Member States to respond more quickly than the EC legislature to urgent situations that will arise in the dynamic information society*. We can only hope that the EC recognizes this problem and is prepared to address it.

The Chair of EBLIDA's Copyright Expert Group, Toby Bainton, has already reported in EBLIDA News on some developments concerning orphan works. Orphan works have been identified as an important issue for the European Digital Library and at present many solutions are being discussed. The report recommends that legislative and/or administrative measures for long term solutions for orphan works are best addressed at the national level and it is unlikely that we will see EC legislation on orphan works in order to further harmonise copyright. There seems to be a general consensus that Member States should define their own solutions in line with specific national requirements, but at the same time the solutions should be interoperable among Member States.

The report also addresses the issues of consumer aware-

ness and acceptance of copyright and while the report does not think that, in general, consumers are unaware of the limitations that copyright imposes, it raises the question as to the level of acceptance of copyright. To what extent it is the role of libraries to help create an acceptance of copyright is debatable, but it remains a fact that industry, consumers and libraries need to work together in creating products and access to these that are acceptable to all parties.

In summary the report is also sceptical about the level of overprotection and "upwards" harmonization which has been the order of the day over the last 15 years, something which EBLIDA is certainly in agreement with.

The IViR report, conclusions and recommendations (*full report and executive summary can be downloaded at <http://www.ivir.nl/index-english.html>*) will be discussed at the next meeting of the Copyright Expert Group at the end of April and will, I feel, give us inspiration for the challenges ahead.

News from the Secretariat

The EBLIDA Executive Committee held its March meeting in Coimbra on the 9th and 10th March 2007. Items on the agenda included discussions on the proposed EBLIDA strategy, annual work programme, future conferences and final preparations for the Annual Council meeting in Iceland.

Also discussed at the meeting were the terms of reference, mandates and organization of the expert groups. Several working groups were set up to analyse and investigate the establishment of several expert groups. This will be reported on to Council in Reykjavík.

I would also like this opportunity on behalf of the whole EBLIDA Executive Committee to thank the BAD (Associação Portuguesa de Bibliotecários, Arquivistas e Documentalistas, <http://www.sdum.uminho.pt/bad/>) for their kind hospitality and their excellent organization for our meeting.

EBLIDA Annual Council Meeting, Reykjavík, Iceland, 11-12 May 2007

By Carmen Morlon, EBLIDA EU Information Officer

The fifteenth EBLIDA Annual Council meeting will be held this year on Friday 11 May and Saturday 12 May in Reykjavík (Iceland).

Our annual Council meeting will bring friends and colleagues together to discuss, as usual, the internal affairs of the association on the first day and to elect the EBLIDA President and members of the Executive Committee for the 2007-2009 period on Saturday morning. A major focus of our meeting this year is to make a decision on the EBLIDA Strategy 2007-2010, taking into account the results of the recent open consultation amongst EBLIDA members.

Friday morning will start with Mr Pétur Gunnarsson, writer and president of the Writers' Union of Iceland and Dr Sigrún Klara Hannesdóttir, National Librarian (key note speakers sponsored by Upplýsing and the National and University Library of Iceland). In the afternoon, former EBLIDA Director, Teresa Hackett, will present *eIFL-IP: Advocacy for Access to Knowledge*, a new eIFL service launched in 2005 to build capacity and expertise amongst the eIFL.net library community in developing and transition countries in intellectual property issues. The second day includes presentations to look at the European Digital Library (EDL) from different perspectives.

Our host, Information – the Icelandic Library and Information Science Association (Upplýsing – Félag bókasafns- og upplýsingafræða), has organised a series of social events for Council participants. We are guests of the Reykjavík City Library (Borgarbókasafn Reykjavíkur) at a reception on Thursday evening. The library, open to the public in 1923, is one of the city's oldest cultural institutions. Its establishment was partly due to the sale of fishing vessels owned by the city to France in 1917. The Icelandic Government made it a condition for the sale that a part of the profit would be used to set up a library for the public in Reykjavík.

Then on Friday, we have a reception in the Culture House hosted by the Ministry of Education, Science and Culture. Exhibitions in the Culture House emphasise in particular the history and culture of Iceland, the country's independence and governance as well as its ancient and modern literature. On Saturday afternoon, there is a bus tour "Iceland in Past and Present" hosted by EBLIDA and Upplýsing, which will give Council participants an opportunity to discover Árbæjarsafn, an open-air museum established in 1957; Hveragerði, a town with a population of 2,000 inhabitants where greenhouse cultivation is the primary industry. Here attendees will visit the public library before going back to the vicinity of Reykjavík where a presentation and refreshments will take place at the new information centre of Reykjavík Energy, an independent company which distributes electricity and geothermal water for heating to more than half of Iceland's population.

The agenda, programme, hotel and travel information and an online registration form will soon be available on the EBLIDA Website. Other documents will be uploaded as they become available. If you have any questions or comments, please do not hesitate to contact the EBLIDA Secretariat. On behalf of the EBLIDA Secretariat, I would like to thank our colleague Thórdís T Thórarinsdóttir,

Upplýsing Director for her assistance in organising this year's Council.

Commission recommendation of 18 May 2005 on collective cross-border management of copyright and related rights for legitimate online music services

By Carmen Morlon, EBLIDA EU Information Officer

Parliament adopted on 13 March the own-initiative report drawn up by MEP LEVAI in response to the Commission Recommendation on collective cross-border management of copyright and related rights for online music services.

The report calls for local artists to be protected in any European legislation that affects online music. The European Commission had pursued a non-binding recommendation on this issue although Parliament has called for a directive under the co decision procedure to be put in place "while taking account of the specificity of the digital era and safeguarding European cultural diversity, small stakeholders and local repertoires on the basis of the principle of equal treatment".

In the debate MEPs voiced concern about the damage the original proposal could do to local and national music markets, artists and publishers. They would prefer controlled competition to encourage modernisation "such directive should guarantee right-holders a high degree of protection and equal treatment, ensure "comprehensive transparency" in Collective Rights Managers (CRMs), promote creativity and cultural diversity, and allow "fair and controlled" competition".

MEPs wanted to avoid the over-centralisation of market powers and repertoires by ensuring that exclusive mandates may not be granted to a single or a very few CRMs by major right-holders. In this way, the global repertoire would remain available to all CRMs for the granting of licences to users. They also said that it was crucial to prohibit any form of exclusive mandate between major right-holders and CRMs for the direct collection of royalties in all Member States, as this would lead to "the rapid extinction of national CRMs and undermine the position of minority repertoires and cultural diversity in Europe".

MEPs supported the idea that a CRM should be free to provide commercial users based anywhere in the EU with pan-European and multi-repertoire licences for online uses (including mobile telephony uses), on fair and individually negotiated terms and without discrimination between users. Lastly, the Commission was urged to conduct an assessment of the impact of a global licence for online services and its effects on the economic and social situation of authors. MEP LEVAI said Parliament "wants to make sure that copyrights and related rights are managed properly...". The Commission should carry out a critical analysis of the horizontal concentration in certain sectors of rights management and the effects such concentration will have on rights users and rights holders. The non-legislative resolution is awaiting publication in the Official Journal, available at <http://eur-lex.europa.eu/en/index.htm>.