

Regional Seminar
Exceptions and Limitations to Libraries, Archives and Educational Institutions



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Topic 4 Copyright and Libraries: Current topics

D. Baljid, Board Member of Mongolia Libraries Consortium
 EIFL Copyright Coordinator, Mongolia
baljid@forum.mn



EIFL KNOWLEDGE WITHOUT BOUNDARIES **OVERVIEW**

- Mongolia Libraries Consortium (MLC) and EIFL
- The library context
- Copyright and libraries
- Current hot topics
 - Copyright limitations & exceptions
 - Licences for e-resources
 - Orphan works
 - Text and data mining
- What libraries are asking for at WIPO
- Libraries and copyright in Mongolia

EIFL KNOWLEDGE WITHOUT BOUNDARIES **MONGOLIA LIBRARIES CONSORTIUM (MLC)**

- 2008 Established with support of EIFL and Ministry of Education and Culture
- 12 member libraries, mostly university libraries for access to licensed e-resources
- Board members represent National Library, university and public libraries, local resource centers.



Mission: to provide Mongolian people with knowledge of past, present and future.

EIFL KNOWLEDGE WITHOUT BOUNDARIES **MONGOLIA LIBRARIES CONSORTIUM (MLC)**

- Supports **policy environment** for libraries for equal access to reading and learning in Mongolia
- Supports **development of new services** e.g. library automation, creating open resources, etc.
- Improves capacity of library community to bring **international best practices** to Mongolia
- **Partners with EIFL** (Electronic Information for Libraries), to license access to **commercial e-resources**, to develop policies on **Open Access**, and to advocate for **fair national copyright laws** and international treaties that support libraries

EIFL KNOWLEDGE WITHOUT BOUNDARIES **ELECTRONIC INFORMATION FOR LIBRARIES (EIFL)**

EIFL is an international NGO

Dedicated to **enabling access to knowledge** through libraries in more than **60 transition economy and developing countries** in Europe, Asia, Africa and Latin America



EIFL General Assembly, Riga, November 2015

Member of **International Federation of Library Associations (IFLA)**

Programmes on **licensing access to commercial e-resources**, **Open Access**, **Copyright and Libraries**: goal to protect and promote access to knowledge for libraries and the people who use libraries

Meet the EIFL copyright librarians



The infographic lists librarians from 15 countries: Ghana, Kyrgyzstan, Botswana, Latvia, Uganda, Armenia, Senegal, Kenya, Russia, Estonia, Nigeria, Mongolia, Poland, and Uzbekistan. Each entry includes a photo, name, and a brief bio.

www.eifl.net

eif KNOWLEDGE WITHOUT BOUNDARIES **THE LIBRARY CONTEXT**

Types of Libraries
Independent, neutral spaces for society

- **National Library** – promotes national cultural heritage
- **Academic and research libraries** – support for higher education and research
- **School libraries** – provide learning resources for teachers & pupils
- **Public libraries** – open to all the community for information, lifelong learning and leisure
- **Special libraries** – e.g. information services to people in support of their work i.e. govt depart, law firm, NGO, etc.



WIPO Library in Geneva (Photo: WIPO)

eif KNOWLEDGE WITHOUT BOUNDARIES **THE LIBRARY CONTEXT**

- Libraries as institutions work in the public interest
- Libraries support **national policies** on education & research, innovation, literacy, access to ICTs, cultural heritage

For example:

- National Library in Mongolia is **digitizing unique manuscripts** of 17-19th century (vertical writing)
- electronic archive of **thesis & dissertations** pre-1990's
- public libraries provide **public access to computers**




eif KNOWLEDGE WITHOUT BOUNDARIES **THE LIBRARY CONTEXT**

Library funding and spending

- Publicly funded (mostly) by national or local govt
- Globally in 2014 libraries set to spend **USD \$25.4 billion** purchasing content - taxpayer money!

Source: Outsell report 2014 Library Market Size, Share, Forecast, and Trends

- Libraries are **non-commercial**, not-for-profit




eif KNOWLEDGE WITHOUT BOUNDARIES **COPYRIGHT AND LIBRARIES**

Copyright matters to libraries

- Copyright law controls the ownership and distribution of written and recorded knowledge
- Role of libraries is to provide people with access to information and knowledge



National University of Medical Science, Mongolia



eif KNOWLEDGE WITHOUT BOUNDARIES **COPYRIGHT AND LIBRARIES**

Copyright affects core library activities and services e.g.

- **Acquisition of materials** - availability and price of books, buying books from abroad (e.g. right of distribution)
- **Lending** (e.g. public lending right)
- **Preserving cultural heritage** (e.g. right of reproduction)
- **Supporting education & research** (e.g. reproduction, communication to the public)
- Providing **accessible format copies to people with disabilities** (e.g. reproduction, distribution)




eif KNOWLEDGE WITHOUT BOUNDARIES **HOT TOPIC 1: LIMITATIONS AND EXCEPTIONS (L&E)**

Copyright laws are meant to **balance** the public interest in accessing information with rights of creators and publishers


The mechanism that makes the copyright system work is the exceptions and limitations combined with adequate protections for rightsholders

Exclusive rights




Legal protection for creators to exploit their works

Exceptions and limitations



Access to copyrighted works to encourage innovation, research and further creativity



Hot Topic 1: Limitations and Exceptions (L&E)

Libraries support *balanced* copyright

Hot Topic 1: Limitations and Exceptions (L&E)

Examples of public interest exceptions:

- Education, research
- Libraries, museums, archives
- Persons with disabilities
- Use by press
- Quotation
- Political speeches

Hot Topic 1: Limitations and Exceptions (L&E)

While rights benefitting rightholders have increased, L&Es benefiting users have largely fallen behind

International copyright treaties over the last century

Treaty	Year	Category
Beijing Treaty	2012	Treaties Benefiting Right Holders
WPPT	1996	Treaties Benefiting Right Holders
WCT	1996	Treaties Benefiting Right Holders
TRIPS	1994	Treaties Benefiting Right Holders
Brussels Convention	1974	Treaties Benefiting Right Holders
Geneva Convention	1971	Treaties Benefiting Right Holders
Rome Convention	1961	Treaties Benefiting Right Holders
Berne Convention	1886	Treaties Benefiting Right Holders
Marrakesh Treaty	2013	Treaties Benefiting Public Users

Hot Topic 1: Limitations and Exceptions (L&E)

Here are some facts:

- 17% (32 countries) of WIPO member states have no provision for libraries or archives in their domestic copyright law
- 48% (90 countries) do not explicitly allow libraries to make copies for research or study; nor 47% (89 countries) for preservation purposes
- In many countries, exceptions apply only to print formats
- Digital copying is expressly barred in over one third of countries that have amended their copyright laws in the last 5 years, even in some cases for preservation activities

Source: WIPO Crews study (SCCR/30/3)

Outdated copyright laws increasingly prevent libraries for performing basic functions just because resources are digital

Hot Topic 2: Licences

Library copyright exceptions overridden by contract

- Access to electronic content is mostly regulated by a licence (contract)
- Licences for commercial e-resources often take away user rights in copyright law e.g. British Library analysis of 100 contracts found that 90% had terms that were more restrictive than exceptions in copyright law
- When a licence dictates all lawful uses of digital content, legislators have little or no role in access to information
- But information is not like any other commodity; key to increasing knowledge and advancing society

Protect libraries from unfair terms in licences – protect copyright!

Example of licence terms that take away copyright exceptions

(Small text describing specific licence terms and their impact on copyright exceptions)

Hot Topic 3: Orphan Works

- Orphan works: in-copyright works where the copyright holder cannot be identified or found to obtain permission to use the work
- British Library estimates 40% of works in their collections are orphan
- Orphan works raise big problems in the context of digitization
- Libraries unable to digitize collections because rightholders cannot be found
- Some countries are legislating e.g. EU

Libraries everywhere need a workable, legislative solution to the orphan works problem


“Estimates of the number of orphan works in cultural institutions vary from around 20% for films and slightly less for books, at the low end, to up to 90% for photography at the high end. That is a truly staggering figure, which shows up one of the massive difficulties in applying theory of copyright in practice.”
Neelke Kroes, former European Commissioner for Digital Agenda

eifl KNOWLEDGE WITHOUT BOUNDARIES **HOT TOPIC 4: TEXT AND DATA MINING**

Text and data mining (TDM): 'new frontier for science and research'

- Research libraries at the centre of the 'data deluge' – huge increase in research data and information
- TDM is the process of deriving information from research databases (raw data, published research results, etc.)
- TDM works by copying large quantities of material, extracting the data, and re-combining it to identify patterns
- Increases progress of science - already generating new discoveries in areas such as biological science, and particle physics
- Exceptions for TDM: Japan, UK (2014), US uses fair use. In Europe, LIBER (research libraries) advocating for a mandatory exception in EU copyright law

Science everywhere will benefit from an exception for TDM



*"Every 2 days we create as much information as we did up to 2003".
Eric Schmidt former Google CEO*

eifl KNOWLEDGE WITHOUT BOUNDARIES **WHAT LIBRARIES ARE ASKING FOR AT WIPO**

- A treaty to establish basic international standards for copyright L&E
- to permit libraries everywhere to provide basic services, and to legalize cross-border cooperation
- to ensure equal treatment of digital resources with print materials
- to safeguard our digital cultural heritage
- to allow use of new tools for science, research and innovation

Proposals for the benefit of libraries and archives presented at SCCR by the African Group, Brazil, Ecuador, India, Uruguay, US



International library and archive community at WIPO



EIFL copyright librarians at SCCR

eifl KNOWLEDGE WITHOUT BOUNDARIES **LIBRARIES AND COPYRIGHT IN MONGOLIA**

Libraries in Mongolia are advocating for a copyright law that meets the needs of our people.

Priority areas:

- digitization projects
- sharing e-resources for educational purposes
- rights of disabled people to access information




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Thank you!

D. Baljid
baljid@forum.mn

