Regional Seminar
Exceptions and Limitations to Libraries, Archives and Educational Institutions
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Topic 4 Copyright and Libraries: Current topics
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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

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.

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

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
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)

**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

**THE LIBRARY CONTEXT**

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

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

**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

**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)

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)

Examples of public interest exceptions:

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

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

- 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!

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 rightsholders 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."

Neelie Kroes, former European Commissioner for Digital Agenda
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.

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

Science everywhere will benefit from an exception for TDM

WHAT LIBRARIES ARE ASKING FOR AT WIPO

- A treaty to establish basic international standards for copyright LAE.
- 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.

Thank you!

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