



Department for Culture Media and Sport Consultation on the Extension of Public Lending Right to Rights Holders of Books in Non-print Formats

Response from the Museums, Libraries and Archives Council (MLA).

Introduction

- The MLA Council is the government's agency for museums, libraries and archives. Leading strategically, we promote best practice to inspire innovative, integrated and sustainable services for all.

Key messages

- The MLA supports the extension of the Public Lending Right (PLR) to non-print books based on the principle that authors and creators should receive fair remuneration, given the likely rise in the issuing of non-print books in the future.
- We believe that the PLR should not be extended to materials which are viewed or listened to in public libraries because PLR is not currently paid when print books are read on-site in library buildings, and PLR in principle is based on the number of loan issues.
- We believe these proposals will have minimal impact on public libraries themselves given that PLR is a centrally administrated scheme. It won't for example affect the current contractual lending market as libraries will still need to pay for lending licenses for audio books and digital content.
- MLA are keen to work with the government on this issue and have provided some clarifications regarding the current status of licensing and copyright issues, in relation to audio-books and digital formats for audio and text based books

Clarifications on the current status of licensing and copyright

Audio books

- Libraries who lend audio books in non-digital formats require a license which allows for multiple use by multiple users.
- This license is not generally undertaken directly by the library service with the rights holder, it is agreed by a third party supplier with the rights holder and a higher price for audio books supplied to libraries reflects the cost of this license.
- Libraries typically pay 50% more for audio books than list price to reflect this cost. This operates in a similar fashion to specialist suppliers of DVDs for lending and hire, who provide specific formats for lending which are more expensive than the cost of the same DVD to the public on the high street.

Digital format audio/text books

- Public libraries who lend digital files of audio books or e-books must ensure that they are within copyright law. This is contract, not statute law, and must therefore be agreed on a case-by-case basis. PLR does not affect copyright law.
- Public libraries do not negotiate the contracts for licenses themselves, they pay a third party supplier for access to the digital files for lending to library service users.
- The third party suppliers are specialist library suppliers and they are responsible for negotiating licenses which allow for multiple use of files by multiple users.
- Generally these licenses are based on DRM, whereby the file is destroyed on a computer after a certain time period, and are either negotiated on a population basis (where multiple users are able to access the file at one time) or a single license basis (where service users are only able to access files one at a time).
- Currently only three library services are using digital download lending services (Luton, Essex, Windsor and Maidenhead) and all are using specialist library suppliers (Overdrive, OCLC, Bloomsbury library pilot) on the understanding that the lending rights are included in the subscription costs of the service.

The scope of PLR and impact on public libraries

- Because the PLR refers to the right for authors/creators to receive remuneration based on the number of lending issues in libraries, not the right for libraries to lend books or other materials, there are currently no infringements of authors' rights in audio books or digital formats because PLR has not yet been extended to these formats.
- If PLR is introduced for other formats, library services will not be responsible for infringements of PLR because this is a centrally administered scheme paid out of central government funds for which they do not bear individual responsibility beyond logging issues.
- There are currently no informal or ad-hoc PLR agreements between libraries and rights holders because libraries would not be authorized to make discretionary payments to rights holders outside of a legislative framework.

The MLA is keen to work with the Department to enhance policy in the areas outlined.

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Contact:

Astra Farquharson

Senior Parliamentary and Stakeholder Relations Advisor

Museums Libraries and Archives Council

Wellcome Wolfson Building

165 Queen's Gate

London SW7 5HD

Tel: 020 7273 1444

Email: astra.farquharson@mla.gov.uk