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Paul Whitney and Christina de Castell

Trade eBooks in Libraries

The Changing Landscape

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About IFLA

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IFLA (The International Federation of Library Associations and Institutions) is the leading international body representing the interests of library and information services and their users. It is the global voice of the library and information profession. IFLA provides information specialists throughout the world with a forum for exchanging ideas and promoting international cooperation, research, and development in all fields of library activity and information service. IFLA is one of the means through which libraries, information centres, and information professionals worldwide can formulate their goals, exert their influence as a group, protect their interests, and find solutions to global problems.

IFLA's aims, objectives, and professional programme can only be fulfilled with the co-operation and active involvement of its members and affiliates. Currently, approximately 1,600 associations, institutions and individuals, from widely divergent cultural backgrounds, are working together to further the goals of the Federation and to promote librarianship on a global level. Through its formal membership, IFLA directly or indirectly represents some 500,000 library and information professionals worldwide.

IFLA pursues its aims through a variety of channels, including the publication of a major journal, as well as guidelines, reports and monographs on a wide range of topics. IFLA organizes workshops and seminars around the world to enhance professional practice and increase awareness of the growing importance of libraries in the digital age. All this is done in collaboration with a number of other non-governmental organizations, funding bodies and international agencies such as UNESCO and WIPO. IFLANET, the Federation's website, is a prime source of information about IFLA, its policies and activities: www.ifla.org.

Library and information professionals gather annually at the IFLA World Library and Information Congress, held in August each year in cities around the world. IFLA was founded in Edinburgh, Scotland, in 1927 at an international conference of national library directors. IFLA was registered in the Netherlands in 1971. The Koninklijke Bibliotheek (Royal Library), the national library of the Netherlands, in The Hague, generously provides the facilities for our headquarters. Regional offices are located in Rio de Janeiro, Brazil; Pretoria, South Africa; and Singapore.

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List of Abbreviations

AAP	Association of American Publishers
API	application programming interface
ALA	American Library Association
ALIA	Australian Library and Information Association
CIPFA	Chartered Institute of Public Finance and Accountancy
CJEU	Court of Justice of the European Union
CLA	Canadian Library Association
CULC/CBUC	Canadian Urban Libraries Council/Conseil des Bibliothèques Urbaines du Canada
DCWG	ALA's Digital Content & Libraries Working Group
DRM	Digital Rights Management software
DSM	EU Digital Single Market strategy
EBLIDA	European Bureau of Library Information and Documentation Associations
Epub	the standard open source eBook file format
IFLA	International Federation of Library Associations and Institutions
PLR	Public Lending Right
VOB	Vereniging Openbare Bibliotheken (Netherlands Public Library Association)

1 Introduction

This book is intended to chart the evolving presence of trade eBooks¹ in libraries since they became a significant factor in the English-language retail market in 2010. The focus of the study is downloadable eBooks whose primary distribution is to individual readers through a variety of types of online suppliers. As most trade print book sales are to public libraries, it is not surprising that the focus of the book will be on the interaction of public libraries with trade publishers, and to a certain extent, authors. This is not to say that trade eBooks are not present in education and research libraries or that these institutions do not experience many of the same issues as public libraries. Rather, from the outset, public libraries have been where the greatest impacts are felt, and public library collections have always been at the centre of negotiations with trade publishers and library and library association advocacy with governments and the general public.

Within a framework which examines the evolution of trade eBooks and the core principles which have informed advocacy, the book will also chart the development of trade eBooks in different regions and the extent to which they have been incorporated in library collections. Given the regional nature of trade publishing, often reinforced by language, and the very patchwork availability of technology infrastructure and marketing of trade eBooks by region, a portion of the book will be devoted to examining specific circumstances in specific markets which can be defined by national boundaries, regional groupings of countries or language spoken.

Contributions from librarians in different countries describe both advocacy efforts with regional and multinational publishers and the presence and use of trade eBooks in public libraries. Both library tactics and negotiating positions have varied by region and changed in the past six years. This book documents attempts to ensure the availability of trade eBooks in library collections. Many of these attempts failed, some are still works in progress and some have achieved considerable success. We can learn from them all.

Documentation on negotiations with publishers will of necessity have to deal with two sectors: the Big Five multinational publishers (the Big Six when trade eBooks were first introduced)² and smaller independent publishers generally

¹ The eBook is very much in its infancy and there is no consensus on the spelling of the word. Variants in use include e-book, e-Book, ebook and eBook, the spelling preferred by the authors. Where an alternate spelling is used in a quotation, the spelling used in the original is retained.

² The term used to describe the six biggest multinational tradebook publishers: Hachette, Harper Collins, Macmillan, Penguin, Random House, Simon & Schuster. Now the Big Five following the merger of Penguin and Random House (Penguin RandomHouse).

catering exclusively to the domestic market. Multinational trade publishers have adopted different approaches in different markets and it is helpful to understand changes in availability and terms and conditions in specific countries.

A few sections of the text constitute modified portions of previous reports and statements primarily written by the authors, specifically portions of the “Defining Our Terms” that appeared in International Federation of Library Associations and Institutions (IFLA) reports including the IFLA 2014 *eLending Background Paper*;³ and portions of the licensing terms and English-Canada content appeared in white papers for the Canadian Urban Libraries Council published in 2011 and 2014.⁴ The authors acknowledge and appreciate the contributions of colleagues in refining our thinking on these issues.

The appendix presents selected source documents including library statements of eBook principles and advocacy documents.

³ International Federation of Library Associations and Institutions (IFLA), “IFLA 2014 eLending Background Paper”, IFLA, <http://www.ifla.org/publications/node/8852?og=7351>.

⁴ Canadian Urban Libraries Council, “CULC/CBUC Work on eBooks and Public Libraries”, Canadian Urban Libraries Council, <http://www.culc.ca/knowledge/ebooks/>.

2 Defining Our Terms

Prior to the introduction of digital text works, the concept of the book as physical object and its content were often conflated: seen as one and the same. The introduction of digital text and the devices used to read them undermined this unity. *The Oxford Companion to the Book* notes that the “e-book is a young medium and its definition is a work in progress”.¹ The authors continue to argue for the utility of no longer focusing on the object when considering the eBook: “...it is less useful to consider the book as object – particularly as commercial object – than to view it as cultural practice, with the e-book as one manifestation of this practice”.² The *Oxford English Dictionary Online* provides three definitions of eBook:

...a hand-held electronic device on which a book can be read. Also: a book whose text is available in an electronic format for reading on such a device or on a computer screen; (occas.) a book whose text is available only or primarily on the Internet.³

Consistent with the commonly held view, this book uses the term eBook to indicate the creative content in an individual work readable in electronic form on a device and not the device itself.

In deliberations in the library community over the past six years, it became evident that there was little consensus on how to define an eBook. It is useful in this regard to quote the IFLA 2014 eLending Background Paper: “An eBook is a digital version of a text-based work which is available publically (with or without payment) as a separate work”.⁴ The Background Paper continues:

For clarity an eBook may:

- be owned by an individual or library but is more commonly licensed from the publisher/vendor
- also be contained in a collection or bundle of eBooks marketed as one entity
- be augmented or supplemented by audio visual or other elements such as Global Positioning System (GPS) data as part of one file or through links to separate file(s)
- coexist with a print on paper book of the same text or have no physical equivalent

1 Ellen Gardiner and Richard G. Musto, “The Electronic Book”, in *The Oxford Companion to the Book*, vol. 1, essay 19 (Oxford: Oxford University Press, 2010), 164, <http://www.oxfordreference.com/view/10.1093/acref/9780198606536.001.0001/acref-9780198606536-e-0019>.

2 Gardiner and Musto.

3 *Oxford English Dictionary Online*, s.v. “e-book”, accessed on 17 July 2016, <http://www.oed.com/view/Entry/254154>.

4 International Federation of Library Associations and Institutions (IFLA), “IFLA 2014 eLending Background Paper”, IFLA, <http://www.ifla.org/publications/node/8852?og=7351>.

- be downloaded to a device or be streamed, which requires an Internet connection whenever the work is read
- be produced by a trade publisher or self-published for the general reader (the most common understanding) but may also be a scholarly or professional monograph published by entities such as university presses or professional organizations...

Digital versions of journals and newspapers are not considered to be eBooks.⁵

In developed countries technological advances in the provision of digital content mean that the commonly held understanding of what is an eBook is viewed as already outdated by informed industry participants. This book primarily focuses on the conventional understanding of what is an eBook in 2016 but it is understood that digital content provision is evolving rapidly and that it is possible, if not likely, that the current predominant model of digital text produced by publishers as a single file and downloaded by individuals to handheld devices will be eroded.

The emergence of new content formats does not necessarily mean that old formats and technologies disappear. They may, but in a number of instances formats for the same content coexist. While there is much to anticipate with interest, if not concern, in the new digital ecosystems of creating and disseminating content, it is also probable that the current model of linear narrative contained in a single work, produced by a publisher and marketed to readers, will continue to have a significant commercial market and a place in library collections for the foreseeable future.

It is also important to consider a definition of “eLending” in this discussion. The IFLA 2014 eLending Background Paper defines eLending as “the temporary provision of an eBook by a library to a registered user for use away from the library premises and in the library should the user wish”. The following clarifications follow this definition:

1. the terms under which the eBook is lent may be dictated by purchase agreement, license or by the library itself, including number of simultaneous users, length of loan etc.
2. the eBook may be supplied to the reader’s device from a vendor, publisher or library server.⁶

The term eLending is generally applied to the downloading of digital text accessed through a library website. In practice this most often involves the library

⁵ IFLA, “IFLA 2014 eLending Background Paper.”

⁶ IFLA, “IFLA 2014 eLending Background Paper.”

user accessing the file from a location away from the library, which parallels how eBooks are purchased. It has been argued that the library provision of eBooks to readers who are not present in the library building does not in a legal sense constitute “lending”. This is discussed in Section 4.4.2.

3 The Evolution of Trade eBooks

3.1 Early History

3.1.1 Project Gutenberg

Michael Hart, founder of Project Gutenberg, is generally credited as producing the first eBook. In July 1971, having been given free computer time on the main-frame computer at the University of Illinois, he keyed in the U.S. *Declaration of Independence*. In Hart's 2011 obituary *The Economist* described what happened next:

This was the first free e-text, and none better as a declaration of freedom from the old-boy network of publishing. What he typed could not even be sent as an e-mail, in case it crashed the ancient Arpanet system; he had to send a message to say that it could be downloaded. Six people did, of perhaps 100 on the network.¹

So began Project Gutenberg, a volunteer organization intended, as stated in Hart's "Mission Statement":

To encourage the creation and distribution of eBooks. This mission is, as much as possible, to encourage all those who are interested in making eBooks and helping to give them away.²

Hart with "hippy affability"³ outlined what he saw as the outcomes which would come from the digital revolution applied to books:

Books prices plummet. Literacy rates soar. Education rates soar. Old structures crumble, as did the Church. Scientific Revolution. Industrial Revolution. Humanitarian Revolution.⁴

As we well know with hindsight, such wide-reaching optimism was not justified. However there is no doubt that Project Gutenberg has had a lasting positive effect on improving access to public domain works in many languages accessible on a variety of hardware platforms. By October 2015 Project Gutenberg surpassed

1 "Michael Hart," *The Economist*, 24 September 2011, 109, <http://www.economist.com/node/21530075>.

2 Project Gutenberg, "Project Gutenberg Mission Statement," Project Gutenberg, 25 December 2007. http://www.gutenberg.org/wiki/Gutenberg:Project_Gutenberg_Mission_Statement_by_Michael_Hart.

3 "Michael Hart."

4 "Michael Hart."

50,000 titles in its catalogue, all in the public domain with the exception of a small number of copyright-protected works, included under a Creative Commons licence with the author's permission. Hart was a determined opponent to copyright term extension which he correctly saw as impeding his project's mission. While Project Gutenberg has been superseded in part by massive digitization projects, its aspirations mirror the impetus which would later motivate library eBook provision.

Following in the path of Project Gutenberg, Google began digitizing public-domain books in 2004 and soon would expand its activities by digitizing copyright-protected works, which in 2005 resulted in the first of a series of ongoing court challenges which were resolved in favour of Google in 2016.⁵ The HathiTrust Digital Library, a digital preservation repository, founded in 2008 by a group of research libraries in North America and Europe, provides access to books digitized by a variety of agencies including Google and the Internet Archive. Containing well over 13 million public-domain and copyright-protected works, the HathiTrust successfully won a series of court challenges on the basis of US fair use.

3.1.2 The First Digital Books in Public Libraries

Public libraries in many countries have been offering online resources since the early 1990s through remote access from users' homes and/or onsite computers. Beginning with indexes of journal articles, online or electronic resources gradually expanded to include reference works, full-text journal articles, newspaper articles, statistical sources, and eBooks.

For many years, vendors who provided online resources to libraries were multinational companies that started as serials aggregators and distributors and had expanded to provide a wider range of services to libraries. Their offerings included databases on a range of subjects including art, auto repair, business, education, environment, law, literature, science, sociology, and technology. By the early 2000s, offerings that had initially included journal articles expanded to online eBook collections in certain subject areas, such as reference, business, technology, and travel.

Early collections of books offered online were designed for use on desktop and laptop computers. They were focused on reference use, rather than linear

⁵ Library Copyright Alliance, "Google Books Litigation Family Tree", Library Copyright Alliance, 11 October 2012, <http://www.arl.org/storage/documents/publications/googlebookslitigation-familytree-10oct12.pdf>.

reading of a single title. Vendors promoted the value of the collection as a whole, and the ease of searching across all the titles in the collection. The display and use of the items in the collection followed the conventions of academic journal article databases.

In these subject-based online eBook collections, which many libraries continue to purchase, libraries do not have the option to select the titles included. The subject collection is licensed as a whole, and the vendor has the right to change a portion of the titles included during the period of the agreement. Vendors typically offer these licences on an annual basis for registered users of the public library, at a rate based on the population served by the library or the number of registered cardholders.

The advantage of these subject-based online eBook collections for library users is that many offer unlimited simultaneous use of the works in the collection within the annual licence fee paid by the library. However, the annual licence fee for online collections is not comparable to individual print or eBook title pricing. A large urban public library in the United States would likely subscribe to many online collections, paying licence fees for each collection that range from \$2,000 to more than \$50,000 per year.

3.1.3 The Lull Before...

The music industry was fast off the mark to provide its content to listeners in digital forms and would stand as a persuasive case study for trade publishers on the dangers this approach entailed.

The compact disc was introduced commercially in 1982 and the convenience of the format was immediately embraced by consumers. Over time CDs supplanted the cassette and vinyl record formats. The immediate result was significant industry profits as individuals re-purchased music they already owned in the “old” formats. The prosperity boom was undermined by the emergence of peer-to-peer file-sharing services, most notably Napster in 1999. While legal action was launched against Napster nine months after its launch, and the service was shut down eighteen months later,⁶ it was supplanted by similar sites providing free, unauthorized access to copyright-protected music. The music industry was to haemorrhage sales and profits throughout the decade. It was through the introduction of Apple’s iPod that revenue (albeit considerably less than the profits

⁶ The service re-emerged as a legitimate music source, Napster 2.0, following a bankruptcy auction sale.

derived from selling physical objects) started to flow from digital music. By 2015 music streaming services with monthly subscription fees were generating more revenue than music download sales.

The music industry's loss of control over their content served as an object lesson to trade book publishers of the dangers in putting your content out into the world in digital form. Despite the success of scholarly and professional publishers in supplying their institutional customer base with digital content, trade publishers with some justification feared that trade books with large sales would be subject to piracy. The result was that trade book publishing lagged by more than a decade behind the music industry in introducing digital distribution.

The first ISBN was issued to an eBook in 1998 with the text being distributed on a CD. The first dedicated eBook readers were also issued in 1998: Rocket eBook and SoftBook. The two companies would ultimately be merged by a third party. Initially the Rocket eBook could hold up to ten titles which could be purchased online from the websites of large book retailers. Issues with the aesthetics of reading on these early dedicated eReaders coupled with limited title availability and technical issues with accessing and displaying eBooks were major obstacles to their early acceptance and hence the market potential of eBooks.

Early attempts to market digital versions of trade books included the Rocket Book, SoftBook and RosettaBooks. Stephen King's *Riding the Bullet*, "the world's first mass-market e-book"⁷ and the first to be marketed by a Big Six publisher, appeared in 2000.

First available for free and subsequently for \$2.50, Simon & Schuster distributed 500,000 downloads of King's novella *Riding the Bullet* with a staggering 400,000 copies downloaded in the first 24 hours. This high download volume resulted in server problems and there were computer issues for readers arising from the use of encryption software. *Riding the Bullet* was the exception in the otherwise relatively minuscule market for eBooks.

While *Riding the Bullet* pointed the way for mass acceptance of trade published eBooks, it would be almost a decade before their market potential would be realized. However, the hyping of the potential of eBooks was happening as early as 2000. An August 2001 *New York Times* article "Forecasts of an E-Book Era Were, It Seems, Premature" quoted the president of Simon & Schuster at an August 2000 press conference held with publishers, the largest book retailer in the United States, and Microsoft: "We believe the e-book revolution will have an

7 Wikipedia, s.v. "Riding the Bullet," https://en.wikipedia.org/wiki/Riding_the_Bullet.

impact on the book industry as great as the paperback revolution of the 60s.”⁸ A consulting report commissioned by the Association of American Publishers (AAP) projected that by 2005 eBooks could account for 10% of all book sales. The AAP represents 1,205 traditional publishers and its sales data does not include small independent publishers and the self-published sector. AOL–Time Warner book division chair Larry Kirshbaum was more effusive: “We want to see electronic publishing blow the covers off books.”⁹ Ironically in 2011 Kirshbaum would join Amazon to launch its print-on-paper imprint. The *New York Times* article written a year after the press conference noted the “tepid” response to eBooks. Along with the challenges in overcoming reluctance to read on the early generation eReaders or computers and consumer frustration with digital rights management software limiting the use of eBooks, publishers reported price resistance was a significant deterrent to sales. As well, there was evidence that the image of trade publishing as tradition-bound and resistant to change had validity. The editor in chief of W. W. Norton & Company stated “I am glad I will be dead by the time they (eBooks) take over the business”.¹⁰ This brings to mind the publishing industry joke recounted to one of the authors by a publishing association staff member:

It is little wonder that publishing is resistant to change. In the intervening 575 years since the introduction of Gutenberg’s printing press it has experienced 0.5 changes in format and that 0.5 was the paperback.

Early attempts were made to deploy the new technology to market eBooks differently than their print-on-paper counterparts. In the fall of 2001 RosettaBooks announced the launch of the “\$1 for 10 hours of reading” initiative by making Agatha Christie’s *And Then There Were None* available for download from their website. The eBook file would be unreadable after ten hours: “more than ample time to read the 275-page mystery.”¹¹ If the purchaser wished to retain access to the digital file after ten hours of screen time, there was an option to renew for an additional ten hours for \$1 or purchase a “permanent” copy for \$4.99. Notably the initiative was launched with a book published 62 years earlier and not a current bestseller, no doubt indicating the protective inclinations of trade publishers when it came to digital access. This interpretation is reinforced with RosettaBooks

⁸ David Kirkpatrick, “Forecasts of an E-Book Era Were, It Seems, Premature” *New York Times* 28 August 2001, <http://www.nytimes.com/2001/08/28/business/forecasts-of-an-e-book-era-were-it-seems-premature.html>.

⁹ Kirkpatrick, “Forecasts of an E-Book Era”.

¹⁰ Kirkpatrick, “Forecasts of an E-Book Era”.

¹¹ “RosettaBooks to Publish ‘Time Limit’ E-book,” *Publishers Weekly* 248, no. 3 (2001): 157.

pitch to publishers that their service provided “a cost effective way to distribute review copies and bound galleys”¹² and not a means of developing new markets for current bestsellers. While RosettaBooks continues and indeed claims on its home page to be a leading independent eBook publisher, “selling over 2 million eBooks annually & globally,”¹³ their title offering of 700 titles suggests they are not a major player in either trade publishing or self-publishing.

Over the course of the decade advances were made with dedicated eReader technology and it became evident that book buyer reluctance to read on a screen would increasingly diminish. The key breakthrough was the development of E Ink. The E Ink Corporation was founded in 1997 following ten years of development at MIT. Writing in *Nature* in 1998, the researchers stated:

It has for many years been an ambition of researchers in display media to create a flexible low-cost system that is the electronic analogue of paper...This system may satisfy the practical requirements of electronic paper.¹⁴

Following the launch of the second generation of E Ink in 2010, it was used in all of the major eReaders, listed here with their date of introduction: the Sony Reader (2006), Kindle (2007), Nook (2009) and Kobo (2010).

Early eReader companies were hindered by one overriding problem: lack of access to the current offerings of the major trade publishing companies which remained reluctant to “let go” of their content due to ongoing fears of internet piracy. There was undoubtedly also the publisher’s fear, which would become explicit over subsequent disputes over low eBook pricing, that eBooks would undermine the core business of print sales without generating sufficient offsetting revenue. Trade eBooks were not a significant issue for public libraries during this period, largely reflecting limited demand from users and the limited number of popular titles available.

One company was to change everything: Amazon.

¹² “RosettaBooks to Publish ‘Time Limit’ E-book.”

¹³ <http://www.rosettabooks.com/>, accessed on 15 August 2016.

¹⁴ Barrett Comiskey, et al., “An electrophoretic ink for all-printed reflective electronic displays,” *Nature* 394 (16 July 1998): 253–255, <http://www.nature.com/nature/journal/v394/n6690/abs/394253a0.html>.

3.2 Amazon and the Kindle Revolution

Amazon isn't happening to the book business. The future is happening to the book business.¹⁵

The rise of Amazon from a start-up online bookseller to the world's largest online retailer is well documented. In July 1995, when Jeff Bezos launched his online bookstore, none of the national U.S. bookstore chains had an internet presence – Barnes and Noble, the largest U.S. retail chain, was to launch an internet-based sales site in May 1996, almost one year later. Bezos picked books to merchandize for purely pragmatic reasons. As Richard Brandt notes: "Books are incredibly unusual in one respect, and that is that there are more items in the book category than there are in any other category by far."¹⁶ Add to this that they were relatively easy to identify, access (through the two large U.S. wholesalers Baker & Taylor and Ingram), warehouse, package and ship. Bezos had chosen the perfect online retail product.

While the range of Amazon products was soon to expand to other content formats (music and movies) and well beyond into other retail lines unrelated to content, Amazon grew to become the largest book retailer in the United States, disrupting the business models of well established brick-and-mortar retailers. Bezos then set his company's sights on the eBook: "We have to build something better than a physical book."¹⁷ On 19 November 2007 he announced the launch of the Kindle eBook Reader, priced at \$399. At the launch Bezos asked the following question:

Why are books the last bastion of analog? The question is, can you improve upon something as highly evolved and as well suited to its task as the book, and if so, how?¹⁸

In the next eight months Amazon would sell 240,000 Kindles. When the Kindle was launched, Amazon provided access to 90,000 eBooks. Three years later eBooks constituted 10% of trade publisher revenue and 20% of sales. An International Data Corporation study reported that 2010 global sales for all eReaders were 12.8 million units with 48% of them being Kindles.¹⁹

15 Jeff Bezos, quoted in Brad Stone, *The Everything Store: Jeff Bezos and the Age of Amazon* (New York: Little Brown and Company, 2013), 11.

16 Richard L. Brandt, *One Click: Jeff Bezos and the Rise of Amazon* (New York: Portfolio/Penguin, 2011), 47.

17 Brandt, *One Click*, 135.

18 Brad Stone, *The Everything Store*, 253.

19 Wikipedia, s.v. "e-reader", <https://en.wikipedia.org/wiki/E-reader>.

While other eReaders, especially the Sony Reader, provided an equivalent reading experience to the Kindle, Amazon had a distinct advantage over the others given the huge leverage the company had with trade publishers. This influence was used to ensure that publishers supplied book content to Amazon despite the company's distribution of low cost eBooks, often priced below wholesale cost.²⁰ Publishers strongly disliked this predatory pricing which was felt to both devalue book content and discourage online competitors.²¹ Amazon used the eBooks as a loss leader to drive Kindle sales and ensured that their digital reading environment was effectively contained through the use of a unique display software and digital rights management software. Among other outcomes, this approach of monopoly control meant that eBooks distributed and later published by Amazon could not at the outset be purchased for library use. At the time of writing, Kindle eBooks are still only available to libraries in the United States.

During the early years of its availability, Christmas sales were the primary driver of Kindle's success. This resulted in a recurrent pattern where eBook sales spiked in late December and January. Amazon reported that eBook sales overtook print book sales for one day for the first time on Christmas Day of 2009. As eBook collections grew in public libraries, the same demand pattern was evident with increased downloads and holds placed in late December and January.

3.3 The Library Market

3.3.1 Introduction

With the launch in the United States of the Sony Reader in 2006 and the Kindle in 2007 readers gradually began to purchase devices in enough volume to result in increasing requests for eBooks from public libraries. Ownership of eBook readers in the United States had reached 5% by September 2010,²² and jumped to 12% by May 2011.²³ At this point, demand from library patrons started to grow noticeably.

It was in 2010 that libraries in North America began to collectively discuss the challenges of the eBook market. At this point, among public libraries in the United

²⁰ Selling typically at \$9.99 a title for Amazon this constituted a \$5.00 loss.

²¹ The issue of eBook pricing and the efforts of five of the Big Six trade publishers to circumvent Amazon's control ultimately became the subject of a U.S. Department of Justice investigation.

²² Aaron Smith, "Americans and Their Gadgets," Pew Research Center, 14 October 2010, <http://www.pewinternet.org/2010/10/14/americans-and-their-gadgets/>.

²³ Kristen Purcell, "E-reader Ownership Doubles in Six Months," Pew Research Center, 27 June 2011, <http://www.pewinternet.org/2011/06/27/e-reader-ownership-doubles-in-six-months/>.

States, 72% identified that they were offering eBooks to their users.²⁴ Many of these were in downloadable format for use on an eBook reader or iPad. However, libraries were also including in their offerings older collections of online eBooks in databases.

In downloadable format, availability of content was a significant challenge, with only three of the Big Six publishers licensing their eBook lists to libraries: Random House, Penguin, and HarperCollins. Hachette began licensing eBooks for library lending relatively early, but when the popularity of downloadable eBooks increased, they stopped selling new titles and offered only their pre-2010 backlist.²⁵ Two multinational publishers withheld their eBook lists entirely from libraries: Macmillan and Simon & Schuster.

In February 2011, HarperCollins announced a change to eBook terms that caught the attention of librarians across English language regions, informing libraries that each eBook licence purchased would be valid for 26 circulations.²⁶ Boycott campaigns followed, yet after Random House and Hachette announced massive price increases in 2012 for perpetual licences, and Penguin withdrew from licensing eBooks to libraries through OverDrive in February 2012, many commentators identified that the 26-circulation limit was preferable to high prices, and it was clearly preferable to having publishers refuse to make eBooks available to libraries entirely.

By late 2011, downloadable eBooks had expanded significantly in libraries in the United Kingdom, Australia, and New Zealand.²⁷ The pattern of use followed the progress of the sales of devices to consumers, as most eBook readers and the iPad were introduced in the United States first and then expanded to additional countries.

24 Library Journal/School Library Journal, *Survey of E-book Penetration and Use in U.S. Public Libraries* (Library Journal, 2010), http://c0003264.cdn2.cloudfiles.rackspacecloud.com/Public%20Library%20Ebook%20Report_2.pdf.

25 , Matt Enis, "Hachette to Sell Frontlist Ebook Titles to Libraries," *The Digital Shift* 1 May 2013, <http://www.thedigitalshift.com/2013/05/ebooks/hachette-to-sell-frontlist-ebook-titles-to-libraries/>.

26 Josh Hadro, "HarperCollins Puts 26 Loan Cap on Ebook Circulations," *Library Journal* 25 February 2011, <http://lj.libraryjournal.com/2011/02/technology/ebooks/harpercollins-puts-26-loan-cap-on-ebook-circulations/>.

27 Paul Nielsen, "Right We've Got Them, What the Hell Do We Do Now?," presentation, LIANZA Conference, Palmerston North, New Zealand, 23–26 September 2012, <http://www.lianza.org.nz/sites/default/files/Paul%20Nielsen%20-%20Ebooks%20-%20Right%20weve%20got%20them%20what%20the%20hell%20do%20we%20do%20now.pdf>.

Libraries in English-language markets outside North America experienced greater challenges with availability of content than those in Canada and the United States. Multinational publishers negotiated rights with authors on a national or regional basis, and libraries found that the availability of titles from the Big Six was substantially less outside the United States. Multinational publishers applied their policies consistently across platforms, within a country, so that even as new eBook vendors entered the market in regions, title availability and pricing remained the same.

By 2016, while libraries in North America could buy frontlist and backlist eBooks from all multinational English-language publishers, libraries in the United Kingdom, Australia and New Zealand were still unable to purchase from Hachette, and faced more restrictive licensing terms and limited availability of the front list from others.

3.3.2 Licensing models

Libraries buy downloadable eBook content using one of the following licence models, decided by the publisher and the technology vendor.

One User/One Copy/Perpetual Access

eBooks sold with this licence allow one person to access the eBook at a time, and this is controlled by the eLending technology platform and digital rights management software (DRM). If one user has borrowed the eBook, other users cannot access it until the loan period expires. Loan periods may be specified by the publisher or by the library, depending on the region and the platform being used. There is no limit on the number of sequential loans and the licence is not limited by time, although it may be associated with a specific distribution platform. Some publishers have indicated that perpetual licences are transferable to other distribution platforms.

Pricing varies substantially for perpetual access licences depending on the publisher's perception of the popularity of the book. Penguin RandomHouse uses this model in North America with a price of approximately three times the print consumer price, and Hachette uses this model with a price that can be five times the print consumer price for bestsellers.

In many ways this model most closely resembles print books from the library's perspective, since the library buys a "copy" of the book and loans it to one person at a time. Publishers argue that print books eventually wear out and require re-purchase, and use this to justify the higher price for this licence.

One User/One Copy/Limited Circulation

eBooks sold with this licence allow one person to access the content at a time until the maximum loans have been reached. Like the perpetual access model, only one person can use the eBook at a time, and this is controlled by DRM. When the eBook is borrowed a specified number of times, the copy is no longer available in the library's eBook collection. The library must purchase the eBook again if it wishes to continue offering it, or, in the case of multiple "copies" of the same title, to maintain the same number of available "copies".

From publishers' perspectives, this model is most often considered to mimic print, and the pricing is more likely to align with print pricing. Publishers have stated that print books wear out and require re-purchase by the library, and this model re-creates that experience. In the review of eLending in the UK, the Sieghart report came to a similar conclusion, and recommended that library licences have a circulation limit (see Section 5).

Since this model usually offers a lower price for libraries, it allows libraries to take risks on less popular content without paying the high prices of the perpetual licence. This model also has an advantage for libraries buying bestselling content, as it may allow the library to buy multiple copies at an affordable price and to reduce the number of copies available as popularity declines.

One Copy/One User/Limited Time

This licence is similar to the above one-user models, but the eBook is only available for a specified period of time. After the licence term has ended, the title is no longer available in the library's eBook collection. Multinational publishers have experimented with one-year and two-year licences of this type, and may also cap the total number of circulations permitted. Pricing is frequently lower than consumer print pricing.

One Copy/One or Multiple Users/Pay per Circulation

In Europe, a number of libraries are licensing eBooks on a pay-per-circulation basis, with widely varying rates. The library can control how many simultaneous users are permitted for a title as a method of controlling costs when demand is high. In some libraries, a certain number of circulations must be purchased in advance, making the model very similar to the limited-circulation model described above, but with the number of circulations controlled by the library. This model offers the advantage of giving more users access to the eBook title when it is most in demand.

3.3.3 OverDrive and Other eLending Distributors

The library market for downloadable trade eBooks was supported in its initial development by one vendor: Cleveland, Ohio-based OverDrive. Launched by Steve Potash in 1986, the company announced its first offering to libraries in 2002. In 2003 Cleveland Public Library was the first library to offer digital content to its patrons using OverDrive. In June 2003, at the ALA conference in Toronto, OverDrive demonstrated its product, which offered content from 150 publishers in the United States and internationally, using Adobe Reader and digital rights management.

By 2008, OverDrive had announced that it would be offering libraries downloadable eBooks in the new EPUB standard, developed by the International Digital Publishing Forum. By early 2009, OverDrive was offering EPUB eBooks from publishers around the world, including the Big Six as well as many other popular publishers, such as Bloomsbury and Harlequin. OverDrive had 150,000 titles in its collection, from 1,000 publishers, being used by 8,500 libraries, schools and retailers. However, with eReaders still in early stages of development, most libraries were focused on buying digital audiobooks from OverDrive. Also many eBook titles were still available only in PDF. OverDrive launched a Chinese eBook collection in 2009, offering 8,000 titles in PDF format and 3,000 audiobook titles in its first year.

By mid-year, OverDrive had reached an agreement with Sony Reader to cross-promote eBooks for library lending and the Sony Reader. As the popularity of eReaders grew in the consumer market, libraries' awareness of the potential for eBook lending in libraries increased. By 2010, OverDrive had released apps to support eBooks on tablets and smartphones, in addition to its partnership with Sony. To expand the available titles in libraries, OverDrive added Project Gutenberg lending through its platform, raising awareness of the free public-domain titles in this collection. By January of 2011, eBook use in public libraries had increased more than 200% over the previous year, and OverDrive was available in more than 13 countries.²⁸

By May of 2011, consumer ownership of eBook readers had reached 12% and tablet ownership had reached 8% in the United States.²⁹ The potential for use of eBooks in libraries was evident.

Publishers' fears that library lending would negatively affect retail eBook sales resulted in significant barriers to a library's ability to access content. In

²⁸ Over Drive, (2016), Unpublished.

²⁹ Kristen Purcell, "E-reader ownership Doubles in Six Months."

2011, HarperCollins announced its circulation cap and Penguin stopped offering licences to libraries through OverDrive. The move followed OverDrive's announcement in September that they had reached a partnership agreement with Amazon.³⁰

In the United States, Kindle dominated the eBook market in terms of sales, publishing and the sale of eReaders. However in the first years of Kindle popularity Kindle users had been unable to borrow eBooks from their public libraries and Amazon-published eBooks could not be added to library collections, in both cases due to Amazon's proprietary eBook format. Amazon had now agreed to permit library borrowing for Kindle users in the United States, and Kindle eBooks were added to the OverDrive collections. The borrowing implementation, while easy for Kindle users, generated controversy among libraries. Borrowing transactions occurred through the patron's Kindle account, and the library transactions generated email communication from Amazon encouraging users to buy eBooks when their loan period expired. For many libraries, the personal information sharing required to offer Kindle eBooks to library patrons was deeply concerning.

Bringing new publishers on board to increase the available content and improving the patron experience with OverDrive WIN were focuses for OverDrive in 2011. OverDrive WIN provided better support for multiple eBook formats, offered open eBook and simultaneous access titles, made more content samples available, and implemented patron-driven acquisition models. The new features were announced in conjunction with the ALA conference in June 2011.³¹

OverDrive announced the addition of "buy it now" buttons for library catalogues in late 2011, offering patrons the option to purchase eBooks that were not available to borrow from libraries. Libraries responded with mixed reviews, some welcoming the opportunity to add convenience for patrons, while others expressed concern about creating a commercial environment in a library space. The addition of the buy button did not generate significant sales through libraries. However, it provided an incentive that encouraged some publishers to make more of their eBooks available to library users.

By January 2012, 700,000 titles were available from OverDrive in 52 languages, with 300,000 of the titles added in the previous year. Thirty-five million check-

30 Overdrive, "OverDrive and Amazon Launch Kindle Compatibility With Library eBooks," Over Drive, 21 September 2011, <http://company.overdrive.com/news/overdrive-and-amazon-launch-kindle-compatibility-with-library-ebooks/>.

31 Overdrive, "OverDrive to Announce Solutions for Libraries to Meet Explosive Demand for eBooks," OverDrive, 15 June 2011, <http://company.overdrive.com/news/overdrive-to-announce-solutions-for-libraries-to-meet-explosive-demand-for-ebooks/>.

outs had occurred in 2011 across the OverDrive collection, and five million new users had installed the app, nearly doubling its users. In June 2012, the system would reach its 100-millionth checkout.

3.3.4 Technology Frustrations and Market Expansion

With rapid growth of interest in eBooks, new vendors had begun to enter the market. Library self-checkout solutions provider 3M had launched their 3M Cloud Library in April 2012,³² and they were expanding in the United States and communicating that they would soon be available in Canada.

The 3M solution was distinguished by offering 3M-branded eReaders that libraries could load with eBooks selected by the patron using kiosks in the library. For patrons without devices, this offering would allow them to experience eBooks, and for those who had a device, this gave them an alternative to alleviate the complex process of downloading and transferring eBook files using Adobe DRM. At launch, 3M offered 100,000 titles from 40 publishers.³³

The established wholesale book distributor Baker & Taylor had also announced a new eBook lending product in conjunction with the ALA conference, and by March 2012, 107 libraries had entered agreements and 38 were offering the solution to patrons.³⁴ The platform's primary benefit was for libraries, as the product integrated print and eBook purchasing through a selection platform for library staff. For libraries using Baker & Taylor's print distribution services, Axis 360 was an attractive solution to complex purchasing processes as digital formats expanded.

Freeding, the eBook equivalent to another digital media lending product, Freegal, from Library Ideas, had also launched in the United States in December 2011. Freeding was offering immediate access to titles for patrons with per-circulation based pricing. Although the multinational publishers were not signing on, many other publishers were agreeing to the terms. By March 2012, Freeding had 138 library customers and 20,000 titles available.³⁵ The new model was challenging for some, but attractive for others. As Michael Kelley explained in *The Digital Shift*:

32 Roberto Baldwin, "3M Cloud Library Lends Not Only e-Books But Also e-Reader Hardware," *Wired* 27 April 2012, <http://www.wired.com/2012/04/3m-cloud-library-lends-not-only-e-books-but-also-e-reader-hardware/>.

33 Baldwin.

34 Michael Kelley, "With Axis 360 Baker and Taylor Establishes a Foothold in the Ebook Distribution Market," *The Digital Shift* 7 March 2012, <http://www.thedigitalshift.com/2012/03/ebooks/with-axis-360-baker-taylor-establishes-a-foothold-in-the-ebook-distribution-market/>.

35 Michael Kelley, "Freeding, the Ebook Sibling of Freegal, Shows Signs of Rapid Growth," *The*

A library either pre-pays for a pool of tokens at 50 cents apiece, or is billed monthly after the fact. Tokens are allotted each week to patrons (4 or 5 tokens a week is typical). A book published less than six months ago costs four tokens (\$2) to download; a book between seven months and two years old costs two tokens (\$1); a book older than two years costs one token (\$0.50). The patron selects a book and its token value is subtracted from the patron's weekly allotment at the time of the download.³⁶

With these new vendors on the market, some libraries were explaining multiple platforms to patrons for the first time. At the same time, use had exploded: from 15 million checkouts in 2010, libraries were now managing checkouts that would reach 70 million annually in 2012 within OverDrive alone. While separate vendor-based platforms for digital content had existed for journals and newspapers in many public libraries, a relatively small percentage of library patrons used these materials. With eBooks, book borrowing, the primary library service, was suddenly too complicated for many library users.

Along with the complexity of using Adobe Digital Editions to download EPUB files onto a computer and syncing them to the patron's eReader, libraries were frustrated that vendors did not facilitate using the library's catalogue to find eBooks. Instead, they offered a separate interface to access eBook and digital audiobook content. This meant that the interface they used for the library's physical collection did not include eBooks. In the United States, Pew had revealed that 62% of the US population did not know whether their library was lending eBooks, and this separation of the format from the library's usual catalogue was a contributor to the problem.³⁷ As one patron commented to Pew: "The name of the program is OverDrive which makes no sense. I would have had no idea of what it was if the person I was with had not given me the hint."³⁸

Libraries joined together to discuss change, and launched the ReadersFirst coalition in June 2012 to seek better technology integration. 3M was the first to make full integration with a library catalogue possible, announcing in December 2012 that they were launching a fully integrated library catalogue with vendor Polaris.³⁹ As the ReadersFirst coalition progressed, OverDrive released several

Digital Shift 2 April 2012, <http://www.thedigitalshift.com/2012/04/ebooks/freading-the-ebook-sibling-of-freegal-shows-signs-of-rapid-growth/>.

³⁶ Kelley, "Freading."

³⁷ Kathryn Zickuhr et al., "Libraries, Patrons, and eBooks," Pew Research Center, 22 June 2012, <http://libraries.pewinternet.org/2012/06/22/part-6-a-closer-look-at-e-book-borrowing/>.

³⁸ Zickuhr et al., "Libraries, Patrons, and eBooks."

³⁹ "3M Cloud Library and Polaris Library Systems Announce Industry's First Fully Integrated eBook Catalog," 3M, 19 December 2012, accessed on 1 August 2016, <http://news.3m.com/press->

application programming interfaces (APIs) to facilitate integration, releasing a developer portal in July 2012 and announcing the first APIs, for catalogue availability, search, library account, retail account and metadata, in October 2012. (See Section 6.2 for a full discussion of ReadersFirst.)

At the same time, libraries were experimenting with alternative solutions, and many had begun lending pre-loaded eReaders. The library would buy commercial eReaders, purchase titles through consumer-focused retailers, and lend out the eReaders with a selection of popular titles to patrons. The Urban Libraries Council described a project at Sacramento Public Libraries, where the device collection launched with 100 devices and eventually grew to 300 devices with 500 titles. The eReaders were pre-loaded by genre, such as mystery, romance or science fiction. Sacramento Public Library identified that the pre-loaded eReader programme met the needs of two types of library patrons: those who could not afford a device to read eBooks, and those who wanted to try out an eReader before buying one.⁴⁰

There are outstanding questions on whether the lending of pre-loaded eReaders containing copyright-protected content is permissible under most eBook licence terms. Some libraries seek permission from publishers to make eBooks available in this way. There are no constraints on loading public-domain content on eReaders.

By 2013, as the technology situation improved, the focus returned to content access. In January, Macmillan announced that they would make 1,200 titles available to libraries through OverDrive from their Minotaur imprint. In May, Hachette announced that they would be making their entire digital catalogue of 5,000 titles available through OverDrive.

3.3.5 OverDrive Big Library Read

To provide illustration of libraries' role in promoting eBooks, OverDrive launched the "Big Library Read" in May 2013. More than 7,500 libraries participated in the programme, which provided a simultaneous access licence for one title, *The Four Corners of the Sky*, by Michael Malone, that had been published in 2009. The

release/company/3m-cloud-library-and-polaris-library-systems-announce-industrys-first-fully-in.
⁴⁰ Urban Libraries Council, "Ereader Lending Program: Sacramento Public Library," Urban Libraries Council, http://www.urbanlibraries.org/ereader-lending-program-innovation-127.php?page_id=47.

intention of the programme was to demonstrate, in a two-week period, the impact that library lending could have on sales of a title.

In the two-week period the book was borrowed 24,000 times. Its position on Amazon's Sales Rank charts "rose dramatically during the promotion's first nine days, moving up more than 50,000 spots from 67,198 to 16,798",⁴¹ and sales also increased for other titles from the same author. Sales of *The Four Corners of the Sky* peaked on Amazon at 10,439 on 11 June, shortly after the OverDrive promotion ended. The publisher, SourceBooks, was reported to be happy with the results of the pilot.⁴² OverDrive has continued the Big Library Read campaign, expanding to other genres and audiences.

By the end of 2013, OverDrive had surpassed 200 million checkouts. This occurred little more than one year after the June 2012 milestone of the first 100 million checkouts, which had taken more than ten years to achieve. The subsequent years showed continued growth, as OverDrive expanded to additional countries and added publishers. By October 2014, OverDrive was offering 2.5 million titles from publishers around the world, and annual checkouts in 2015 reached 169 million worldwide. Japanese Internet services company Rakuten, which had previously bought Kobo, announced that they would be acquiring OverDrive in March 2015.

3.4 Self-Publishing

The rise of eBooks as a viable means of reaching readers opened the Pandora's box of self-publishing. Up to 2010, self-publishing was generally viewed with disdain by the mainstream publishers and readers as a world where inept, poorly edited writers were exploited by dubious packagers and publishers. Digital publishing removed a number of the impediments which made print-on-paper publishing complex and expensive for aspiring authors, including design and layout, printing, binding, marketing and warehousing. Amazon's eBook dominance provided both the profile and the means to provide writers with a techni-

⁴¹ Matt Enis, "OverDrive's Big Library Read Boosts Checkouts, Sales," *The Digital Shift* 28 May 2013, <http://www.thedigitalshift.com/2013/05/ebooks/overdrives-big-library-read-boosts-checkouts-sales/>.

⁴² TeleRead Contributor, "OverDrive Announces Second Book of Big Library Read Program After Successful First Promotion," TeleRead, 23 August 2013, <http://www.teleread.com/overdrive-announces-second-book-of-big-library-read-program-after-successful-first-promotion/>.

cally straightforward and possibly lucrative means of getting their work in front of potential readers.

It quickly became evident that the pent-up demand from aspiring authors was huge, and indeed with eBooks a small number of them did achieve substantial commercial success. In addition there were also a small number of established authors who were increasingly frustrated by the insular world of conventional publishing with its attendant inefficiencies. Book author, marketer, blogger and former book packager Seth Godin expressed this unrest:

In terms of responding to changes in the world, I'm at a loss to think of one thing the book industry does well in 2010 that it wasn't already doing in 1990. Not one new thing done well. ...while I'm not sure what form my writing will take, I'm not planning on it being the 1907 version of hardcover publishing any more.⁴³

The scale of the demand for self-publishing from both authors and readers was unprecedented. By the end of 2015 Amazon had more than four million eBooks available, an increase of 34 million eBooks in six years, most of them self-published. Perhaps more surprising was the level of success achieved by a small number of self-published works (almost all genre fiction):

- over the last five years, close to 40 self-published authors (“independent authors” to use Amazon’s terminology) have sold more than a million copies of their eBooks on Amazon;
- in 2015 on average each week one third of Amazon’s top selling Kindle eBooks were self-published.⁴⁴

In February 2011 the *New York Times Book Review* began to report eBook sales in its influential “Best Sellers” list. It is well established that self-publishing is dominated by women, both as authors and as readers. A UK research study showed that 65% of self-publishers were women, and women authors dominated the eBook bestseller lists.⁴⁵ The author of the UK study, Alison Baverstock, in *The Guardian* attributed this to publishing myopia:

⁴³ Quoted in Angus Phillips, *Turning the Page: The Evolution of the Book* (New York, Routledge, 2014), 19.

⁴⁴ Statistics from Alexandra Alter, “Meredith Wild, a Self-Publisher Making an Imprint”, *New York Times* 30 January 2016, accessed on 1 August 2016, http://mobile.nytimes.com/2016/01/31/business/media/meredith-wild-a-self-publisher-making-an-imprint.html?_r=0.

⁴⁵ Alison Flood, “Kobo’s Top 10 Authors of 2015 Are All Women,” *The Guardian*, 7 December 2015, <http://www.theguardian.com/books/2015/dec/07/kobos-top-10-authors-of-2015-are-all-women>.

Baverstock said there were popular subjects that traditional publishers had ignored, including “respectable soft porn” and “gentle memoirs of everyday disasters, such as losing a child”. Most publishers, she said, were being outpaced by a heady mix of democratisation and digital distribution, because they came from a “very limited gene pool ... all agree on what they like ... they know each other, and are not necessarily in touch with popular taste”.⁴⁶

The combination of sales of eBooks published by traditional publishers with self-published eBooks resulted in rapid and widespread acceptance of the new format among Amazon’s customers: by mid-2010 eBook sales exceeded hard-cover sales and in May 2011 Amazon announced that its eBook sales exceeded all print book sales. By 2015 Amazon accounted for 74% of all US eBook purchases including the 33% of US eBooks sold which do not have an ISBN and are therefore not tracked in the reporting by the AAP.⁴⁷

The popularity of self-published eBooks raises issues for public libraries, which have typically not purchased these types of titles in print if they existed. As previously mentioned, while Amazon has relaxed its restrictions on sales to libraries in the United States, libraries in other countries cannot purchase digital self-published eBooks from their largest distributor, Amazon, even if they wanted to.

When an author decides to publish an eBook with Amazon the standard royalty rate is 35%, and a higher royalty payment of 70% with additional conditions is offered in 28 sales territories. Authors may also choose to enrol in KDP Select to have access to other Amazon promotional programmes or to include their eBook in the Kindle subscription service, Kindle Unlimited. The KDP Select programme grants Amazon the exclusive right to distribute the digital version of the book, and includes the book in the Kindle Unlimited programme. As a result of the exclusivity, KDP Select titles are not available to libraries in the United States for purchase as eBooks, although they may be available in other formats, for example, if they have been published in print.

Other than Amazon, libraries in several countries have options for introducing self-published eBook titles into their collections. For libraries using OverDrive or Odilo, pre-selected collections from Smashwords can be purchased and loaned

⁴⁶ Maggie Brown, “The Fifty Shades Effect: Women Dominate Self-Publishing,” *The Guardian* 9 November 2014. <http://www.theguardian.com/world/2014/nov/09/fifty-shades-of-grey-women-dominate-self-publishing>.

⁴⁷ Author Earnings, “February 2016 Author Earnings Report; Amazon’s Ebook, Print, and Audio Sales”, Author Earnings, <http://authorearnings.com/report/february-2016-author-earnings-report/>.

through the platform. In addition, libraries can accept donations of self-published eBooks and upload them through a local content module in OverDrive. Where libraries have developed their own technology platforms, or where they can negotiate publisher agreements individually and upload content, such as with the platform Odilo, they can purchase and include self-published content as they would other eBooks.

4 Legal Considerations

4.1 Introduction

This section provides an overview of the legal context for library use of eBooks. Several caveats should be noted:

- the authors are not lawyers and the text should not be treated as legal advice;
- the situation is very fluid and new court rulings, relevant legislation or regional legislative frameworks may emerge in the short and medium term which will influence practice by content providers and libraries;
- it appears inevitable that there will be significant variations among countries in the legal and licensing standards for the acquisition and use of digital content by libraries.

4.2 Why Digital is Different

There are fundamental differences in the uses which can be made of a physical object (e.g., a print on paper book or a DVD) once it is sold by a rights owner and the uses which can be made of the same content if it is provided to a purchaser in non-tangible form.

While the legislation governing the uses of content in physical form is different in various regions of the world, the net outcome for libraries and individuals is the same. Generally the legal regimes in place globally vary in two broad ways, the first-sale doctrine (exhaustion) and the right to lend.

The first-sale doctrine means that certain copyright holder rights cease or are exhausted when the object is first sold (e.g., the ability to control re-selling, lending or modifying the object) while other rights continue to be held by the copyright owner (e.g., the rights to reproduce, perform or translate the work). In some instances the post-sale rights of the copyright owner may be constrained in specific ways through exceptions in copyright law (e.g., the right to copy a work for a fair dealing or fair use purpose).¹ The first-sale doctrine may be either explicitly included in national legislation or be assumed as a common-law practice. The

¹ The 169 signatory countries to the Berne Convention consent to limit exceptions to the rights of the copyright owner to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the rights holder.

US Copyright Act is an example of the former and the Canadian copyright regime is an example of the latter. The US Copyright Act states:

[Section 106]: ...the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

(3) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;

Section 109 (a): Notwithstanding the provisions of section 106(3), the owner of a particular copy or phonorecord lawfully made under this title, or any person authorized by such owner, is entitled, without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy or phonorecord...

(d) The privileges prescribed by subsections (a) and (c) do not, unless authorized by the copyright owner, extend to any person who has acquired possession of the copy or phonorecord from the copyright owner, by rental, lease, loan, or otherwise, without acquiring ownership of it.²

These sections of the US law are unequivocal in specifying that the ability to re-sell or lend a copyrighted work does not apply when the work is leased “without acquiring ownership”. This is currently the case with the majority of trade-published eBooks licensed to libraries and individuals.

The right-to-lend is contained in legislation in 53 countries. The European Union Rental and Lending Directive 2006³ states in Article 1:

1. In accordance with the provisions of this Chapter, Member States shall provide, subject to Article 6, a right to authorise or prohibit the rental and lending of originals and copies of copyright works, and other subject matter as set out in Article 3(1).

2. The rights referred to in paragraph 1 shall not be exhausted by any sale or other act of distribution of originals and copies of copyright works and other subject matter as set out in Article 3(1).

² *Copyright Law of the United States of America and Related Laws Contained in Title 17 of the United States Code*. Circular 92 (Washington, DC: United States Copyright Office, 2011), §§106, 109. <http://www.copyright.gov/title17/92chap1.html>.

³ Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on Rental Right and Lending Right and on Certain Rights Related to Copyright in the Field of Intellectual Property, <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32006L0115&from=E>.

Article 3 continues:

1. The exclusive right to authorise or prohibit rental and lending shall belong to the following:
 - a) the author in respect of the original and copies of the work...

Article 6 provides the means whereby libraries can lend books without the rights holder's approval:

1. Member States may derogate from the exclusive right provided for in Article 1 in respect of public lending, provided that at least authors obtain a remuneration for such lending. Member States shall be free to determine this remuneration taking account of their cultural promotion objectives.

Lending is defined in Article 2(1)(b) of the Directive as “making available for use, for a limited period of time and not for direct or indirect economic or commercial advantage, when it is made through establishments which are accessible to the public...”

These two different approaches to enabling the lending of tangible objects by libraries both adhere to the requirements of the 1996 WIPO Copyright Treaty which in Article 6 both confers on rights holders the right to control distribution and confers on countries the ability to apply exhaustion of the distribution right after the first sale. Article 8 addresses the communication and making available of works not in tangible form to the public. The right of communication to the public encompasses the use of wire and wireless means and encompasses both conventional broadcasting and the making available of works in such a way that “members of the public may access these works from a place and at a time individually chosen by them:” i.e. utilizing the internet.

The means of delivery of content to a user combined with the legal regime in a specific region determines the rights of both the copyright owner and the user. In the case of a movie the following situations may arise:

- if the movie is sold as a DVD and the first sale doctrine is in place, the rights owner cannot control certain post-sale uses such as library lending;
- if the movie is communicated to the public as a broadcast on conventional television, the rights owner can control any subsequent uses unless there are specific legislated exceptions in law, for example, off-air recording for personal or classroom use;
- if the movie is made available on the internet through a service such as Netflix at a time and place chosen by the user, any subsequent uses would again require rights holder approval unless specific exceptions exist in law.

Trade eBooks are almost never sold as tangible objects, are seldom sold outright and are almost never communicated to the public in a conventional broadcasting sense. They usually fall under the “making available” regime and as such rights holders can, through a licence, dictate both availability and, if made available, terms and conditions of use.

The term “eLending” is generally applied to the downloading of digital text through a library website. In practice this most frequently involves the library user accessing the file from a location away from the library, which parallels how eBooks are purchased. The requirements not to have to travel to a library or bookstore and worry about opening hours are both expected and viewed as a major convenience of the digital format. Books are available at anytime from anywhere as long as there is an internet connection. Remote access to library eBooks has been questioned in the UK referencing the EU Copyright Directive. UK publishers argued that a requirement that library users should be limited to downloading eBooks to their devices from within library premises was an appropriate “friction” in the same way that a limit of one user at a time was appropriate; both imposed limitations of borrowing print books on eBook collections despite the fact that there is no technological requirement for the constraints. The UK *Digital Economy Act 2010* defines “lent out” in the context of applying public lending right to eBooks:

lent out

(a) means made available to a member of the public for use away from library premises for a limited time, but

(b) does not include being communicated by means of electronic transmission to a place other than library premises...⁴

Here in the narrow context of public lending right (PLR) applicability, the UK government acknowledges that the transfer of the work to a library user’s reading device must take place on library premises and that this copy may then be considered to have been “lent out”, i.e., taken away from the library by the library user. Libraries have made it clear that were such a requirement to be placed on eBook provision, it would be totally unacceptable to library users and would significantly suppress library eBook usage. The provision of eBooks to library users away from the library is made possible through licence terms entered into by the library and the rights holder.

⁴ *Digital Economy Act, 2010*, c. 24 (UK), s.43, <http://www.legislation.gov.uk/ukpga/2010/24/>.

4.3 Jurisprudence

There are clearly wide-reaching societal, institutional and individual implications when exhaustion, or lending when remuneration is required by law, does not apply to digital content when it is not in a tangible form. Not surprisingly there have been several court cases in recent years challenging the ability of rights holders to control use of content after access is purchased.

To date, almost all official opinions on the use of digital content support the position that exhaustion does not nor should apply when digital content is “made available” to the user. For example the European Union Information Society Directive 2001 states in Recital 29:

(29) ...Unlike CD-ROM or CD-I, where the intellectual property is incorporated in a material medium, namely an item of goods, every on-line service is in fact an act which should be subject to authorisation where the copyright or related right so provides.⁵

A more recent example is the 2016 *US Department of Commerce White Paper* which addresses the first sale doctrine in the digital environment. Including a detailed assessment of testimonies from a wide range of stakeholders including library representatives, the report concludes:

The first sale doctrine provides many benefits to the public, including sharing favorite books with friends, enabling libraries to lend materials to their patrons, and providing reduced-price versions to impecunious students. We posed the question whether there is a way to preserve the doctrine’s benefits in the online environment. Based on the record before us, the Task Force concludes:

- Amending the law to extend the first sale doctrine to digital transmissions of copyrighted works is not advisable at this time. We have seen insufficient evidence to show that there has been a change in circumstances in markets or technology, and the risks to copyright owners’ primary markets do not appear to have diminished. Innovative business models and licensing terms provide some of the benefits traditionally provided by the first sale doctrine. The Task Force acknowledges that licensing terms can be changed, but we expect that copyright owners, as rational commercial actors, will meet the changing demands of consumers.
- The Task Force notes the concerns expressed by libraries about the loans of eBooks. The licensing agreements between eBook publishers and libraries are new and evolving, and early government intervention into the eBook market could skew the development of innovative and mutually beneficial arrangements. If over time it becomes

⁵ Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the Harmonisation of Certain Aspects of Copyright and Related Rights in the Information Society, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32001L0029>

apparent that libraries have been unable to appropriately serve their patrons due to overly restrictive terms imposed by publishers, further action may be advisable (such as convening library and publisher stakeholders to develop voluntary best practices, or amending the Copyright Act).⁶

While government reviews of the issues such as these have examined if there needs to be legislative intervention in changing the current provision of digital content in non-tangible forms, a series of court rulings has also addressed the issues.

One of the more philosophically supportive opinions for the concerns of librarians came from the Canadian Supreme Court when it ruled on a music licensing case citing the principal of technological neutrality when considering copyright:

There is no practical difference between buying a durable copy of the work in a store, receiving a copy in the mail, or downloading an identical copy using the Internet... Absent evidence of Parliamentary intent to the contrary, we interpret the Act in a way that avoids imposing an additional layer of protections and fees based solely on the method of delivery of the work to the end user. To do otherwise would effectively impose a gratuitous cost for the use of more efficient, Internet-based technologies. The Internet should be seen as a technological tax that delivers a durable copy of the same work to the end user. The traditional balance in copyright between promoting the public interest in the encouragement and dissemination of works and obtaining a just reward for the creators of those works should be preserved in the digital environment.⁷

A consortium of publishers, authors and booksellers echoed this sentiment when arguing for consistent low taxes on books: “A book is a book regardless of its format.”⁸

Meanwhile uncertainty continued as courts at different levels and in different countries ruled on the post-first-sale use of licensed digital content. In 2012 the

⁶ Department of Commerce Internet Policy Task Force, *White Paper on Remixes, First Sale, and Statutory Damages: Copyright Policy, Creativity, and Innovation in the Digital Economy* ([Washington, DC]: United States Patent and Trademark Office, 2016), <http://www.uspto.gov/learning-and-resources/ip-policy/copyright/white-paper-remixes-first-sale-and-statutory-damages>.

⁷ Entertainment Software Association v. Society of Composers, Authors and Music Publishers of Canada, 2012 SCC 34, [2012] 2 S.C.R. 231, 12 July 2012, <http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/9994/index.do>.

⁸ Booksellers Association, “Manifesto For the 2014 European Elections,” Booksellers Association, 5 February 2014, <http://www.booksellers.org.uk/BookSellers/media/SiteMediaLibrary/AboutTheBA/Manifesto-For-The-2014-European-Elections.pdf>.

Court of Justice of the European Union (CJEU) ruled in favour of an individual consumer's right to resell software downloaded from the internet with a permanent licence.⁹ This immediately led to speculation that the same consumer rights should apply to eBooks. A subsequent German Court ruled in 2013 (Case No 4 O 191/11, Landgericht (German Regional Court) Bielefeld, 5 March 2013) that the earlier ruling applied only to the EU Software Directive and had no application to eBooks or audiobooks.

The most relevant legal case to the library/eBook situation in the United States was the ReDigi case. ReDigi utilized a cloud-based service which enabled individuals to offer their digital files for sale. The service ensured that the person selling a file did not retain a copy of it. This service appeared on the face of it to be replicating the role played by a used-record store with CDs and LPs. No doubt seeking to strengthen its corporate profile, ReDigi made it known that it was developing software to allow the donation of eBooks and audiobooks to libraries. The record company successfully argued that its reproduction right was breached by the transfer of the file from one user to another via an intermediary in that the file was duplicated even though one copy remained one copy at the end of the process. The presiding judge was explicit in asserting that the decision on exhaustion in the digital realm properly rested with legislators: "the Court cannot of its own accord condone the wholesale application of the first sale defense to the digital sphere, particularly when Congress itself has declined to take that step".¹⁰ An appeal of this 2013 ruling was denied.

As recently as March 2016 the CJEU considered whether the EU Rental and Lending Directive applied to eLending. The case in question was initiated in the District Court of The Hague by the Vereniging Openbare Bibliotheken (VOB) – the Netherlands Public Library Association – against Stichting Leenrecht, a foundation which oversees the Dutch PLR programme. The district court referred a series of questions to the CJEU seeking a preliminary ruling on the applicability of EU Directives to eLending:

first, that the lending of electronic books falls within the scope of the lending right, secondly, that the making available of electronic books for an unlimited period of time constitutes a sale for the purposes of the provisions governing the distribution right and, thirdly,

⁹ *UsedSoft GmbH v. Oracle International Corp.*, C-128/11, 3 July 2012, <http://curia.europa.eu/juris/liste.jsf?num=C-128/11>.

¹⁰ *Capitol Records LLC v. ReDigi Inc.*, 934 F. Supp. 2d 640, 30 March 2013, https://scholar.google.ca/scholar_case?case=11987243262728384575&q=Capitol+Records,+LLC+v.+Redigi+Inc.&hl=en&as_sdt=2006&as_vis=1.

that the lending of electronic books by public libraries against the payment to authors of a fair remuneration does not constitute copyright infringement.¹¹

The resulting preliminary ruling from the Advocate General, while not binding on the CJEU, offers much cause for celebration by those supporting the library position. The “Introduction” clearly states the long-standing societal importance of libraries and notes, “the present case undeniably offers the Court a real opportunity to help libraries not only to survive, but also to flourish”.¹² Indeed the Opinion goes beyond what the VOB was seeking. The VOB limited its request to “novels, collections of short stories, biographies, travelogues, children’s books and youth literature” eBooks while the Opinion states that the ruling must apply “without distinction, to works of all types that exist in the form of an electronic book”.¹³ The Opinion notes that eBooks and eLending were not conceived of when the Lending Directive was written. Echoing the opinions of other courts, the Opinion states that “there is no substantial difference between a printed book and an electronic book or between the methods by which they are lent. Most importantly, the Opinion states that:

...books are not regarded as an ordinary commodity and that literary creation is not a simple economic activity. The importance of books for the preservation of, and access to culture and scientific knowledge has always taken precedence over considerations of a purely economic nature.

Today in the digital age, libraries must be able to continue to fulfil the task of cultural preservation and dissemination that they have performed when books existed only in a paper form. That, however, is not necessarily possible in an environment that is governed solely by the laws of the market.¹⁴

The Opinion concludes by unequivocally stating that “the lending right enshrined in Article 1 includes the making available to the public of electronic books by libraries for a limited period of time”.¹⁵

It is not known when the CJEU will deliver a final ruling on this matter, potentially in 2017, but there is no doubt that the preliminary opinion of June 2016 offers cause for optimism from library supporters.

11 *Vereniging Openbare Bibliotheken v. Stichting Leenrecht*, C174-15, Opinion of Advocate-General Szpunar delivered on 16 June 2016. <http://curia.europa.eu/juris/liste.jsf?num=C-174/15>.

12 *Vereniging Openbare Bibliotheken v. Stichting Leenrecht*, section 1.

13 *Vereniging Openbare Bibliotheken v. Stichting Leenrecht*, section 22.

14 *Vereniging Openbare Bibliotheken v. Stichting Leenrecht*, sections 37 and 38.

15 *Vereniging Openbare Bibliotheken v. Stichting Leenrecht*, section 89.

4.4 Solutions for Libraries?

4.4.1 Legislate or Negotiate?

It has proven difficult for library supporters to articulate what specific changes to legislation would resolve the multiple issues which impede both access to eBooks and the terms and conditions which dictate how they can be used if acquired. While significant progress has been made in improving access to eBooks from the Big Five publishers in several regional markets, there is no guarantee of good faith negotiating of licences by all publishers. In countries such as the United States and Canada, contract law is the responsibility of sub-national governments (states and provinces respectively). In such cases, if changes were to be made to contract law applicable to eBook licences, a national patchwork of differing requirements would be probable.

Publishers through the International Publishers Association and their national associations have consistently argued that ongoing negotiations will resolve the differences with libraries. While library representatives acknowledge that negotiation of licences has an important role moving forward they have also been adamant that specific rights and exceptions for libraries and digital content must be incorporated into both international and regional frameworks and national legislation.

A 2016 International Publishers Association press release responding to a European review of eBook issues stated “...collaboration between all stakeholders through experimentation, piloting and data gathering are most likely to lead to sustainable e-lending models”.¹⁶ However it is improbable that any consistent approach among publishers for making eBooks available to libraries will emerge if for no other reason than five of the then Big Six publishers were found to have violated US anti-competition requirements when they negotiated eBook pricing with Apple. Since this 2015 ruling and the resulting substantial financial penalties (\$450 million to Apple and \$166 million to the publishers), publishers have refused to engage in collective negotiations with library representatives. Even if the largest publishers were to agree to similar eBook availability and terms and conditions acceptable to libraries, it is inconceivable that libraries would still not

¹⁶ International Publishers Association, “Library e-Lending: We’re at a Fork in the Road, but with a Dead End,” International Publishers Association, 26 January 2015, <http://www.internationalpublishers.org/policy-issues/publishers-librarians/knowledge-bank-literacy-and-reading/277-library-e-lending-we-re-at-a-fork-in-the-road-but-with-one-dead-end>.

face obstacles to providing content to their users when dealing with specific publishers which view library availability as detrimental to their financial interests.

4.4.2 Public Lending Right

PLR is a programme intended to either compensate authors for the potential loss of sales from their works being freely available in libraries, or as a governmental initiative to support authors based on library availability of their works. Public lending right programmes are in place in 33 countries, 29 of which are in Europe which, as has been discussed, mandates author remuneration in order for libraries to be able to lend books. There is a wide range of methodologies in place for calculating PLR payments: in effect no two programmes operate in the same way. In this regard it is notable that the CJEU has heard seven challenges to methods of PLR implementation by member states.

As early as in 2011 PLR programmes have been examining the application of PLR to eBooks.¹⁷ While no countries have implemented PLR compensation for eBooks, several programmes have stated their intent to do so and are collecting eBook data from authors. The William Sieghart-led government review of eLending in English public libraries (discussed in Chapter 5) acknowledged that the implementation of PLR for eBooks would have to be a two-step process dependent in part on changes to the EU Directive: “the Public Lending Right should be extended to on-site e-loans, with consideration further ahead to including remote e-loans”.¹⁸ In responding to this recommendation the government noted that the required funds for the additional compensation were not available and that conformity with the EU Directive would delay implementation. However, in July 2014, under the provision made by the UK Digital Economy Act 2010, the PLR scheme was extended to public library onsite loans of audiobooks and eBooks. The UK PLR site acknowledges the obstacles in applying PLR to eBooks which arise with the previously cited UK Digital Economy Act:

Due to copyright law, the extension of the PLR scheme only permits ebooks which are downloaded on library premises to fixed terminals and then taken away on loan to be included within PLR legislation. Information provided by libraries suggest that the vast majority of

¹⁷ Paul Whitney, “EBooks and Public Lending Right in Canada,” PLR Commission, June 2011, <http://www.plr.ca/PLR/documents/FinalreportinEnglish.pdf>.

¹⁸ William Sieghart, “An Independent Review of e-Lending in Public Libraries in England,” Department for Culture Media and Sport (UK), March 2013, <https://www.gov.uk/government/publications/an-independent-review-of-e-lending-in-public-libraries-in-england>.

ebook and digital audio lending is carried out ‘remotely’ to home PCs and mobile devices, which wouldn’t qualify the loan for PLR. That’s not to say libraries won’t make on-site lending available in the future. There is nothing stopping you from registering your ebook and audio download editions with us, but please be aware it is very unlikely that loans of this material will generate any PLR earnings.¹⁹

Explicitly or implicitly, proponents for eBook availability in libraries in the EU argue that either a copyright exception or a statement within the Directive is required to enable eLending including the application of PLR to eBook loans although, as previously noted, this issue is currently before the courts. The European Bureau of Library, Information and Documentation Associations (EBLIDA) statement on eBooks reinforces this argument: “EBLIDA hereby calls on the EU Commission for a clear copyright framework that allows libraries to acquire and lend e-books with an adequate remuneration to authors and other rights holders.”²⁰

In the joint statement on behalf of library, publisher, author and bookseller associations in the UK 2014/15 pilot study on remote eBook access through libraries (discussed in Chapter 5), it was noted:

There is no Public Lending Right for ebooks when borrowed remotely. All parties note that it is critically important that authors receive fair payment each time their works are borrowed as well as on the initial licence to the library.²¹

In an analysis prepared for IFLA and EBLIDA by Dutch law professor Dirk Visser on what would be required legally to enable eLending he noted:

The paper is based upon the assumption that lending by public libraries is subject to equitable remuneration to authors to ensure that the legitimate interests of authors are taken into account.²²

The question of whether PLR should be applied to eBooks outside the EU is limited to the four countries that have PLR in place. The motivations cited are more stra-

¹⁹ British Library, “PLR: Registration of Non-Print Material,” PLR UK & Ireland, <https://www.plr.uk.com/registrationservice/audioEbookFaq.htm>.

²⁰ European Bureau of Library, Information and Documentation Associations (EBLIDA), “The Right to E-read Position Paper and Statement (archived) May 2014,” EBLIDA, <http://www.eblida.org/e-read/the-right-to-e%E2%80%90read-position-paper-and-statement.html>.

²¹ Publishers Association, “Pilot Study on Remote E-Lending,” Publishers Association, 5 June 2015, <http://www.publishers.org.uk/policy-and-news/news-releases/2015/pilot-study-on-remote-e-lending/>.

²² Dirk Visser, Unpublished memo, 2015.

tegit than legal: for example, using the application of payments to gain support from authors and political decision makers for eBook availability in libraries.

If the decision is made in a country or the EU to compensate authors for eBooks in libraries it is probable that the means of calculating compensation will vary from compensation for print books for principle and logistical reasons:

- unlike print books where an author receives a one-time royalty on the sale, with eBooks ongoing royalties *may* be received by the author if licences are renewed or if payments are calculated on a per use basis;
- due to the role played by third party intermediaries (the eBook vendors), data such as copy or annual circulation may not be easily accessible by PLR staff;
- clear and defensible criteria will need to be established for what constitutes an eligible eBook title (e.g., would an ISBN be required) and what constitutes a deliberative decision by the library to acquire an eBook.

The best case scenario for proponents of PLR payments for remuneration of eBook availability in libraries may well be a modified means of calculating eligibility and calculating payment.

5 Library eBook Principles

5.1 Introduction

Since 2010 the huge escalating increase in the purchase of eReaders by consumers in some markets, and the corresponding increase in the commercial availability of trade eBooks, led to increased demand for eBooks in public libraries and an immediate focus on the constraints on library use implicit in the new format.

Library acquisition and usage of digital databases, typically published by scholarly publishers, was addressed in the *IFLA Licensing Principles* (2001) which presented “a set of basic principles that should prevail in the contractual relationship and written contracts between libraries and information providers”.¹ While some areas of concern are common to both types of digital content, issues of library access to trade eBooks differ fundamentally from databases that assume a willing information provider and where the focus is usually on negotiated access. Trade eBook publishing, which is evolving rapidly, presents libraries with different technical, legal and strategic challenges which have led in some cases to confusion and frustration for libraries and their users, as well as publishers and authors.

The arrival of the internet age and the proliferation of digital content have heralded a new and exciting phase in the democratisation of information, ideas, and knowledge – arguably at least as potent and transformative as other events in recorded history. However, despite the myriad innovative social and economic benefits attached to widespread digital distribution and access to information and content, there are disturbing signs that in the realm of public access the clock is turning back in certain areas.

At this stage in the evolution of digital dissemination of text-based content, libraries and their users wish at a minimum to be able to obtain and use an eBook in the same way they can obtain and use a print book. However, libraries are facing the new reality where they are often constrained from acquiring commercially available eBooks for their collections under acceptable terms and conditions. For example, some trade publishers and authors are withholding sales when they believe that access to eBooks by libraries may undermine retail sales and thereby reduce royalties.

¹ International Federation of Library Associations and Institutions (IFLA), “IFLA Licensing Principles 2001,” IFLA, last updated 14 May 2014, <http://www.ifla.org/publications/ifla-licensing-principles-2001>.

In response to the challenges inherent in eBook availability in libraries a number of initiatives in different countries have set out to codify principles for eBook availability and use. These include statements prepared by library associations as well as government initiated studies with cross sector representation. The following library association principle statements are reviewed in this chapter:

- International Federation of Library Associations and Institutions (IFLA) *Principles for Library eLending* (2013);²
- European Bureau of Library, Information and Documentation Associations (EBLIDA) *Key Principles on the Acquisition of and Access to E-Books by Libraries* (2012);³
- Canadian Urban Libraries Council/ Conseil des Bibliothèques Urbaines du Canada (CULC/CBUC), *Vision Statement for Public Library Access to Downloadable and Portable e-Content* (2010);⁴
- Australian Library and Information Association (ALIA) *Position Statement on ebooks and elending* (2013).⁵

In addition the following reviews produced by multi-stakeholder committees are discussed:

- The Australian Lending Rights Expert Reference Group, *Principles of Consistent Models of Supply of ebooks to Libraries* (2013)⁶
- William Sieghart, *An Independent Review of E-Lending in Public Libraries in England* (2013)⁷

2 International Federation of Library Associations and Institutions (IFLA). “IFLA Principles for Library eLending,” IFLA, last updated 16 September 2014, <http://www.ifla.org/node/7418>.

3 European Bureau of Library, Information and Documentation Associations (EBLIDA), “EBLIDA Key Principles on the Acquisition of and Access to E-books by Libraries,” EBLIDA, 22 October 2012, http://www.eblida.org/Special%20Events/Key-principles-acquisition-eBooks-November2012/GB_English%20Version%20Key%20Principles.pdf.

4 Canadian Urban Libraries Council, “Vision Statement for Public Library Access to Downloadable and Portable E-content,” Canadian Urban Libraries Council, November 2010, http://www.culc.ca/cms_lib/Statement%20Access%20Downloads.pdf.

5 Australian Library and Information Association, “ALIA position statement on ebooks and elending, May 2013,” Australian Library and Information Association, 2013, <https://www.alia.org.au/advocacy-and-campaigns/advocacy-campaigns/ebooks-and-elending#POSITION%20PAPER>.

6 Book Industry Collaborative Council (Australia), “Final Report 2013”, 187–190, http://pandora.nla.gov.au/pan/144635/201403140742/www.senatorkimcarr.com/uploads/1/8/8/8/18881120/book_industry_collaborative_council_final_report_2013.pdf.

7 William Sieghart, “An Independent Review of e-Lending in Public Libraries in England,” Department for Culture Media and Sport (UK), March 2013, <https://www.gov.uk/government/publications/an-independent-review-of-e-lending-in-public-libraries-in-england>.

It is not surprising that several key concepts are consistently but not universally addressed in these statements:

- the right to acquire;
- terms and conditions of use and pricing;
- the application of legislated copyright exceptions;
- digital rights management including format neutrality and accessibility;
- preservation;
- privacy;
- recognizing the interests of authors and publishers.

5.2 The Right to Acquire

For the first time in their history, with trade eBooks libraries were confronted with content commercially available to individual library users which could not be included in library collections. The result was a situation where ability to pay determined an individual's ability to fully participate in society. The ability to pay includes both the cost of the eBook and the cost of the technology and internet connectivity necessary to access the content.

The evolution of the library market for eBooks is discussed elsewhere in this book. The general pattern has been for a gradual increase in the offering to libraries as publishers become more comfortable with the market effects of library access to eBooks. It is clear however that individual publishers take very different approaches and, in the case of multinational publishers, the same publisher may adopt different standards in different regions. Based on the generally unproven assumption that the availability of a commercially active eBook from public libraries reduces retail sales, some publishers have responded by withholding titles from library sales entirely or delaying the availability of new titles; i.e., implementing a limited time embargo on library sales.

The most comprehensive review of the sales impact of library lending of eBooks was carried out in England. William Sieghart stated in his review:

What is apparent in all the evidence submitted to this review is that there is still very little research on digital lending/ borrowing in the UK on which to draw on. This lack of evidence is at the heart of many of the concerns expressed by various constituencies in the digital lending debate. So my final recommendation is that publishers, libraries and booksellers engage in a research exercise to work together on digital lending to allow the necessary data to be collected.

Directly arising from this recommendation, a cross-sector⁸ UK eLending pilot study was launched with the first pilot study report released in June 2015. It was intended to “try to establish whether a remote e-lending service might disrupt the delicate ecology of the print and, still nascent, digital market and that a fair balance existed between those who loaned the books for free and those who wanted to be rewarded for creating, publishing and selling the book”.⁹ While establishing several clear patterns with remote eBook access in public libraries, the study was inconclusive in establishing an impact on the retail market for eBooks: “This research indicates a possible reduction in the propensity to buy new physical books and visit bookshops amongst e-book borrowers.”¹⁰ The research was inconclusive as to whether eBook lending leads to greater eBook purchasing.

As discussed in Section 7.5, at one point publishers in Denmark temporarily withdrew titles from library availability caused by concerns over slow retail sales.

It is clear that more research is required to fully understand the relationship between library access to new and popular eBook titles and their retail market sales. As an understanding of retail market dynamics evolves, libraries will continue to experience varying eBook terms from publishers including higher title pricing (sometimes linked to publication date), delayed release and an outright embargo on library sales. It is difficult to argue that the withholding of a digital title from library collections is detrimental to civic engagement when the title is available to libraries in a print version. However this position can clearly be successfully argued when a digital-only text is withheld from libraries and their users. An excellent example of citizen disfranchisement arising from non-library availability of a book arose in British Columbia in 2012/13. Amid political turmoil at the provincial level, a Kindle eBook¹¹ was published by a political insider containing revelations which garnered major news coverage. The largest newspaper in the province ran a headline “A stimulating read for every voter” and a columnist in Canada’s largest national newspaper wrote:

⁸ Including The Publishers Association, Society of Chief Librarians, Booksellers Association, Society of Authors and the Association of Authors’ Agents.

⁹ Publishers Association, “Pilot Study on Remote E-Lending,” Publishers Association, 5 June 2015, <http://www.publishers.org.uk/policy-and-news/news-releases/2015/pilot-study-on-remote-e-lending/>.

¹⁰ Presumably no different than the inclinations of eBook buyers.

¹¹ Martyn Brown, *Towards a New Government in British Columbia*, Kindle ed. (Martyn Brown, 2012), https://www.amazon.ca/Towards-New-Government-British-Columbia-ebook/dp/B009033J10/ref=sr_1_1?s=digital-text&ie=UTF8&qid=1459003737&sr=1-1&keywords=martyn+brown.

In a lifetime of reading books about politics and the nature of governing, I have to say that *Towards a New Government in British Columbia* is one of the best and most insightful tomes I've come across.¹²

The book was not available for purchase by any library resulting in the unacceptable situation that access to this timely, relevant and socially important book was denied to those without a Kindle or computer and a valid credit card. This disfranchisement of a sizeable number of people is not acceptable.

In the United States, two efforts have been made to reinforce the idea that library borrowing promotes sales. *Library Journal* partnered with Bowker for a series of research studies, and found that 50% of library patrons had gone on to purchase books by authors who they had first discovered at the library.¹³ OverDrive began the Big Library Read programme in 2012 to provide evidence that library eBook borrowing could promote sales, and in its first effort caused the selected book to jump more than 50,000 spots on Amazon's SalesRank.¹⁴

Such situations support the positions on library access to eBooks in the library principles documents cited in this chapter:

- a library must have the right to license and/or purchase any commercially available eBook without embargo. If titles are withheld from the library market by publishers and/or authors, national legislation should require such access under reasonable terms and conditions. Libraries must be able to determine their own acquisitions by choosing specific titles from publisher or distributor listings in support of their mandate to provide community access to information and knowledge (IFLA);
- all e-book titles available for sale to the public should be available to libraries for acquisition and access. All e-book titles should be available to libraries at the time of publication (EBLIDA);
- libraries need to be able to select and order e-content from anywhere as is done for print... (there should be) simultaneous release of e-content to the consumer and library markets (CULC/CBUC).

¹² Gary Mason, "Former Liberal Insider Critiques Christy Clark in New Book," *Globe and Mail* 24 August 2012, <http://www.theglobeandmail.com/news/british-columbia/former-liberal-insider-critiques-christy-clark-in-new-book/article4498917/>.

¹³ Bowker, "Library Journal Releases Patron Profiles Detailing Who Uses Libraries and Why the First Issue is Titled Library Patrons and Ebook Usage," Bowker, 17 November 2011, accessed on 3 August 2016, <http://www.bowker.com/news/2011/2902/3381.html>.

¹⁴ Matt Enis, "OverDrive's Big Library Read Boosts Checkouts, Sales," *The Digital Shift* 28 May 2013, <http://www.thedigitalshift.com/2013/05/ebooks/overdrives-big-library-read-boosts-checkouts-sales/>.

5.3 Terms and Conditions of Use and Pricing

As addressed in various sections of this book, there is a range of terms and conditions placed on trade eBooks purchased by libraries, as publishers attempt to limit the perceived yet unproven negative effect of public library availability on retail sales. In summary, the following terms and conditions are commonly applied in many non-negotiable trade eBook licence agreements:

- one reader at a time per “copy” licensed;
- a time or number of loans limit on availability: e.g., the electronic file is only accessible for a fixed time period or total number of loans;
- the ability to borrow may be limited to a specific group of individuals; e.g., residents of the licensing library service area.

Publisher and distributor retail pricing of eBooks has been the subject of investigation in the United States and the European Union. In the highest profile case in the United States, five of the then Big Six publishers were, along with Apple Inc., found to have conspired to raise the price of eBooks in an attempt to constrain the dominance of Amazon in eBook retailing. The appeals court hearing the case described the publishers as a cartel engaged in a conspiracy to set retail eBook prices at the expense of consumers.¹⁵ Largely as a result of this ruling, publishers have refused to collectively negotiate with libraries on issues relating to eBook licensing including pricing. This has resulted in wide variations in trade eBook pricing for libraries. The Canadian public campaign against high eBook prices for libraries is discussed in Section 6.3.

When the documents stating principles address terms and conditions they use general terms to advocate for fairness in licensing or selling eBooks to libraries and avoid specific details. Such general terms have been used in legislation in similar situations. They may result in legal challenges when disputes on interpretation arise. The IFLA statement reads:

A library must have access to eBooks under reasonable terms and conditions and at a fair price. Terms of access should be transparent and costs predictable to enable the library to operate within its budget and funding cycles.

¹⁵ U.S. v. Apple, Inc., et al., 12 Civ. 2826 (DLC), United States Department of Justice, July 2013, <https://www.justice.gov/atr/case-document/opinion-order>.

Reflecting publisher and author involvement, the Australian Expert Reference Group report acknowledges the varying eBook terms and conditions which exist and concludes:

The industry aims to improve the availability of content, providing libraries with a variety of terms for acquisition and re-use...Finding viable and sustainable models that support concurrency of market release and the interests of publishers and libraries is a priority.

When pricing is specifically addressed in principle documents, approaches vary:

- libraries should expect to pay fair and reasonable prices for ebook titles and distribution services (Australian Lending Rights Expert Reference Group);
- libraries need...fair and flexible pricing models that offer options to libraries (e.g. one copy/one use, simultaneous use, and actual use models) (CULC/CBUC);
- the price of an e-book should not exceed the price of the print version of the same e-book title (EBLIDA).

It should be noted that if, in some countries, libraries pay retail list price for an eBook, they would actually be paying more than they typically pay for a print book because when trade print books are purchased either directly from the publisher or through a vendor significant discounts are applied, in some instances over 40%.

5.4 The Application of Legislated Copyright Exceptions and Digital Rights Management

When libraries consider eBooks as part of their collections, the application of legislated exceptions becomes significant given the possible presence of DRM which can limit library user rights including printing a portion of the work and library rights including reproduction for preservation, reformatting for access by print-disabled readers and interlibrary loan.

When libraries consider the relative importance of copyright exceptions there are differing priorities which emerge by type of library. For example, research libraries are likely to place a higher priority on interlibrary loan, given their higher activity levels, while public libraries are often inclined to not press for the right in discussions with eBook publishers and distributors. The interlibrary loan of commercially available eBooks is viewed as a “poison pill” by trade publishers who fear escalating erosion of retail sales. This concern led to OverDrive (possibly at the request of publishers) restricting large libraries (over 100,000 population) from participating in consortia eBook purchasing and therefore collectively

contributing to shared collections. The immediate effect of this change was to severely reduce the range of eBook titles available to residents of smaller communities in the consortia.

The majority of the statements of principle considered here are silent on the right to utilize legislated exceptions. The IFLA statement has the most specifics in this regard:

eBook licensing/purchase options must respect copyright limitations and exceptions available to libraries and their users in national law, such as the right to:

- Copy a portion of the work
- Re-format the work for preservation purposes if it is licensed and/or purchased for permanent access
- Provide a temporary copy of the work to another library in response to a user request
- Reformat a work to enable access for people with print disabilities
- By-pass a technological protection measure for the purpose of exercising any non-infringing purpose. (IFLA)

The EBLIDA statement does not include a general statement on access to copyright exceptions but it does specifically mention interlibrary loan and alternate format production which are both the subject of copyright exceptions in some countries:

- There should be an option for a licence allowing for interlibrary access.
- Publishers and libraries should cooperate towards finding solutions providing for the production and delivery of alternative formats for persons with disabilities.

The Australian statement acknowledges that DRM used on eBooks to prevent illegal use “often extend beyond the protections afforded by copyright legislation” and concludes:

All digital models should uphold Australian copyright law and strike a balance between ensuring adequate and proper rights protection for authors and publishers against illegal use of their work, and allowing libraries and their patrons to enjoy reasonable use of purchased titles.

5.5 Preservation

eBooks present significant challenges for libraries interested in ensuring ongoing access to a title. In many instances eBooks are not available for perpetual access, and even when this is the case the question of how such ongoing access can be insured is uncertain. Rights can transfer and publishers and distributors go out

of business, which can introduce uncertainty surrounding ongoing access, as in most instances the library does not possess a copy of the actual digital file. Where access to the file is available, it may be necessary to bypass DRM in order to migrate the eBook to a new platform which provides ongoing access. Bypassing DRM for such a purpose may be specifically prohibited through copyright law in some jurisdictions.

Generally, all stakeholders understand the importance of preserving cultural heritage and this is not a matter of disagreement in principle. How the principle is delivered is complex and can give rise to disagreement. There are examples of agreements between research libraries and scholarly publishers where licensed content is deposited in a “dark archive” which could only be accessed by the library when the content is no longer commercially available. Given the multitude of players in negotiating access to trade eBooks,¹⁶ it is difficult to envisage how such an arrangement could be universally applied.

The IFLA statement, as quoted above, treats preservation as a subset of the right to apply legislated exceptions for migrating an eBook to a new platform. The EBLIDA statement goes into more detail:

1. When purchasing an e-book, a library should have the option of permanent storage and use of the e-book.
2. Libraries authorised to store the e-book should have the right to transfer, in response to technological change, e-books to another delivery platform.
3. If a library opts for permanent storage and use it should be entitled to give unrestricted access to an e-book once the work is out-of-commerce in all its versions.
4. The contractual terms of a licence for an e-book should not override any statutory provisions regarding the entry of the work into the public domain.

The CULC/CBUC statement bundles preservation with other aspects of managing eBooks:

Libraries need to own the e-content they purchase. The future of library collections depends on the ability of libraries to collect, describe, organize, and preserve these collections. Publishers and producers of e-content cannot remove titles without libraries' consent.

The Australian report proposes a commercial solution to provide continuity of access:

Ongoing access to digital titles, in the event of business failure of distributors/publishers, should be managed through commercial contracts. The industry will undertake its best

¹⁶ Authors and other rights holders, publishers and distributors.

endeavours to provide access to purchased or licensed titles even if the distributor/publisher ceases business.

For centuries, donations and the acquisition of private collections have been central to the development of inclusive and relevant research library collections. Few, if any, libraries have the resources and foresight to collect new publications which will meet the needs of future users. They depend on the activities of individual collectors, specifically with non-mainstream subject areas. Public libraries meet demand for popular titles or fill collection gaps by adding donated books or generate revenue through selling the donations. DRM constraints on transferring eBook files will severely impede or prevent donations with the result that the ability of libraries to preserve the full range of our written culture is compromised.

The initial negative reaction which greeted the announcement by HarperCollins that eBooks would only be supplied to libraries for a specific number of loans intended to mimic the lifespan of print books in library collections was in large part triggered by the threat to the ability of libraries to preserve collections over time. While there certainly are instances where a limited number of loans is a desirable licensing option as long as this is reflected in pricing,¹⁷ there is no question that for many libraries purchasing eBooks, the assurance that there will be the long-term presence of the title in the collection is essential, especially when there is no print version of the title. This can probably only be achieved through a tripartite agreement among libraries, publishers and distributors, possibly enabled by government.

5.6 Format Neutrality and Accessibility

Most of the statements of principle address the issue that many eBooks can only be read on specific devices. This issue is complicated by the reality that Amazon is both the world's largest publisher of eBooks and the world's largest dedicated eReader producer. Certainly in the early years Amazon sought a competitive advantage by limiting broader access to its eBook titles on hardware produced by competitors. The situation is gradually improving but remains a source of frustration for library users.

The wording of the library community statements of principle are as follows:

- eBooks available to libraries should be platform neutral ...Content should be should be capable of integration into library systems and online public access catalogues, and

¹⁷ For example, multiple-copy purchases of high-demand titles.

- interoperable across platforms, applications and e-reader devices that the library or library patron has chosen to invest in (IFLA);
- there is a diverse range of ebook platforms and models in the market which are often not compatible with each other or with various devices used for access, and are not easily accessible or user friendly. Some titles are only available on one device, limiting access by users....The industry should aim to give all library users access to ebooks on a range of devices from across all platforms, in such a way as to facilitate discovery and maximise use (Australian Lending Rights Expert Reference Group);
- libraries need device independence; content must be device agnostic. Having files in proprietary formats and for use on proprietary devices eliminates public library access (CULC);
- publishers should deliver e-books in interoperable formats (EBLIDA).

Given the multiplicity of players¹⁸ involved in determining interoperability, delivering on this goal will be difficult.

Turning to accessibility, the World Blind Union estimates that less than 10% of all published materials can be read by blind or low-vision users.¹⁹ For many users with visual impairments, the ability to change font size in an eBook has already increased accessibility and expanded available reading material. The DAISY consortium observes “The digital medium and eBooks have been a boon for the print impaired.”²⁰ The EPUB format has high native accessibility, but use of DRM and inadequate consideration of the full range of needs can limit the ability of visually impaired users to use screen readers, or limit use to certain devices.

The library statements of principle include the following on accessibility:

- eBooks available to libraries should be...developed with standards for accessibility (IFLA);
- libraries need accessibility standards to be in place for all applications (CULC);
- publishers and libraries should cooperate towards finding solutions providing for the production and delivery of alternative formats for persons with disabilities (EBLIDA);

18 Publishers, distributors and device manufacturers with, in some instances, specific companies fulfilling more than one role.

19 World Blind Union, “WBU Priorities and Goals,” World Blind Union, <http://www.worldblindunion.org/English/our-work/our-priorities/Pages/default.aspx>.

20 DAISY (Digital Accessible Information System) is an internationally recognized accessible standard and multimedia publishing system that allows search, bookmarking and use of screen-reading or read-aloud features. DAISY Consortium, “Making publications accessible for all,” DAISY.org, <http://www.daisy.org/daisypedia/making-publications-accessible-all>.

- examples of practices that impede easy access to ebooks include...issues experienced by print disabled users when copyright considerations limit the availability of alternate formats and restrict the reformatting of text (Australian Library and Information Association).

In libraries, as is the case in the consumer market, ensuring accessibility requires considering both the eBook file itself and the interface to discover and borrow the eBook. Although EPUB files are technically accessible, if the user cannot search for a title or download it, or cannot navigate within the eBook, the library experience is not accessible. Adobe Digital Editions, commonly used with library eBooks, works with various screen readers, including JAWS, Window-eyes, and Voiceover, although not all of its features are available.²¹ Users with visual impairments also use other applications that are developed specifically for use with screen readers.

The DAISY consortium identifies certain features that a digital publication must have in order to be universally accessible, including compatibility with screen readers and text to speech; reflowability to fit all screen sizes; rich navigability by chapter, section, page and sentence; support for multiple input methods (keyboard, mouse and touch); accessible images; multi-platform support; and page numbers that match the print.

At this time, library eLending systems have varying degrees of accessibility. OverDrive, although it is the most commonly used system worldwide, does not claim universal accessibility, noting barriers with using the eBook files on mobile devices. They state that their product is compatible with most accessibility programs for mobile devices, and can therefore be used to access audiobooks. OverDrive recommends using Adobe Digital Editions to use library eBooks with screen readers, or borrowing Kindle books, which are only available to US libraries.²²

²¹ "Adobe Digital Editions," Adobe, <http://www.adobe.com/ca/solutions/ebook/digital-editions.html>.

²² Overdrive, "The OverDrive app is compatible with native screen readers for Android, iOS, and Windows 8," OverDrive, <http://help.overdrive.com/customer/en/portal/articles/1481241-the-overdrive-app-is-compatible-with-native-screen-readers-for-android-ios-and-windows-8>.

5.7 Privacy

The protection of patrons' privacy and their personal information is a core value of libraries, included in the *IFLA Code of Ethics for Librarians and other Information Workers*:

Librarians and other information workers respect personal privacy, and the protection of personal data, necessarily shared between individuals and institutions.²³

At a national level, it is found in the ALA's code of ethics, among others:

We protect each library user's right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted.²⁴

Libraries recognize that privacy is essential to enable free access to information and to protect users' personal information. When libraries were lending print books and storing data within their own buildings, or on their own servers, library staff maintained control over the way that the data was used and shared. However, with the advent of third party hosted services for digital content, libraries no longer control the collection and storage of the data, and as a result, do not control its use. Further, in a digital environment, more data collection is possible than ever before, and this data can be used to understand user behaviour, to sell for commercial purposes, or for surveillance and law enforcement. In this environment, library organizations have recognized privacy and protection of personal information as necessary principles for eBooks:

- eBook services must protect the privacy of library users. Libraries and their users must be able to make informed decisions about the control and use of personal information including reading choices (IFLA);
- users' personal data should be processed only by the library and in accordance with the data protection regulations applicable to the library. User data and other personal data should be deleted in accordance with the data protection regulations applicable to the library. The publisher or service provider should not allow access by third parties to the user data without the consent of the library (EBLIDA);
- libraries and their users must be able to make informed decisions about the control and use of personal information including reading choices. Libraries seek the option

²³ International Federation of Library Associations and Institutions (IFLA), "IFLA Code of Ethics for Librarians and Other Information Workers," IFLA, 12 August 2012, <http://www.ifla.org/news/ifla-code-of-ethics-for-librarians-and-other-information-workers-full-version>.

²⁴ American Library Association, "Code of Ethics of the American Library Association," accessed on 17 July 2016, <http://www.ala.org/advocacy/proethics/codeofethics/codeethics>.

to minimize the transmission of personal information that can be linked to individual users (Canadian Library Association – CLA).²⁵

An example of the need for greater awareness of the issues and action within libraries is found in the exposure of personal data by Adobe in 2014 that affected library eBook users. The data breach was reported by *The Digital Reader* on 6 October 2014, where they found that a specific version of Adobe Digital Editions was transmitting unencrypted data about users back to Adobe servers, including the eBook titles and reading behaviour.²⁶ Library eBook users who used this software to transfer eBooks to their eReaders, or to read eBooks on their computers, were affected. Adobe responded that the data was collected to comply with licence requirements. ALA issued a statement decrying the lack of encryption and calling for immediate corrective action, as well as noting further implications:

ALA also is concerned about the possible over-collection and unnecessary retention of sensitive user data. Are all of the data elements collected necessary for product functionality? Is such sensitive user data deleted soon after the need for operational purposes is fulfilled?²⁷

CLA observed in their statement the need for users to understand and consent to the use of their personal information:

...we encourage Adobe and other resource platforms to provide clear terms of use that identify what information is gathered about users and their reading habits and how that information is shared. Library patrons trust Canada's libraries with their personal information, and CLA supports libraries in their responsibilities around protection and disclosure of personal information, including reading choices.²⁸

25 Canadian Library Association (CLA), "Key Library Priorities for e-Content," Canadian Library Association, 3 February 2015, http://cla.ca/wp-content/uploads/2_2014_11_24_Key_Library_Priorities_for_eContent_approved_apr2015.pdf.

26 Nate Hoffelder, "Adobe is Spying on Users, Collecting Data on Their eBook Libraries," *Digital Reader* 6 October 2014, <http://the-digital-reader.com/2014/10/06/adobe-spying-users-collecting-data-ebook-libraries/>.

27 "Adobe Responds to ALA on Egregious Privacy Breach; Some Action Expected by Week of Oct. 20," American Library Association, 13 October 2014, accessed on 3 August 2016, <http://www.ala.org/news/press-releases/2014/10/adobe-responds-ala-egregious-data-breach-some-action-expected-week-oct-20>.

28 Canadian Library Association (CLA), "CLA Statement about the Adobe Transmission Issue," Canadian Library Association, 10 October 2014, <http://pwp.vpl.ca/culc/2014/10/14/cla-statement-about-the-adobe-data-transmission-issue/>.

Adobe announced that the data transmission had been encrypted in a new software update, released on 24 October 2014, nearly two months after the original data breach began, and updated their privacy policy to provide greater clarity. Library associations responded with comment on the update and noted continued concern about collecting more data than necessary to comply with licence agreements.

Since the breach, both ALA and IFLA have issued more detailed privacy positions, addressing the collection and use of patrons' personal information. The ALA Intellectual Freedom Committee's *Library Privacy Guidelines for E-book Lending and Digital Content Vendors* includes the requirement that vendors should follow a library's privacy policies, ensure library ownership of data, provide clear terms of use and ensure consent of the user, allow users access to their own data and provide the ability to correct it, and ensure its security.²⁹ The IFLA *Statement on Privacy* observes:

Excessive data collection and use threatens individual users' privacy and has other social and legal consequences. When Internet users are aware of large-scale data collection and surveillance, they may self-censor their behavior due to the fear of unexpected consequences. Excessive data collection can then have a chilling effect on society, narrowing an individual's right to freedom of speech and freedom of expression as a result of this perceived threat. Limiting freedom of speech and expression has the potential to compromise democracy and civil engagement.³⁰

The IFLA statement calls on library workers to ensure the protection of users' privacy by negotiating with service providers and to ensure that users are aware of the implications of choosing services that share personal information.

5.8 Recognizing the Legitimate Interests of Authors and Publishers

It is not surprising that the statements produced by multi-stakeholder deliberations had the greatest specificity in articulating the interests of authors and pub-

²⁹ American Library Association, "Library Privacy Guidelines for E-book Lending and Digital Content Vendors," 29 June 2015, <http://www.ala.org/advocacy/library-privacy-guidelines-e-book-lending-and-digital-content-vendors>.

³⁰ International Federation of Library Associations and Institutions (IFLA), "IFLA Publishes a Statement on Privacy in the Library Environment," IFLA, 20 August 2015, <http://www.ifla.org/node/9803>.

lishers. Having said this, there is a clear appreciation of the fact that librarians, publishers and authors all have concern and uncertainty over the disruption caused by the emergence of eBooks. For librarians the overriding concern is that the disruption of the flow of new content to collections in a format desired by many users will over time lead to the perception of irrelevance. For publishers and authors there are concerns (not always aligned) over the ability to maintain revenues and protect against the illegal use of copyrighted works.

William Sieghart in his review recommends that PLR payments be extended to eBooks and that “friction” in library eBook use is crucial in limiting disruption of sales revenue:

The interests of publishers and booksellers must be protected by building in frictions that set 21st-century versions of the limits to supply which are inherent in the physical loans market (and where possible, opportunities for purchase should be encouraged). These frictions include the lending of each digital copy to one reader at a time, that digital books could be securely removed after lending and that digital books would deteriorate after a number of loans. The exact nature of these frictions should evolve over time to accommodate changes in technology and the market.³¹

The Australian Lending Rights Expert Reference Group specifically addresses both fair remuneration for authors and publishers PLR on eBooks and rights protection. The fair remuneration issue is addressed as follows:

Authors and publishers rely on the sale of ebooks as an integral part of their income, and are concerned about the impact of electronic lending on fair remuneration for their work... Publishers have the right to develop, negotiate and implement business models for lending that ensure fair remuneration and which create a sustainable publishing business. Authors and publishers should receive fair remuneration, including a lending right through an extension of the Lending Rights schemes, for each ebook title licensed or sold to libraries.

The ALIA position statement did specifically recognize the differing interests which need to be recognized in achieving library eBook access:

ALIA's overall goal is to help our members make ebooks readily available to library users, while ensuring there is a generally accepted, fair balance between the commercial and ethical interests of libraries, creators, publishers and aggregators.

31 Sieghart, “An Independent Review of e-Lending,” 13.

In 2012 The Writers Union of Canada issued *A Writer's Bill of Rights for the Digital Age 2.0*³² which captures the uncertainties experienced by writers regarding their digital works and proposes solutions. The preamble states:

To receive fair payment for their work and respect for its integrity, writers need clear legislation and sound contracts. Agents, publishers, retailers, librarians, and authors must work together to protect digital works and ensure their lawful use.

While, as would be expected, several of the ten principles address issues between authors and publishers (royalty rates, assignment of rights, reversion of rights, reproduction for promotional purposes...), two principles specifically relate to libraries:

- the Public Lending Right Commission shall seek additional monies to provide author payments for eligible ebooks;
- unless for archival purposes, libraries shall acquire digital copies of works in their collections only from rightsholders or their authorized distributors.

Given that authors, especially those with commercial success, have the ability in contracts to limit their digital works availability in specific markets such as libraries, they, along with publishers and distributors need to be part of developing solutions which ensure library users access to digital works.

³² Writers' Union of Canada, "Writer's Bill of Rights for the Digital Age 2.0," Writers' Union of Canada, <http://www.writersunion.ca/writers-bill-rights-digital-age-20>.

6 Advocacy Campaigns

6.1 Advocacy in the United States

Library advocacy in the United States was multi-pronged, involving both existing library associations (ALA, Public Library Association and the Urban Library Council), new initiatives (ReadersFirst) and lobbying at the federal and state levels. This section will provide an overview of this advocacy. ReadersFirst is addressed in Section 6.2 and US state-level advocacy is discussed in Section 7.11.

In January 2012 ALA formed the Digital Content & Libraries Working Group (DCWG) to examine eLending issues including the withholding of eBooks from the library market. The Association initiated a series of meetings with the Big Six publishers in response to membership concerns over the lack of availability of eBook titles and the licence terms and conditions from some publishers. The meetings with the AAP and individual publishers were not productive, and there was even some erosion of title availability and increased pricing for libraries during 2012 in the period meetings were taking place. ALA frustration with the situation culminated with the publication of an open letter from President Maureen Sullivan in September 2012. At the time of the letter's release, three of the Big Six were not making their eBooks available to libraries. The letter was a call to arms to oppose the withholding of eBooks from library collections: "Will you join us in a future of liberating literature for all?" The AAP was quick to respond expressing regret that the "new" ALA leadership had reacted in this way when publishers were "more actively engaged than ever in exploring viable solutions to e-lending".¹ In support of member and public advocacy on eBook availability, in November 2012 ALA issued the *E-book Media and Communications Toolkit* developed by the DCWG.

Concurrent with the initial deliberations of the DCWG, the US public library community began to mobilize. On 2 March 2012 Martin Gomez, then head of Los Angeles Public Library and Pat Losinski, head of Columbus Metropolitan Library invited their library director colleagues to a meeting to be held during the March Public Library Association meeting in Philadelphia. The impetus for the meeting came from a November 2011 National Digital Public Library forum hosted by the Los Angeles Public Library, where public and university librarians met with representatives of non-profit organizations and foundations to discuss the place of public libraries in the emerging digital environment. The invitation to the March

1 The full text of the ALA letter and the AAP response are in the Appendix.

2012 meeting was accompanied by an unpublished white paper “Public Access and the Role of Public Libraries in the Digital Age”. The paper called for a project to focus on the challenge of access to digital content: “Public librarians must act with great urgency to understand how rapidly emerging technologies are fundamentally changing their roles – and potentially impacting equitable access to information.”² While addressing issues such as digitizing books, and preserving local and “born digital” content, library access to commercially published eBooks was identified as the most pressing concern. The white paper called for a temporary project fund “to focus on this public policy matter on a fulltime basis” and proposed institutional pledges of \$25,000 or more to establish the initiative.

Arising from this meeting, a further meeting took place in June 2012 in Columbus which called for an overarching advocacy strategy focusing on:

1. Public education;
2. Lobbying;
3. Research;
4. Coalescing associations’ initiatives;
5. Publisher/author/vendor relationships.³

Through 2012 a number of concurrent initiatives were under way in the US with various degrees of connection:

- New York Public Library negotiated pilot projects with Big Six publishers who had been withholding eBooks from public libraries;
- OCLC received a grant from the Institute of Museum and Library Services to “work with public library leaders to research the e-book ecosystem, survey public libraries about e-book use and reach and work toward strategies to expand e-book access to public libraries.”⁴ The resulting report, *The Big Shift: Public Library Strategies for Access to Information in Any Format*⁵ was developed in consultation with the various relevant arms of ALA and the

² Pat Losinski, Martin Gomez, “Public Access and the Role of Public Libraries in the Digital Age – White Paper”, 2 March 2012, distributed to ULC directors – unpublished.

³ Pat Losinski, “Ebook Strategy and Public Libraries: Slow Just Won’t Work Anymore”, *Library Journal* 9 July 2012, <http://www.thedigitalshift.com/2012/07/ebooks/ebook-strategy-and-public-libraries-slow-just-wont-work-anymore/>.

⁴ Jennifer Pearson, “The Big Shift: E-book availability in public libraries,” *OCLC Next Space*, 16 December 2013, <https://www.oclc.org/publications/nextspace/articles/issue22/thebigshift.en.html>.

⁵ OCLC, *The Big Shift: Public Library Strategies for Access to Information in Any Format* (OCLC, [2012]), http://www.oclc.org/content/dam/campaign-landing-pages/en/214936_the-big-shift.pdf.

Urban Library Council. The report formed the basis of a series of meetings with public library stakeholders beginning in January 2013.

- a small number of libraries and consortia, most notably the Douglas County Library in Colorado, focused on establishing their own eBook platforms where eBooks were purchased outright and the library managed digital rights. While successful in securing self-published works and eBooks published by smaller and niche publishers, the large trade publishers did not make their eBooks available on the terms sought by the libraries.
- The Urban Libraries Council engaged directly with eBook issues in October 2013 when it issued a briefing paper⁶ which called for national, state and local government intervention to ensure equal access to eBooks at fair prices.

The DCWG work continues and notes posted from a December 2015 conference call indicate how the focus of discussion has shifted in the five years of its existence:

- generally, the publishers were very engaged and very interested in promoting product discovery within libraries. Overall, ALA's current relationship with publishers presents the library community with new opportunities to partner with publishers;
- however, publishers are frustrated that libraries aren't buying more e-books after fighting for them for so long. This frustration is in part, a product of their lack of understanding of library budgets and acquisitions.⁷

6.2 ReadersFirst

The ReadersFirst Coalition represents nearly 300 libraries that serve over 200 million users. From the *ReadersFirst Guide to Library eBook Vendors* (2014):⁸

ReadersFirst calls upon publishers and e-book vendors to observe Four Key Principles to enhance the library e-book reading experience, allowing readers to:

- Search one comprehensive catalog to access all of a library's offerings.

⁶ Urban Libraries Council, "E-Books," Urban Libraries Council, <http://www.urbanlibraries.org/e-books-pages-140.php>,

⁷ American Library Association, "DCWG business model call minutes 12/17/15," *ALA Connect*, last modified 18 December 2015, <http://connect.ala.org/node/248086>.

⁸ ReadersFirst, *ReadersFirst Guide to Library eBook Vendors: Giving Librarians the Knowledge to be more Effective e-Book Providers* (ReadersFirst, 2014), <http://static1.squarespace.com/static/53765f6fe4b060b2a3d3586b/t/54c6a4f2e4b08921548f21d9/1422304498084/ReadersFirst-Guide-to-Library-E-Book-Vendors.pdf>.

- Place holds, check out and renew items, view availability, manage fines, and receive communications within the single source the library has determined will serve their users best (website, catalog, or other).
- Seamlessly enjoy a variety of e-content.
- Download e-books that are compatible with all reading devices.

ReadersFirst began in 2012 when New York Public Library staff identified the need for a change in the way eBooks were being offered to libraries by eBook vendors. In 2012, the only option offered by eBook vendors was to use the website or app that the vendor provided to see the eBook titles purchased from that vendor. Titles could not be borrowed from within libraries' catalogues, and ensuring that they could even be found using the library catalogue, where the print collection was indexed, was difficult.

"Libraries, patrons and e-books", a survey conducted by Pew in 2012 illustrated the depth of the problem: 62% of people in the United States did not know whether their library was lending eBooks,⁹ yet more than 75% of libraries were offering the service. Since eBooks were not visible within the catalogue that included print materials and multimedia, even active library borrowers could be unaware that eBooks were available from their library.

Micah May, as Director of Strategy at New York Public Library, invited large urban public libraries to join the coalition starting in May 2012, and it launched officially at BookExpo in June 2012. ReadersFirst membership grew rapidly, expanding by word of mouth, and a leadership group formed to coordinate activities of the coalition. The consensus among libraries that this was a significant problem helped to engage CEOs and senior management staff of many large urban public libraries in North America, who collectively had influence over significant library materials and technology budgets, and had existing relationships with eBook vendors and other library technology providers. The level of engagement from senior staff at large public libraries was instrumental to gaining attention for the project from the vendor community.

During 2012, the members of the ReadersFirst leadership group created a shared presentation to explain the problem, and talked about the issues and principles at library conferences and meetings to gain support within the library community. The ReadersFirst presentation explained that libraries faced two challenges:

⁹ Kathryn Zickuhr et al., "Libraries, Patrons, and eBooks," Pew Research Center, 22 June 2012, <http://libraries.pewinternet.org/2012/06/22/part-6-a-closer-look-at-e-book-borrowing/>.

- availability, in that some publishers won't license eBooks under a library lending model;
- discoverability and access, from eBook platforms that are fragmented and hard to use.

Other groups, notably the DCWG, were addressing the challenge of availability. ReadersFirst would focus on discoverability and access.

The argument from ReadersFirst was that physical collections were organized according to users' expectations: by subject or genre. Yet digital collections were organized according to the source and format of the material. It was comparable to organizing a library by the wholesaler who had handled the purchase transaction. Library users had been forced to learn vendor names for digital resource products for many years, and ReadersFirst identified that as eBook use expanded, it was time for a change.

ReadersFirst asked vendors to unbundle the technology provided to libraries by offering APIs so that eBook activities could be integrated into the library platform that users were already familiar with: the library's catalogue or discovery layer. An API would provide a set of protocols to allow the eBook vendor's system to communicate with the library's existing systems, so that the user could have a seamless experience.

The ReadersFirst message resonated, and by year-end, membership had expanded to 225 library systems.

On 28 January 2013, ReadersFirst brought together thirty representatives from the vendor community who licensed eContent and supplied technology to libraries to explain the problem and ask for collaboration on working towards a solution. The meeting was scheduled at The Seattle Public Library following the ALA midwinter meeting, to ensure maximum participation. Representatives from American and Canadian libraries facilitated the event and participated, including Brooklyn Public Library, Douglas County Libraries, Los Angeles Public Library, The New York Public Library, Ottawa Public Library, Queens Library, Salt Lake City Public Library, The Seattle Public Library, and Vancouver Public Library.

Vendors were invited to describe how they could respond to the principles and the obstacles that they would face in implementing the ReadersFirst proposal and to identify what they would need from the library field to turn the principles into reality. Vendors identified numerous challenges, and questioned the approach. The ReadersFirst proposal was a significant change for vendors who had invested heavily in developing discovery platforms for library users and raising awareness of their individual brands. After considerable discussion of the

issues, vendors asked libraries to prioritize their development requirements and work with vendors to establish measurable outcomes.¹⁰

In February 2013, the ReadersFirst leadership group ranked individual features in preparation for sharing these with vendors. They developed the technical requirements by contributing user stories to explain the outcomes of providing the features. By April, they had created a vendor product evaluation form for vendors to complete. Library volunteers contacted vendors individually to explain the process and answer questions about the form. When the forms were returned, ReadersFirst members reviewed responses and scheduled individual follow-up calls with vendors to clarify answers and gain additional detail.

By September 2013, writing was under way for the ReadersFirst Guide. New York Public Library staff supported the group and provided design and publication assistance for the creation of the final product. Volunteers on the leadership group and within member libraries compiled scores, drafted text, and coordinated communication plans.

One year after the Seattle vendor meeting, on 14 January 2014, the *ReadersFirst Guide to Library eBook Vendors* was released.¹¹ The guide scored each major library eBook vendor on compliance with ReadersFirst principles. It identified library priorities for vendors, and gave librarians the knowledge to provide more effective eBook services by promoting a seamless experience for patrons using APIs as a technology solution. In the intervening months, the work of ReadersFirst had already had an effect, as vendors had begun work on APIs for integration after answering the original evaluation form.

By the launch of the *ReadersFirst Guide*, the dominant eBook vendor in North America, OverDrive, had the highest compliance score with ReadersFirst principles at 85. Two newer entrants to the library eBook marketplace also had high scores, at 84 for 3M Cloud Library and 80 for Baker and Taylor Axis 360. Long-standing library vendors that focused on search of online eBook collections, such as EBSCO eBooks and Gale Virtual Reference Library, had significantly lower scores at 38 and 39 respectively.

The guide was partly aimed at libraries that did not yet offer eBooks, to provide an objective rating of how well vendors' products made the eBook experience seamless for readers. It was intended to assist libraries that were considering

¹⁰ "ReadersFirst Group convenes exploratory meeting with e-Content vendors," ReadersFirst, 14 February 2013, <http://www.readersfirst.org/news/2015/2/12/readersfirst-group-convenes-exploratory-meeting-with-e-content-vendors-vendors-libraries-agree-on-next-steps-to-facilitate-better-e-book-experiences-for-library-users>.

¹¹ ReadersFirst, *ReadersFirst Guide to Library eBook Vendors*.

changes to their eBook vendors, so that they could consider supporting vendors who followed the ReadersFirst principles. In addition, the guide was intended to help eBook vendors understand the needs of libraries.¹²

The ReadersFirst principles became an indication of eBook vendors' awareness of their users and consideration of their needs within months after the release of the guide. As new eBook vendors promoted their products, they promoted if they were "compliant with ReadersFirst principles".

After the launch of the guide, ReadersFirst leadership group members discussed topics to expand in a next edition, such as privacy and accessibility. The group gradually transitioned into a forum to discuss additional challenges with eLending technology, and to advocate on technology-related eBook issues. They commented on Adobe's leak of personal information in October 2014 (see Section 5.7), and contacted OverDrive to discuss using library card numbers instead of email addresses to identify library users, as a protection for personal information. In July 2015, OverDrive announced that using library cards to authenticate would be an option in the next platform.

With more than 300 signatories, ReadersFirst acts as a forum for sharing issues and taking collective action to change the eBook market. In addition to membership in the United States and Canada, libraries from Australia, France, New Zealand, Nigeria, and Sweden have joined the coalition.

6.3 Canadian Libraries for Fair eBook Pricing

6.3.1 Introduction

The Canadian Public Libraries for Fair eBook Pricing advocacy campaign demonstrates the power of social media to gain the attention of publishers and mobilize support for libraries, without requiring a significant budget. The campaign was formed to raise awareness among library users and the general public of the restrictive pricing models and high eBook prices that the Big Five charged public libraries, and to create a national dialogue about this that could be referenced in government relations and outreach to publishers. As a result of the campaign, Penguin RandomHouse lowered its prices in Canada and recognized the impact of exchange rates on library purchasing, and policy makers'

¹² ReaderFirst, *ReadersFirst Guide to Library eBook Vendors*.

understanding of the library eLending challenges increased and they began to take action.

The explosion of eBook interest in Canada between 2010 and 2015 resulted in opportunities for libraries to reach new audiences and expand existing services. To meet demand, libraries reallocated budgets and, with the leadership of the Canadian Urban Libraries Council (CULC/CBUC), opened conversations with publishers working in Canada to resolve access and supply issues. As a result of this open environment, all major multinational publishers were licensing eBooks to public libraries by November 2014, however, licence terms varied and library prices were sometimes up to eight times consumer prices. In contrast to multinational publishers, independent Canadian publishers were pricing at rates comparable to consumer prices and were participating in continuing conversations with libraries.

The boards of the Toronto Public Library and Ottawa Public Library had agreed that they should take action on the multinational situation starting in 2013. Library staff drafted letters to the multinational publishers on behalf of the board members, and each library sent the letters to the multinational publishers. After no response, they followed up with a joint letter. With no response to the second letter, the libraries brought the issue to the Canadian Library Association (CLA) in 2015, where an eBook working group had been drafting principles for eBooks in libraries. They proposed a national campaign.

The Fair eBook Pricing advocacy campaign focused on raising awareness of the restrictive pricing models and high prices being paid by libraries. It identified that libraries' ability to provide universal access to content in all its forms was compromised by multinational publisher terms. The campaign launched on 15 June 2015 with a website and social media outreach, including a Twitter chat with the Toronto Public Library City Librarian, Vickery Bowles. It was supported by ongoing media relations and government outreach.

The website used a simple one-page design to communicate the key messages and to show examples of the different prices that libraries and consumers pay using specific eBook titles. People visited the website as a result of news releases, library websites that linked to the campaign site, social media, and news media stories. Six months after launch, the website had received 22,500 visits, with 70% from Canada, and 875 people had subscribed to receive updates on the issue of library eBook pricing.

6.3.2 Social Media

Social media were a key part of the campaign, and active conversations took place on Facebook and Twitter. Through a toolkit, the campaign provided participating libraries with a social media editorial calendar including sample tweets and Facebook posts, and reminders to use the hashtag #FairEbookPrices whenever possible. Visual support for social media and web use included book covers and price comparisons, such as “What You Pay \$16.99 What Libraries Pay \$117.00”¹³ and were often retweeted or shared hundreds of times. Facebook was the most effective of the social media efforts in driving traffic to the website, with 60% of the social referrals.

Toronto Public Library hosted a one-hour Twitter chat with Chief Librarian Vickery Bowles that generated active conversation about the issues. The success of the chat demonstrated that there was value in being open and willing to discuss the issue, and it helped the libraries identify stakeholders who shared interest in eBook pricing for libraries.

Media outreach also began on 15 June 2015 with a news release to announce the campaign and website. It generated more than thirty news stories across Canada, as well as in some publications in the United States. The key messages were clearly conveyed by the news media, and the process helped to identify and establish relationships with media who were interested in further stories on the same issue. One of the most effective stories ran on Canadian national radio, CBC, headed “E-book prices marked up too high, libraries protest: with markups of up to 8 times retail price, libraries say they can’t afford a good range of content”. The article included quotes from Michael Kozlowski, editor in chief at GoodeReader.com, in support of public libraries, and from Krystyna Ross, CEO of eBOUND Canada. CBC produced a video on the topic that aired on national television and was available online.¹⁴ The article on the CBC website generated nearly 200 comments, expressing many viewpoints, largely in support of public libraries.¹⁵

In February 2016, the Canadian Public Library for Fair eBook Pricing campaign was selected as a finalist for the PR News Nonprofit PR Award in the “PR on a shoestring budget” category, celebrating top international public relations

¹³ “Fair E-Book Prices for Libraries are Long Overdue,” <http://fairpricingforlibraries.org>.

¹⁴ Emily Chung, “E-book Prices Marked Up Too High, Libraries Protest,” CBC News, 23 June 2015. <http://www.cbc.ca/news/technology/e-book-prices-marked-up-too-high-libraries-protest-1.3123465>

¹⁵ Chung, “E-book Prices Marked Up Too High.”

campaigns undertaken with a limited budget and an emphasis on making every dollar count toward its goals.

6.3.3 Publisher Response

Prior to the launch of the campaign, libraries discussed the plans with representatives of independent Canadian publishers, clarifying that the messaging would be about multinational publishers. Despite this, a number of Canadian independent publishers through their organization, eBOUND Canada, expressed concern about the public not understanding the difference between multinational and Canadian publishers. The majority of independent Canadian publishers were already selling eBooks to public libraries with perpetual access, unlimited loans, and at prices comparable to print and consumer pricing, as this was the only licence model available to them from the technology distributor, OverDrive.

Campaign coordinators wrote to multinational publishers to inform them that a social media campaign was planned and to offer the opportunity for conversation in advance. As with the earlier letters, multinational publishers did not respond. Reporters from the media contacted publishers for comment, and once again, multinational publishers did not respond. The executive director of the Writers' Union of Canada, John Degen, did respond to media, commenting that libraries should buy fewer blockbusters and more independent titles, and that libraries should be better funded. Toronto City Librarian Vickery Bowles followed up that this was a pricing issue, not a funding issue.

A history of relationship building with independent Canadian publishers and open communication was important during the campaign. One Canadian publisher, ECW Press, openly supported the campaign in a blog post on their site, and called on publishers to charge libraries the same as retail price on a single-user basis, without an expiry date, but with a reasonable circulation cap. ECW Press also developed a survey to find out what pricing models would encourage libraries to buy more books: retail price for a one-copy one-user model with a circulation cap, or double the retail price with no circulation cap. The Canadian publishing community newspaper, *Quill & Quire*, covered the campaign and the ECW Press support. The Executive Director of the Association of Canadian Publishers also met with the Ottawa Public Library CEO and Board Chair in order to further develop the relationship and understanding of challenges faced by public libraries and Canadian publishers.

With strong social media and news coverage, multinationals began to take notice. The CEO of Penguin RandomHouse Canada, Brad Martin, was prepared to discuss the issues with public libraries in Canada, and Penguin RandomHouse

contacted Toronto Public Library. Open conversations helped the publisher to understand the challenges for libraries in the existing models, and came at a time when Penguin RandomHouse was considering how to modify the two library licensing approaches that had been in place before the merger of Penguin and Random House in 2013. Discussions were effective, and contributed to demonstrating to Penguin RandomHouse that the Random House model of perpetual licences was better for libraries, versus the Penguin one-year licence with its requirement to monitor and repurchase titles. In December 2015, Penguin RandomHouse announced that they would merge their two licensing approaches for libraries in the United States and Canada and that they recognized the challenges of the exchange rate in Canada and would be lowering the price cap for titles sold to Canadian libraries from \$95 (\$73 US) per licence to \$65 (\$50 US). Conversations between Penguin RandomHouse and Toronto Public Library staff continue to explore how to improve the models for eBooks in Canadian public libraries.

Nine months after the initial launch of the campaign, an open letter to multinational publishers was prepared to request discussion of a proposed dual pricing model. Canadian public libraries agree that they would like two choices for each title they wish to purchase: one option to buy permanent access to the title at a higher price, and one option to buy a short-term licence at the consumer price. A dual pricing model would support libraries in their preservation aims, yet ensure affordable access in the first few years of a title's release to help libraries meet initial demand.

6.3.4 Government Relations

CLA, Ottawa Public Library, and Toronto Public Library supported the campaign's efforts to reach government by hiring a public affairs firm to focus on government relations in conjunction with the campaign. The public affairs firm was successful in reaching government, and eBook pricing for libraries was included in the agenda of the meeting of Federal-Provincial-Territorial Ministers Responsible for Culture in Canada. Ministers referred the issue to the Provincial and Territorial Public Libraries Council in late 2015 to develop options for addressing libraries' concerns. The Chair of the Ottawa Public Library Board, Tim Tierney, also a city councillor in Ottawa, became a champion for fair eBook pricing and committed to raising awareness at the municipal level, where the majority of libraries are funded in Canada. The Federation of Canadian Municipalities approved a resolution to support libraries on 5 March 2016, calling for action from the federal government on eBooks and asking for an investigation of restrictive eBook prices to public libraries.

6.3.5 Library Participation

The Fair eBook Pricing campaign was launched by CLA, Toronto Public Library and Ottawa Public Library, and had the support of CULC/CBUC, and several provincial associations including the largest, the Ontario Library Association. An important part of the campaign was to give opportunities for small public libraries to participate. Toronto Public Library created a campaign toolkit so that all Canadian libraries could participate in the messaging. It included the key priorities of CLA for library eContent, suggested wording for a board resolution to support the campaign, key messages, common questions and answers, and guidelines for responding to media, as well as contact information for the coordinator at CLA. The toolkit also included a table illustrating the terms, prices and details for licences offered by each of the multinationals, and for independent Canadian publishers.

In addition, the toolkit provided sample social media tweets and posts that library systems could use verbatim or use to create their own communications. Tweets included “Fair ebook prices are long overdue for libraries” and “Major multinational publishers charge libraries 3–5 times more for ebooks than they do consumers”. The toolkit was an important part of spreading the news of the Fair eBook Pricing campaign through Canada’s many public libraries and to the general public.

6.3.6 Lessons Learned

Toronto Public Library’s City Librarian Vickery Bowles has observed that Canadian public libraries waited too long to take action of this type on eBook pricing with multinationals. Numerous efforts had been made to reach multinational publishers directly over the five years that public libraries had been lending eBooks published by multinationals. After the initial success of raising awareness that libraries needed Canadian eBooks to be available, further effort had seemed to have no impact. The immediate success of the Fair eBook Pricing campaign in opening dialogue with Penguin RandomHouse indicated that perhaps change could have occurred earlier in Canada with the right approach.¹⁶

¹⁶ Vickery Bowles, phone interview by Christina de Castell, 2 March 2016.

6.4 “Say hello to your new librarian”

The Swedish Library Association launched an advocacy campaign in 2012 which targeted politicians with a message that the lack of availability and high prices for eBooks for Swedish libraries was at its core a freedom of speech issue. Citing the United Nations *Universal Declaration of Human Rights*, the Swedish Library Association argued that “everyone’s freedom to seek, receive and impart information and ideas through any medium of expression”¹⁷ was meaningless if not applied and that libraries are an essential societal component in achieving this outcome. The campaign pamphlet featured a photograph of a stern and formally dressed “publisher” as business man on the cover with the text under the title:

There is a silent revolution going on in our libraries. Not long ago, libraries were independent. Free to choose, buy and recommend literature and factual books from amongst all the books that were in print. Then came eBooks...

The Swedish Library Association and libraries had been involved in negotiations with the Swedish Publishers Association which had stalled. At that time libraries paid a per loan fee of approximately 20 krona (\$2.40 US) for all eBook titles irrespective of publication date, and recent and popular titles were withheld by publishers from the library market.

The Swedish Library Association argued for a government-directed solution which insured universal eBook availability to libraries through a variety of independent suppliers with variable pricing and higher prices for new titles. The campaign acknowledged the importance of payment to authors and publishers. The Swedish Library Association launched the campaign at the Almedalen, the most important political forum in Sweden for considering and debating current social issues. The 2012 gathering attracted 17,000 attendees including politicians from different levels of government and a substantial number of journalists. Significantly, the Swedish Library Association did not confer with publishers prior to the launch and both Swedish publishers and the European Publishers Association had a strong negative reaction to the campaign. The fact that the campaign material was translated into English as well as being in Swedish sent a clear signal that the Swedish Library Association felt it was important to foster debate on eBook issues across the European Union. The Swedish Library Association then presented on the campaign at the Book and Library Fair and engaged

¹⁷ Swedish Library Association, *Say hello to your new librarian* (Stockholm: Swedish Library Association, 2012), reproduced in Section 10.4.

politicians directly on eBook issues. The campaign had a limited target audience of political decision makers, most importantly those at the local level.

The responsibility for the licensing discussions for public libraries has moved from the Swedish Library Association to the Swedish Association of Local Authorities and Regions and the Royal Library, the Swedish national library, is in the process of gathering information on developing an eBook platform for libraries. Since the 2012 campaign there have been improvements in library eBook availability:

- while average pricing has remained fairly constant it is now flexible based on factors such as publication date and the number of titles has almost doubled. Discussions on pricing continue;
- the Swedish Association of Local Authorities and Regions has an ongoing project on developing pricing models for the lending of eBooks in public libraries;
- libraries can now provide access using two different models:
 - the access model where all of a publisher's titles are available to library users and the library pays based on use, which provides access to a large selection of new and older titles. The vast majority of Swedish libraries use this model and it is estimated that the average Swedish public library provides access to 75% of eBooks available commercially in Sweden;
 - libraries also have the option of licensing individual titles and thereby controlling costs.¹⁸

ALA's "Digital Futures" noted in 2015 when examining models for library provision of eBooks that "one of the most successful programs is in Sweden".¹⁹ This supports the view that the Swedish Library Association's 2012 campaign did result in tangible gains in increasing library access to eBooks on reasonable terms.

¹⁸ Statistics are derived from the ELIB report *About e-book Library Models Worldwide* (Stockholm: ELIB, 2016), <http://www2.elib.se/wp-content/uploads/2016/02/Libraries2015.pdf>. ELIB is a digital publisher founded in 2000 by four large Swedish publishers. They subsequently sold a majority share to an IT company in 2015.

¹⁹ Carolyn Anthony, "ALA's DCWG, Ebooks, and Directions", *Digital Futures*, supplement to *American Libraries*, June 2015, https://americanlibrariesmagazine.org/wp-content/uploads/2015/05/0615_AL_EContentDS.pdf.

6.5 EBLIDA Advocacy in the EU

Gerald Leitner and Vincent Bonnet²⁰

On 20 June 2012, at the event *The Copyright Challenge: Re-defining Intellectual Property Rights – Exceptions, Limitations, “Fair Use”* organized by the group of Socialists and Democrats in the European Parliament in Brussels, Luigi Berlinguer, then a member of the European Parliament declared:

We are the Knowledge society, so we have to make it happen. We must invent new economic models. Fantasy will invent change. And Flexibility is Fantasy.²¹

Four years later Berlinguer is no longer a member of the European Parliament, and the whole copyright discussion has turned into a passionate and often irrational debate, certainly not the kind of fantasy he was referring to.

In this context, EBLIDA, the European Bureau of Library, Information and Documentation Associations, is active in raising awareness among its members and in coordinating actions at the European level. EBLIDA is an independent umbrella association of library, information, documentation and archive associations and institutions in Europe representing 100+ members in all EU member states and other European countries, as well as by extension 70,000+ libraries (of which 65,000 are public libraries) in Europe, and 400,000 librarians and other information professionals.

EBLIDA is a major player in the copyright debate and an active channel of communication to the European Union institutions bringing the point of view of libraries and their staff to EU policy makers and civil servants.

This section will explain the situation in Brussels and reflect on the discussion in order to give a better understanding of the situation at stake, specifically in view of the “Own Initiative” report on the revision of the InfoSoc Directive adopted by the European Parliament in Brussels on 9 July 2015. The second part of the section will specifically address the issue of eBooks and eLending in the European context. It will conclude with a perspective on EBLIDA’s views on copyright for the coming years.

²⁰ European Bureau of Library, Information and Documentation Associations.

²¹ European Bureau of Library, Information and Documentation Associations (EBLIDA), “Re-defining Intellectual Property Rights – Exceptions, Limitations, ‘Fair Use’,” EBLIDA, 20 June 2012, <http://www.eblida.org/news/re-defining-intellectual-property-rights%E2%80%93exceptions,-limitations,-%E2%80%9Cfair-use%E2%80%9D.html>.

Brussels has become the second-largest lobbying centre in the world just behind Washington, with about 3,000 lobbying organizations²² represented by 30,000 lobbyists influencing discussions in European institutions on a daily basis. Corporate lobbying expenditure is estimated at one billion euros (\$1.12 billion US) a year resulting in fierce competition and a complete lack of balance in how the interests of corporations and civil society, including libraries, are represented.

At the same time, the registry presumably designed to give transparency on the lobbying done within EU institutions is in essence ineffective and cannot be compared with the disclosure laws in capitals such as Washington or Ottawa.

In this environment, copyright is crucial for very diverse interests and it has become a point of increasing tension. Although it has always been an important focus in the past, the rapid development of the internet and the large amount of content (both legal and illegal) now available online has turned copyright into a highly sensitive issue.

Over a decade ago, the Google book project of large scale digitization shook the European book world, led to the development of Europeana²³ and increased interest in the issues of orphan works and out-of-commerce works. At the same time, discussion opened on cross-border access to research and education, user-generated content, remix, mash-ups, fan fiction, and not the least, access to eBooks through libraries.

With all the issues on the table, no wonder libraries are among the stakeholders involved in the discussion. Ironically, libraries are not *per se* a competency²⁴ of the European Union, but of each member state. However, since copyright has such a strong influence on their daily work, librarians have to seize the opportunity to address the topic in order to advance their agenda and keep pace with the rapid evolution of their mission and roles in the 21st century.

Before the term of the previous legislature, between 5 December 2013 and 5 March 2014, the European Commission launched a public consultation on copyright rules in the EU with the objective to gather input from all stakeholders.²⁵

22 70% commercial companies (oil, tobacco, food industry...), 10% national governments, 10% local governments and cities, 10% civil society.

23 Europeana is Europe's digital platform for cultural heritage, collecting and providing online access to tens of millions of digitized items from libraries, archives, audiovisual collections and museums across Europe. It opens up access to over 50 million digital records from over 3,500 heritage organizations in 35 countries. These collections represent great thematic, language and media variety, from books, photos and paintings to television broadcasts and 3D objects.

24 The EU term indicating the right to legislate.

25 It consisted of 80 questions covering a broad range of issues, identified in the Commission communication on content in the digital single market: i.e. "territoriality in the Internal Market,

EBLIDA's response²⁶ merged views from different European countries and from the perspective of national, university, public and school libraries. Publicly released on 5 March 2014, it called in particular for:

- reinstating a true balance of rights between the exclusive rights of the rights holders and other fundamental rights;
- full exploitation of digital opportunities to be supported by a progressive and flexible approach to copyright rules at EU level;
- an updated copyright framework to secure libraries' public missions;
- a legislative solution to clarify that access to content made by libraries and cultural institutions for their public-interest mission is allowed, regardless of the medium of transmission;
- greater harmonization of the legal framework for sharing content across EU member states;
- all exceptions to be made mandatory for all EU countries, especially those for research and education, public-mission institutions, and disability, because they protect fundamental rights;
- ensuring that contracts cannot override limitations and exceptions to copyright;
- the "right to e-lend" for libraries to give the library users a "right to e-read";
- improving user rights;
- an adaptation of the public lending right to apply to the extension of digital lending (e-lending) of copyright works ensuring that authors and creators are rewarded for the use of their works;
- the current 70 years after death terms of protection in Europe to be reduced to life plus 50 years for copyrighted works as is in the Berne Convention.

Since then, a new Parliament was elected, with half of its members being new and a new Commission was appointed with a new organizational structure. Right after taking their positions, both Commission and Parliament expressed their will to move forward on the copyright debate.

The European Commission drew up a legislative timetable while the Parliament initiated a non-legislative process.

harmonisation, limitations and exceptions to copyright in the digital age; fragmentation of the EU copyright market; and how to improve the effectiveness and efficiency of enforcement while underpinning its legitimacy in the wider context of copyright reform".

²⁶ European Bureau of Library, Information and Documentation Associations (EBLIDA), "EBLIDA Response to the Public Consultation on the Review of the EU Copyright Rules," EBLIDA, 5 March 2014, http://www.eblida.org/News/2014/EBLIDA_response_to_Public_Consultation_on_EU_Copyright_rules.pdf.

On 6 May 2015, the EU Commission published its Digital Single Market (DSM) strategy²⁷ that will be in effect for the next four years. It contains a chapter on copyright and gives an indicator of the views of the Commission on copyright.

EBLIDA took a public position on the strategy, announcing it would work to improve:

- access to and use of copyright-protected content;
- cross-border aspects of activities related to access to knowledge, research and heritage;
- training in digital skills.

In parallel to the DSM, the Commission must undertake an impact assessment before proposing a new initiative. The impact assessment should lead to a first draft to be circulated for inter-service consultation (composed of up to ten directorates-general) with the final objective of approval by the college of Commissioners by the third quarter of 2016.

Beneficial outcomes of the work in the coming years will depend upon active lobbying and the influence EBLIDA will have on the text of this new initiative which will set the direction for the future copyright law for Europe. This should be done hand-in-hand with the non-legislative process.

The EU Parliament considered the strong interest in the public consultation on EU copyright rules which generated approximately 9,500 responses²⁸ and decided to prepare an additional report.²⁹ The task was given to the Committee on Legal Affairs which appointed Julia Reda, a recently elected young member of the European Parliament from the Greens. EBLIDA supported her initial draft released on 14 January 2015³⁰ calling for the harmonization of copyright terms and exceptions across Europe, new exceptions for emerging use cases like audio-visual quotation, eLending and text and data mining, as well as the adoption of

²⁷ European Commission, "Digital Single Market," European Commission, accessed on 27 June 2016, http://ec.europa.eu/priorities/digital-single-market/docs/dsm-communication_en.pdf.

²⁸ To date it is the second-highest rate of answer to an EU public consultation ever.

²⁹ "Report on the Implementation of Directive 2001/29/EC of the European Parliament and the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the Information Society (2014/2256(INI))," European Parliament, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A8-2015-0209+0+DOC+XML+V0//EN>.

³⁰ European Parliament, Committee on Legal Affairs, "Draft Report on the implementation of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the Harmonisation of Certain Aspects of Copyright and Related Rights in the Information Society (2014/2256(INI))," 15 January 2015, http://www.europarl.europa.eu/meetdocs/2014_2019/documents/juri/pr/1046/1046248/1046248en.pdf.

an open norm to allow for the adaptation to unanticipated new forms of cultural expression. It recommends “exempting works produced by the public sector [...] from copyright protection” and demands that “exercise of exceptions or limitations [...] should not be hindered by technological measures”.

Five hundred and fifty-six amendments were proposed to the report, and this led to several months of an intense power struggle among political forces in the Parliament and intensive lobbying with members of the European Parliament, publications of statements and a call for action by EBLIDA members. Ahead of the vote, EBLIDA called on the members of the European Parliament to vote in favour of the report in order to ensure and optimize access for European citizens, through libraries, to science, education, and culture.³¹ The report³² was eventually adopted on 9 July 2015³³ with 445 votes in favour, 65 rejections and 32 abstentions.

Although not as strong as the initial draft, the report calls for the introduction of new copyright exceptions such as (among others):

- allowing libraries and archives the efficient digitisation of their holdings; and
- allowing the lending of eBooks via the Internet.

In addition to the legislative and non-legislative activities described above, on 9 March 2016 the CJEU organized a hearing on *VOB vs Public Lending Right Foundation (Stichting Leenrecht)* (C-174/15), on the question of whether eBooks count as books in the sense of the Rental and Lending Directive (i.e., should states allow for lending eBooks, as long as authors get fair remuneration). The case is discussed in further detail in Section 4.3. The ruling of the CJEU will impact legislation at the European level, and library associations within the EU are ready to build and adapt their response to the findings.

In this highly politicized debate, several topics are intensely discussed, such as text and data mining, cross-border access to information, and eLending. To better cope with the broad expertise the different topics require, EBLIDA

³¹ European Bureau of Library, Information and Documentation Associations (EBLIDA), “EBLIDA Calls on MEPs to Vote Yes to the JURI Report on InfoSoc,” EBLIDA, 7 July 2015, <http://www.eblida.org/News/2015/infosoc-report-eblida-press%20release.pdf>.

³² The report is available in the 23 official EU languages at European Parliament, P8_TA(2015)0273, “Harmonisation of Certain Aspects of Copyright and Related Rights,” European Parliament, 9 July 2015, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0273+0+DOC+XML+VO//EN>.

³³ For a detailed overview of the process, please see EBLIDA’s newsletters of March, April, May, June, July and September 2015 at <http://www.eblida.org/eblida-newsletter/newsletters-2015.html>, accessed on 4 August 2016.

relies on its Expert Group on Information Law as well as work in cooperation with other library partners such as the Association of Research Libraries (LIBER) and IFLA.

Over the past years, challenged by the slow development of the eBook market and the numerous obstacles libraries are facing when trying to develop eBook collections, EBLIDA has developed strong expertise on the issue of eLending and eBooks. eLending has increasingly become a subject of interest to policy makers, politicians and other stakeholders. With the Right to e-Read campaign, EBLIDA caught the attention of policy makers, raised awareness within the library community across Europe on the different approaches in EU countries and engaged in a dialogue with publishers based on an improved understanding of the issue.

Following the information campaign “eBooks in Libraries” in 2012 and 2013, the “Right to e-Read” campaign was launched in 2014 with the specific goal of raising awareness of the issues faced by libraries in the changing digital environment. The following points are drawn from the campaign.

The digital era is a challenge and an opportunity for our whole society. Online, there are new ways of providing, creating and distributing content, new ways to generate value and new ways to establish a well-educated European knowledge society, which is a precondition for competitiveness and prosperity. But the current situation is characterized by uncertainty. Consumers have to agree to a ten-page terms and conditions of licence before they can buy an eBook, consumer organizations sue eBook publishers, eBook publishers refuse to sell to libraries – and so opportunities are missed!

We need a modern copyright framework, which eliminates this uncertainty, guarantees effective recognition and remuneration of authors and other rights holders and opens up greater access and a wider choice of legal offers via libraries to end users. European citizens have the right to e-read! They should also benefit from this right with eBooks provided by libraries. Libraries guarantee free access to content, information, and culture for all European citizens. But the current legal framework hinders libraries from fulfilling these essential services for our society in the digital era, especially given the development of the eBook market.

1. Because of the exhaustion of distribution right after the first sale, a library may buy published works, e.g. books, from a bookseller and use the copies for lending to the library’s patrons. The library’s actions do not interfere with the rights of the author (or other rights holders). In consequence, the library decides in accordance with its collection building policy what books to buy and use for public lending.
2. In their interpretation of copyright, publishers claim that eLending is a service to which the principle of exhaustion does not apply. They state that rights holders are free to decide whether they want to give access to a specific work, and to decide on the terms and conditions for such access. Should this interpretation prevail, this would mean that primarily publishers decide on digital collections in libraries and not librarians.

3. It is a significant, and in EBLIDA's view unacceptable, change that the collection building policy of libraries may be decided by publishers. Libraries can no longer guarantee the free access to content, information, and culture for European citizens.
4. This legal uncertainty prevents libraries from offering relevant and easy-to-use eBook services for the public.

Therefore EBLIDA calls on the EU Commission for a precise copyright framework that allows libraries to acquire and lend eBooks with a fair remuneration to authors and other rights holders, just as with printed books...³⁴

EBLIDA's vision is to ensure free access to information through an updated copyright framework and a strong information society and to pursue the building of a robust, inclusive and sustainable library and information organization network across Europe.

Considering that the shift towards the digital world is challenging the way an individual can access information and that market-led solutions have proven ineffective over the past years³⁵ and often led to a licence paralysis,³⁶ the issues need to be addressed.

EBLIDA has been advocating for copyright reform to benefit all and is asking for:

1. Better harmonization of national legislation – and in particular exceptions and limitations of Directive 2001/29/EC related to libraries and archives and for the purpose of education and research to be made mandatory – to allow the emergence of a genuine European market, facilitating exchange and cross-border institutional cooperation in the interest of citizens;
2. Provisions making null and void any contractual commercial clause contrary to the rights, exceptions and limitations enshrined in law;
3. Libraries to obtain the right to acquire at normal market price any work made legally available for purchase to the public, including digital works, confirming the transfer of ownership and exhaustion induced by this purchase;

³⁴ European Bureau of Library, Information and Documentation Associations (EBLIDA), "The Right to E-read Position Paper and Statement (archived) May 2014," EBLIDA, <http://www.eblida.org/e-read/the-right-to-e%E2%80%90read-position-paper-and-statement.html>.

³⁵ European Bureau of Library, Information and Documentation Associations (EBLIDA), "Press Release Licences 4 Europe Plenary on 13 November," EBLIDA, 13 November 2013, <http://www.eblida.org/news/press-release-licences-4-europe-plenary-on-13-november.html>.

³⁶ "Licence Paralysis – Protect Copyright." IFLA; LIBER; EIFL; EBLIDA. 18 June 2015. http://www.ifla.org/files/assets/clm/position_papers/sccr-licence_paralysis.pdf.

4. The right of the reader to access legally acquired digital works via libraries, guaranteeing libraries a lending right, including remote eLending as well as international inter-library lending, with authors and/or rights holders to benefit from a balanced and fair compensation when applicable;
5. Removal of technological protection measures should be made compulsory for all legitimate uses;
6. An open norm should be introduced to enable exceptions and limitations to keep pace with technological changes within the existing copyright framework;
7. Licensing terms and conditions for e-content to support libraries' missions and activities and specifically regarding eBooks, to follow EBLIDA's Key Principles on the Acquisition and Access to E-Books.

There is still a long way to go, and the climate of negotiations is quite tense, but with enough confidence, resilience and consistency, we can make the case for libraries in Europe.

7 Regional Summaries

7.1 Introduction

This chapter presents overviews on the current state of eBooks in libraries in different countries, written by informed library representatives in those countries. This is not intended to be an inclusive global summation but rather an analysis of a select group of specific countries. All of the countries considered have developed economies reflecting the markets where trade eBooks are established in the consumer marketplace.

The approaches taken by publishers and libraries in different countries to provide access to eBooks vary depending upon a range of factors including the language of the work, government priorities, and the existing relationships between national publishers and libraries. In general in countries where the market for indigenous published works is limited by language (e.g., Denmark, Sweden...) it is more likely that unique national distribution models will emerge while languages with multinational markets (e.g., English, Chinese, German, French, Spanish, Portuguese...) are more likely to use cross-border distribution systems. In reviewing the models used in countries included in this publication, three broad approaches have emerged.

In the United States and Canada, as well as in Germany, France, England and Australia, libraries are using commercial technology providers that operate nationally and often across borders, such as OverDrive, De Marque (CanTook Station), and Divibib GmbH (Onleihe). Each public library system or regional group of systems is contracting separately with the technology provider. These providers negotiate with publishers for licences that are then made available to the public libraries. Libraries benefit from time savings on licence negotiations with the publishers and from a platform that advances as technology changes. However, they generally give up control over publisher relationships and service priorities, and they may commit to an annual platform fee. In each of these countries, libraries experience a range of licence models that vary depending on the size of the publisher, the publishers' willingness to experiment, and in some cases on the demand for the content in the consumer market. Some publishers are not participating in sales to libraries, and some multinationals are participating in some markets and not others.

In European countries where the language market is limited, some governments and national libraries are engaged with eLending services for the population, including in Denmark, Finland, Norway and the Netherlands. In each of these countries, the national library provides and maintains the technology plat-

form for public library eBook lending and licenses eBooks on behalf of public library borrowers. The systems in Denmark and the Netherlands are described in the following pages. Both countries have had the opportunity to experiment with licensing models that permit simultaneous use of eBooks through circulation-based licences. In Denmark, the availability of newly published eBooks on demand through the national system caused publishers to attribute decreasing sales to library availability. A revised model emerged with limited availability of the newest titles, and this has restored participation by most publishers, with smaller Danish publishers reporting improved and more diverse sales as a result of the libraries' curation and recommendations. In the Netherlands, the potential for simultaneous loans is limited by the libraries' ability to pay, as it is in the systems in use in North America, and many publishers withhold new releases for a period of approximately one year. In both countries, it appears that availability of licences for simultaneous loans of new titles can result in longer withholding by publishers due to the recognition that library lending can suppress sales of new releases if they are immediately available for free from the library with no wait. Based on the examples in Denmark and the Netherlands, the model of national libraries providing the technology platform and licensing the content at a national level requires significant government support, significant start-up and operational funding, and a strong team for technology provision and content curation. However, where these factors are present, it has the advantage of library control over the services, the ability to demonstrate the important role libraries can play in recommending next reads and discovering new authors, and building a direct relationship with publishers.

Other countries, including Spain and Chile, are coordinating the provision of commercial technology platforms for service on a national level and supplying a core collection of materials nationally. This model is also being considered in Belgium. In Spain, in addition to the national system and core collection, regions are able to fund and select their own supplemental collections. This could be a model for other countries that wish to provide one technology platform nationally, but also to provide flexibility for local content selection. In these countries, the national coordinating body has worked with an existing technology provider to offer the system, rather than developing and supporting their own solution.

When considering developing and underdeveloped countries it is evident that very few countries have the library, national publishing or technology infrastructures to support any widespread availability of trade eBooks for either the retail or public library markets.

In Africa, the provision of digital content is largely confined to non-African educational and scholarly works licensed by universities and public-domain content on the internet. The International Publishers Association estimates that

90% of publishing revenue generated in Africa is derived from education markets. The 2013 South African Book Fair, “The future of eBooks: the impact of the digital eBook phenomenon” solely dealt with the education market and the potential for acceptance of digital textbooks. This lack of indigenous content and a robust trade market for books coupled with the lack of technology infrastructure has resulted in underdeveloped retail and library eBook markets.¹

In a 2013 presentation, Dr Maisela Eddy Maepa of the University of South Africa noted that many African countries are just beginning to set up eBook infrastructures and allocating library budgets for eBooks. Beyond academic libraries, the growth of the eBook market was being driven by philanthropic individuals and organizations. Dr Maepa consulted with academic librarians in 37 libraries, and found that 48% had no budget for eBooks, while 24% were spending less than 1% of their budget on eBooks. The remaining 28% were spending from 1% to more than 5% on eBooks. Dr Maepa included a quote from the chair of the Association of Nigerian Authors: “We are far away from any eBook readership in Africa,” however, he noted that the government understands the need for enabling infrastructure.²

WorldReader, a non-governmental organization offering eBooks, is an example of a philanthropic programme operating in Africa. WorldReader offers eReaders loaded with eBooks primarily through schools, school libraries, community resource centres and public libraries, with a focus on literacy and including local languages.³

South Africa, which has an English-language market, provides one example of an African country with a growing library eLending service. Some South African libraries provide OverDrive and both national and international English-language titles. Demand for eBooks is limited through both retail and libraries, partly because only an estimated 14% of the population reads books, and PwC estimates that only 1% of the population buys books.⁴

In Asia there are again many underdeveloped eBook markets with a few exceptions, most notably in Singapore. English is one of Singapore’s four official

1 Data are derived from International Federation of Library Associations and Institutions (IFLA), “IFLA 2014 eLending Background Paper”, IFLA, <http://www.ifla.org/publications/node/8852?og=7351>.

2 Maisela Eddy Maepa, “The State of the e-Book Market in Africa: Challenges and Prospects,” presentation, CILIP London, 21 February 2013, <http://www.cilip.org.uk/sites/default/files/6.%20Dr%20Maisela%20Eddy%20Maepa.pdf>.

3 Worldreader, “What we do,” Worldreader, <http://www.worldreader.org/what-we-do/>.

4 PwC, “Impact of e-books on South African market remains limited for next five years, according to PwC study,” PwC.co.za, <http://www.pwc.co.za/en/press-room/book-media.html>.

languages and the National Library Board provides a large collection of English-language eBooks acquired from OverDrive and other US providers. The problems experienced by the National Library in providing eBooks are the same as those experienced by libraries in other countries dealing with the same vendors and publishers. For the other official languages the issue is the lack of availability of titles or, in the case of Chinese, the lack of titles appropriate for public library lending: “Chinese, Malay and Tamil have also proved to be challenging due to the relatively limited contents available in the three mother tongue languages, especially for Malay and Tamil eBooks.”⁵

For the Chinese language, Apabi Chinese eBooks are published in mainland China and the content is largely more scholarly rather than leisure reading content. The lack of popular recreational reading eBook titles in Chinese is cited as the primary reason for relatively low eBook use in technologically advanced areas such as Hong Kong. Japanese libraries have been slow to adopt eBooks in their collections.

There are large eBook markets not addressed in this review (e.g., Russia, South Korea, Japan...) where insufficient information is available on eBook integration into public library collections.

It is telling that there have been several commissioned studies comparing national approaches to eBooks as library associations and decision makers seek solutions that can be applied in their jurisdiction. The Brussels-based consulting and research company with an expertise in digital issues, Civic Agenda, has been the leader, undertaking eBook studies for IFLA,⁶ the Australian Library and Information Association⁷ and for Dutch and Flanders library and government agencies (Taalunie, Bibnet and Bibliotheek.nl).⁸

5 Grace Sim et al., “Usage and Challenges of E-Books & E-Readers in Southeast Asia: A Current Snapshot of the Issue,” presentation, American Library Association, 28 June 2014, <http://ala14.ala.org/files/ala14/ALA2014-SEA-Ebooks-paper.pdf>.

6 Civic Agenda, “The Thinkpiece ‘Libraries, eLending, and the Future of Public Access to Digital Content’,” International Federation of Library Associations and Institutions, <http://www.ifla.org/files/assets/hq/topics/e-lending/thinkpiece-on-libraries-elending.pdf>.

7 Dan Mount, *Elending Landscape Report 2014* (Canberra: Australian Library and Information Association, 2014), <https://www.alia.org.au/sites/default/files/publishing/ALIA-Elending-Landscape-Report-2014.pdf>.

8 Dan Mount, *A Review of Public Library E-lending Models* (Taalunie; Bibnet; de Bibliotheek, 2014), www.lmba.lt/sites/default/files/Rapporten-Public-Library-e-Lending-Models.pdf.

7.2 Australia

Sue McKerracher⁹

By 2012, whilst the situation for academic libraries in relation to eBooks published by scholarly publishers was relatively stable, this was in stark contrast to the situation for early-adopter public libraries wanting to purchase popular fiction and non-fiction eBook titles for their collections. The major trade publishers were reluctant to make eBooks available to public and school libraries, fearing the effect this might have on consumer sales in a market where readers had already shown a strong interest in the electronic format.

The situation was no different from that faced by libraries in other English-speaking countries, where publishers were trying to make sense of the potential impact of eLending, but other factors emerging around the same period exacerbated the problem.

In 2009, the Productivity Commission carried out a review of copyright restrictions on the parallel importation of books.¹⁰ The parallel-importation restrictions remained in place, ensuring Australian booksellers bought books from local publishers rather than sourcing cheaper copies of the same titles overseas, but the prospect of repeal caused waves in the industry.

By 2010 UK online retailer Book Depository was making inroads into the Australian market with its offer of free shipping worldwide. This was a further unsettling factor.

Then the local book industry took a big financial hit. Within a day of book retailer Borders filing for bankruptcy in the United States in February 2011, REDgroup Retail, which operated 26 Borders and 169 Angus & Robertson bookshops in Australia, was placed into voluntary bankruptcy administration. REDgroup accounted for approximately 20% of the book market in Australia.

These factors conspired to put pressure on the local trade publishing industry, just at the time when libraries were starting to push for access to eBooks. Australian publishers felt under threat from external market forces. There was no obvious eLending model, and with their energies diverted, there was little capacity to work on a library solution. The Australian trade publishing landscape is dominated by the major international publishers and is also highly constrained by decisions made in the United States and Europe. At the same time, senior

⁹ CEO, Australian Library and Information Association.

¹⁰ Australian Government Productivity Commission, "Copyright Restrictions on the Parallel Importation of Books," Productivity Commission, <http://www.pc.gov.au/inquiries/completed/books>.

library leaders recognized that their relationship with publishers had become distant and moves were made to rebuild the connection, with the aim of working together to reach a mutually beneficial outcome.

The aggregators were an important piece of the puzzle. In 2013, OverDrive was still the dominant eBook platform, but Wheelers had entered the Australian market in 2011, followed by Bolinda in 2012. This meant at least three companies were also working on publishers to increase the availability of eBooks for Australian libraries.

Margaret Allen, CEO and State Librarian of the State Library of Western Australia, was one of the key library professionals behind moves to address the situation. Working through ALIA, of which she was a past president, Allen was instrumental in initiating an industry-wide consultation.

Allen explained, “The starting point, in 2012, was to raise awareness of the challenges within public libraries and create the basis for an advocacy platform. This meant identifying the issues affecting Australian libraries, in the context of what was happening around the world. ALIA’s issues paper¹¹ was published in January 2013 and was swiftly followed by a position paper in May 2013.¹² Together, these documents became the script for discussions with the book industry, government, media and other stakeholders.”¹³

The position paper set out a clear objective: “ALIA’s overall goal is to help our members make eBooks readily available to library users, while ensuring there is a generally accepted, fair balance between the commercial and ethical interests of libraries, creators, publishers and aggregators.”

Allen was ALIA’s representative on the Australian government’s Book Industry Collaborative Council, which was formed to “give advice to the Minister on the priority issues for the book industry”¹⁴ in response to the factors outlined earlier. The Book Industry Collaborative Council met from July 2012 and formed several expert reference groups including a Lending Right Expert Reference Group, and through this process ALIA was able to advocate strongly for the library eBooks

11 Australian Library and Information Association (ALIA), “Ebooks and eLending Issues Paper,” 7 January 2013, ALIA, 2013, <http://www.alia.org.au/sites/default/files/documents/advocacy/Ebooks%20and%20eLending%20Issues%20Paper%20FINAL.pdf>.

12 Australian Library and Information Association (ALIA), “ALIA Position Statement on eBooks and eLending, May 2013,” ALIA, <https://www.alia.org.au/advocacy-and-campaigns/advocacy-campaigns/ebooks-and-eLending#POSITION%20PAPER>.

13 Margaret Allen, interview by Sue McKerracher, July 2016.

14 “Book Industry Collaborative Council Final Report 2013,” Book Industry Collaborative Council, http://pandora.nla.gov.au/pan/144635/201403140742/www.senatorkimcarr.com/uploads/1/8/8/8/18881120/book_industry_collaborative_council_final_report_2013.pdf.

agenda. The Group developed a set of “Principles for consistent supply for ebooks to libraries”¹⁵ which recognized the vital role that libraries play in providing access to Australian literature and encouraging a reading culture.

Whilst the Book Industry Collaborative Council completed its work in June 2013 and provided its report to the minister, it was never publically released by government due to a national general election and subsequent change of government. Although the former minister released the report on his personal website, the report itself rapidly disappeared in an age of digital communication and the much needed broad industry discussion did not occur. Fortunately the National Library of Australia preserved the report as part of its mandate to collect and preserve Australia’s documentary heritage.

During 2013 ALIA organized an eBook summit and eLending think-tanks in capital cities around Australia to keep members informed and to build on its understanding of the issues facing libraries in the emerging digital environment. Ms Allen spoke at each of these events, and commented, “The situation was moving so quickly that we had to amend the content for each presentation. Talking with colleagues in different parts of the country also threw into focus the varying level of take up of eBooks in metropolitan, regional and remote areas. There was no ‘one size fits all’ solution, which made the conversation with publishers even more complex.”

In 2013, ALIA carried out its first survey of eBooks in public libraries to produce a snapshot of the current state of play. The survey was repeated in 2014 and 2015, and the results were evidence of the rapidly changing landscape with statistical comparisons clearly demonstrating digital collection market penetration with 99% of responding public libraries lending eBooks in 2015 compared to 69% in 2013.

Australia is a federation of states and this leads to different systems of public libraries across the nation. South Australia, Western Australia, Tasmania and the Australian Capital Territory each provide a statewide licence for access to eBooks, allowing anyone with a public library card in that state to access a range of digital content including trade eBooks. In other states, this is a library-by-library decision.

However, problems with title availability identified in the surveys persisted over the three years:

While the availability of Australian content had improved between 2013 and 2015, the majority of libraries were still less than satisfied or not satisfied with the choice of best-sellers, popular authors and overall content.¹⁶

¹⁵ Book Industry Collaborative Council, Final Report 2013, 187-190.

¹⁶ Margaret Allen, interview by Sue McKerracher, July 2016.

The dissatisfaction centred on bestsellers and popular authors with respondents indicating that they were less than satisfied (75%) or not satisfied (65%) with eBook title availability. This indicated that publishers, fearing erosion of the eBook retail market, were still withholding or delaying the release of popular titles to the Australian library market.

While Allen and fellow library leaders pursued discussions with Australian publishers, it was important to identify practical eLending solutions, especially for public libraries, which still didn't have access to the eBooks their patrons were demanding. In early 2014, ALIA commissioned Brussels-based Civic Agenda to develop the *Elending Landscape Report*,¹⁷ identifying worldwide public library initiatives to secure eBooks for borrowers.

Surveys and research were vital for ALIA's eBook advocacy. Allen stated:

We needed to be sure that we had the facts at our fingertips when we were talking to industry and government. We all had so many questions and there were so few clear answers.¹⁸

Spending on eBooks in public libraries reflected the rise in libraries providing eBook services. Public library statistics for 2013–14 compiled by National and State Libraries Australasia¹⁹ showed an increase of more than 130% in digital content (including eBooks) in the preceding five years with annual increases of almost 30%.

ALIA's Interlibrary Lending Advisory Committee carried out its own survey in the second half of 2014. Separate surveys were carried out for the education/research/special library sector (the main survey) and public libraries. Like many countries with established eBook markets, Australian public libraries have not generally pushed for eBook interlibrary loan, viewing it as a "poison pill" for trade publishers and distributors. The ALIA survey results were inconclusive from an advocacy perspective, with 56.9% of the non-public library survey respondents indicating that eBook interlibrary loans and document delivery were not currently very important or unimportant as they were "able to purchase the materials their users needed, either independently or through consortia arrangements,²⁰ or their users preferred print". In response to the question "How important might access to the eBooks of another library be for your library users in five years' time?", 80% of the same librar-

17 Mount, *Elending Landscape Report 2014*.

18 Margaret Allen, in interview by Sue McKerracher, July 2016.

19 National and State Libraries Australasia. Australian Public Libraries Statistical Report 2013-2014 ([Melbourne]: National and State Libraries Australasia, 2015), http://www.nsla.org.au/sites/www.nsla.org.au/files/publications/NSLA.Aust-Pub-Lib-Stats-2013-14_0.pdf.

20 Some scholarly publishers have been more amenable to consortia digital licensing than their trade counterparts.

ies replied “important” or “very important”. Fifty percent of the main survey respondents reported that their eBook licences did not permit interlibrary loan of eBooks. In the public library survey, 60.4% of respondents indicated that eBook interlibrary loan would be important or very important in the next three years.

The inherent dangers of predicting the future based on recent trends was evidenced by ALIA’s “50:50 by 2020” statement released in November 2013:²¹

We predict that library print and ebook collections will establish a 50:50 equilibrium by 2020 and that this balance will be maintained for the foreseeable future.

Fifteen months later a reconsideration of this “bold statement” was in order and “80:20 by 2020” was issued:²²

In less than two years, the initial ebook sales boom has settled and the book industry is predicting the ebook phenomenon will plateau at around 20–30% of book sales, with print books remaining the dominant format.

Interestingly, the reason behind these statements was not an attempt to accurately predict the future, but to give library funders pause for thought before they took any steps to reduce the library budget on the basis that in a very short space of time eBooks would become the dominant format, negating the need for investment in physical infrastructure such as RFID and self-check-out systems.

ALIA eBook advocacy through 2015 and 2016 continued to focus on improving relations between libraries and publishers; ensuring a better understanding of each others’ objectives, and finding mutually beneficial outcomes.

Discussions included the potential for a “buy-it-now” button on library websites, and a proof of concept was being developed by Public Library Services South Australia at the start of 2016.

There are still unresolved issues for Australian public libraries – not all of the Big Five allow content to be licensed by public libraries, with Hachette titles continuing to be unavailable. Seamless access for library patrons is still problematic with the latest ALIA survey, indicating that only 44% of public libraries could provide access to eBooks directly from their catalogue. Standards in performance data generated by eBook vendors are an emerging issue, with a lack of a consistent approach among platform vendors.

²¹ Australian Library and Information Association (ALIA), “50:50 by 2020”, ALIA, November 2013, http://www.alia.org.au/sites/default/files/documents/about/ALIA-5050-by-2020_2.pdf.

²² Australian Library and Information Association (ALIA), “80:20 by 2020”, ALIA, March 2015, <https://www.alia.org.au/sites/default/files/documents/ALIA-8020-by-2020.pdf>.

Licence agreements for eBooks still routinely override library exceptions in the Copyright Act 1968 including the ability to interlibrary lend and fair dealing provisions for copying and printing. A 2016 Productivity Commission report²³ raised the issue of removing parallel importation restrictions for books once again, so the landscape for authors and publishers remains uncertain.

ALIA advocacy strongly reinforces the theme evident in other library and multi-sector advocacy that fairness for authors and publishers should be integral to the resolution of eBook access challenges. The ALIA 2013 *Ebooks and lending issues paper* provides a concise summary of how libraries provide crucial support for the publishing ecosystem:

Publishers, and to some extent authors, see book/eBook loans through libraries as lost sales, but this is a very narrow view of the role of libraries in supporting the book industry.

- Australian libraries are book purchasers. They purchase approximately 12% of books. For popular books, libraries buy multiple copies.
- Australian libraries are a marketing and promotional vehicle for creators and publishers, connecting readers and writers. According to an American study, 20% of library users bought a book after they had borrowed it, and 47% bought a book by the same author after they'd borrowed one of their books from the library. The average library patron in the US was found to buy nine books a year.
- Australian libraries help create new audiences, through early literacy, family literacy and adult literacy programmes. They also help people discover and rediscover the joy of reading, through campaigns such as the National Year of Reading, through book clubs and other community activities.
- Australian libraries contribute to income generation for authors and publishers in other ways. Author/illustrator tours and visits to public libraries/schools are an important source of fee income for creators, provide direct sales (books are available for attendees to purchase) and promote future sales (increased awareness of an author and their work). The Public Lending Right and Education Lending Right (undergoing a modernisation review, which could recommend their extension to cover eBooks) generate revenue for authors long after their retail life span has ended.
- Australian libraries support the creative process, with writers and illustrators using library collections as the source for their stories and drawings.

Focusing on these areas where libraries have common interests with writers and publishers is crucial as libraries work to improve eBook access within Australia and globally.

²³ Australian Government Productivity Commission, "Intellectual Property Arrangements: Productivity Commission Draft Report," April 2016, <http://www.pc.gov.au/inquiries/current/intellectual-property>.

7.3 Canada

7.3.1 English Canada

Christina de Castell²⁴

Public libraries in Canada have access to eBooks from all major multinational trade publishers and the vast majority of Canadian publishers. While terms are complex for multinational publishers due to the amount of variation, and some prices are higher than libraries would prefer, the landscape for eLending in Canadian public libraries progressively improved between 2010 and 2016. The increasing availability of content and easier-to-use technology resulted in steady growth of eBook use by library users. Among Canada's urban public libraries, annual circulation of eBooks exceeded 4.4 million in 2014, more than four times the 975,723 items circulated in 2011. Most public libraries in Canada lend eBooks, with smaller libraries participating in shared collections through consortium purchasing and larger libraries independently buying collections for their communities.

Libraries work within a technology environment for downloadable trade eBooks that continues to be dominated by one platform vendor, OverDrive. Most eBook platforms that are initially offered in the United States are available to Canadian public libraries as the platform expands, and in addition, Canadian platforms originally developed for the French-language market are available at some libraries. It has been an ongoing frustration of Canadian publishers that a Canadian vendor for eBooks does not exist, and that as a result of using a US vendor, sales of eBooks from multinationals to Canadian libraries have at times been wrongly attributed to the US rights holder. The current situation is ironic in that foreign-owned and indigenous Canadian publishers fought a lengthy battle in the 1970s and 1980s to achieve the addition of parallel importation in the Copyright Act requiring that foreign-published titles with Canadian distribution rights be acquired by libraries from Canadian sources. Whether or not a Canadian English-language eBook distributor emerged, the importation law would not apply as the Copyright Act defines a book as being in printed form.

Apart from OverDrive, other eBook platform vendors have succeeded in gaining customers at a limited number of Canadian public libraries, added when the library is looking for the opportunity to lessen their dependence on one vendor, or offer patrons more choices in how they access eBooks. In most cases, prices and availability among the vendors are the same, so libraries have

²⁴ Director, Collections and Technology, Vancouver Public Library.

little motivation to add new platforms. A barrier to offering multiple platforms is the annual licence fee charged by most vendors of eBook platforms, which introduces additional costs for libraries that choose to experiment.

Canada's public libraries are funded and regulated at provincial and municipal levels, and an aggregated national source of data about eBooks in libraries does not yet exist. Statistics refer to members of the Canadian Urban Libraries Council/Conseil des Bibliothèques Urbaines du Canada (CULC/CBUC), which represents libraries that serve urban library districts with populations over 100,000. In these urban areas, an average of 40% of the population is registered as library users, approximately 6.5 million people. More than 55% of all Canadians are served by a CULC/CBUC member library, and the activity in member libraries represents more than 80% of Canada's public library activity. Canada's population was estimated to be 35.5 million in 2014.²⁵

After seeing gradual growth in 2010, libraries saw dramatic increases in eBook use in 2011, when eBook lending reached 1% of total circulation. Over the subsequent four years, eBook lending continued to grow rapidly, doubling from 2011 to 2012, then slowing to 50% growth in 2013 and 30% in 2014. This growth was enabled by substantial increases in eBook expenditures across the libraries, as many invested heavily to meet borrower demand. As materials budgets were not increasing in this period, libraries observed the challenge of finding sufficient funds for eBook purchases, and most were forced to shift funds from other areas, such as print or other licensed digital resources, as illustrated in Table 7.1.

Table 7.1: Canadian Libraries by the Numbers

	Total Holdings	eBook holdings	eBook Circulation	Total Circulation	Total Expenditure	eBook Expenditure
2011	47,265,972	230,798	975,723	95,890,509	\$ 85,041,786	\$1,640,472
2012	43,060,109	448,352	2,016,883	97,201,428	\$ 79,669,907	\$ 2,093,857
2013	38,854,075	591,669	3,128,731	95,736,464	\$ 83,292,326	\$ 3,120,284
2014	37,199,460	849,817	4,438,575	86,893,150	\$ 78,905,730	\$ 4,330,274

In 2012, total circulation of materials peaked, and it has now begun to decline. While eBook use at libraries grew steadily from year to year, it failed to make

²⁵ Statistics Canada, "Canada's population estimates: Age and Sex, 2014," Statistics Canada, last updated 26 September 2014, <http://www.statcan.gc.ca/daily-quotidien/140926/dq140926b-eng.htm>.

up for the decline in circulation of physical materials, particularly audiovisual material. In this period, increasing digital content became available to Canadian consumers including movie and television streaming on NetFlix (2010) and Apple TV, and music streaming and downloading continued. Declines in lending of movies and television shows on DVD, and music on CD, as well as declines in print book borrowing are attributed to these changes in the broader digital marketplace.

The Developmental Stages: 2010 to 2013

In early 2010, when the Sony Reader and Kindle had recently reached Canada, large urban public libraries realized that an explosion in eBook demand among users was imminent. Until this point, public libraries had held eBooks in online subject collections, and many had been offering downloadable audiobooks for several years through OverDrive. Small collections in PDF and EPUB formats had begun to build alongside existing audiobook collections in OverDrive, but demand and availability of titles was small.

However, consumer interest was growing rapidly, and it accelerated in May 2010 with the release of the Kobo eReader at a significantly lower price than the Kindle and Sony Readers, followed by the arrival of the iPad in Canada. Libraries began to receive visitors with eReaders or tablets in hand, asking for help.

Librarians working with eBooks and the OverDrive platform identified a number of barriers for patrons who wanted eBook access. The availability of Canadian content was poor, the then Big Six multinational publishers were following the same licensing policies as in the United States, and library eBooks were not available to Kindle users. Overall there was not enough variety of content available for libraries to buy so that they could meet users' expectations. In addition, the technology available was challenging. Users were forced to login to a separate website to find eBooks, and the process to borrow and download a book, and then load it onto the borrower's device, was complex. For most library users, there were too many steps necessary to borrow an eBook, and they gave up in frustration.

Prompted by the Toronto Public Library in June 2010, conversations among library leaders in CULC/CBUC resulted in an initiative to develop background on the emerging issue of eBooks in public libraries. The *Vision Statement for Public Library Access to Downloadable and Portable e-Content* was published in November 2010.²⁶ The statement identified the need for choices in ordering digital

²⁶ Canadian Urban Libraries Council, "Vision Statement for Public Library Access."

content, fair and flexible pricing models, ownership of titles, access to Canadian content, and easy to use, accessible technology based on open standards that would facilitate use by patrons.

With the statement in hand, a small group of representatives were appointed to an eBook Task Force that would meet with publishers based in Canada to explain the challenges. Urban public libraries recognized the demand for eBooks and had established budgets for licensing them, but they were unable to find the content that they wanted to license in the titles available from publishers.

Early meetings were productive, and both Canadian and multinational publishers were interested to learn that libraries wanted to purchase more Canadian content in eBook format. They identified certain challenges that needed to be addressed, such as author agreements that did not contain rights for digital publishing, or for distribution of eBooks in Canada, and they committed to continuing to discuss challenges. As a result of the talks and the expanding consumer market, within the first year availability of Canadian eBooks for libraries improved dramatically.

In the same period, the Canadian publishing industry identified the need for support for publishers entering the digital marketplace for the first time. The Association of Canadian Publishers created an organization, eBOUND Canada, for this purpose. The CULC/CBUC eBook task force and eBOUND Canada found common interests in advancing Canadian eBooks in libraries, and discussions continued.

eBOUND CULC/CBUC Joint Project

eBOUND Canada approached CULC/CBUC with a proposal to work together on a pilot project for a made-in-Canada solution to provide eBook lending to all Canadian public libraries from Canadian publishers. Early discussions identified shared frustrations with the marketing of Canadian published eBooks and the ability to promote Canadian content in the existing library eBook platform, OverDrive. EBOUND appointed a project manager, and the two groups issued a joint request for information to the technology market in June 2012. The request for information was intended to identify potential technology partners to provide a Canadian-controlled infrastructure for storage and distribution of digital content, and to manage lending transactions between libraries and patrons.

The objectives of the pilot project were to allow Canadian publishers to market, sell or lease their content directly to public libraries and for libraries:

- to be able to purchase from multiple vendors of their choosing;

- to have discovery layers able to incorporate lending without leaving the library environment;
- to be able to provide library users with the option to purchase content through the library website;
- to have the ability to market Canadian content to users.

The responses to the request for information provided assurance to the joint project team that options could be developed, and they issued a request for proposal (RFP) in May 2013. Negotiations with the selected vendor continued through November 2013. On 27 November 2013, CULC/CBUC issued an announcement that the request for proposal would be ending without a pilot with the following explanation:

Several complex issues arose during the negotiation. The most problematic were the terms of sale for content from specific publishers that would be included in the pilot and the cost of the solution. In the current market, Canadian libraries expect to subscribe to multiple products concurrently to purchase and lend eBooks, resulting in concerns about the sustainability of paying multiple platform fees. Through the process of contract negotiation at the conclusion of the RFP, it was determined that the conditions were not favourable to proceed with platform implementation.²⁷

The announcement noted that significant progress had occurred in the market over the period of the negotiations, including that the basic framework from the request for proposal had become the baseline for the technical requirements that were shared with vendors in the ReadersFirst initiative (see Section 6.2), providing “detailed information on library and customer expectations surrounding user experience with eBooks” and that vendors had begun to introduce solutions that “advance the goals established by the CULC/CBUC Working Group.”²⁸

In May 2012, at a CULC/CBUC meeting, Micah May from New York Public Library invited the members of the group to join the ReadersFirst Coalition. The CULC/CBUC members endorsed participating, and members of the existing eBook Task Force from Hamilton, Ottawa and Vancouver public libraries joined the leadership group of ReadersFirst. Throughout the period of the eBOUND/CULC project, library representatives from the CULC/CBUC eBook Task Force

²⁷ Canadian Urban Libraries Council, “Public Library eBook Lending Initiative: RFP Ends Without a Pilot,” Canadian Urban Libraries Council, 27 November 2013, http://www.culc.ca/cms_lib/eBook%20RFP%20ends%20without%20Pilot.pdf.

²⁸ Canadian Urban Libraries Council, “Public Library eBook Lending Initiative.”

shared objectives and materials to contribute to the creation of the *ReadersFirst Guide to Library eBook Vendors* and worked to promote ReadersFirst as a vehicle for achieving the objectives of the CULC/CBUC *Vision Statement on Downloadable and Portable eContent*, as well as the technology objectives of the eBOUND CULC/CBUC pilot project.

Publisher Terms & Conditions

The extensive collaboration of CULC/CBUC and eBOUND that had occurred through the pilot project led to new and strengthened relationships between independent Canadian publishers and libraries in Canada. Invitations from publishers for library representatives to speak at publisher meetings and conferences increased, and libraries expanded their engagement with Canadian publishers. Publishers invited library representatives to join the eBOUND Canada board, recognizing the role of libraries in promoting Canadian eBooks, and the BookNet Canada board, a non-profit organization that develops technology, standards and education for the Canadian book industry.

Discussion of library availability and issues became a regular feature of Canadian publishers' surveys and reports. In *The State of Digital Publishing in Canada 2014*, BookNet identified that 75% of Canadian publishers sell eBooks to public libraries.²⁹ Pricing practices are illustrated in Figure 7.1 from BookNet's report, which includes trade, education and scholarly publishing. Most vendors to public libraries do not offer independent Canadian publishers the option of loan or time limits on licences to libraries and most independent Canadian trade publishers offer libraries prices comparable to retail prices. The time limits and loan limits identified in Figure 7.1 refer to practices in the education and academic markets for most publishers.

29 BookNet Canada, *The State of Digital Publishing in Canada 2014* (Toronto: BookNet Canada, 2015) http://static1.1.sqspcdn.com/static/1/1456875/26187631/1430420508347/State_of_Digital_Publishing_2014.pdf?token=HM05MRC0RiWIDY3gI%2FWufyDSURk%3D.

PRICING FOR LIBRARIES

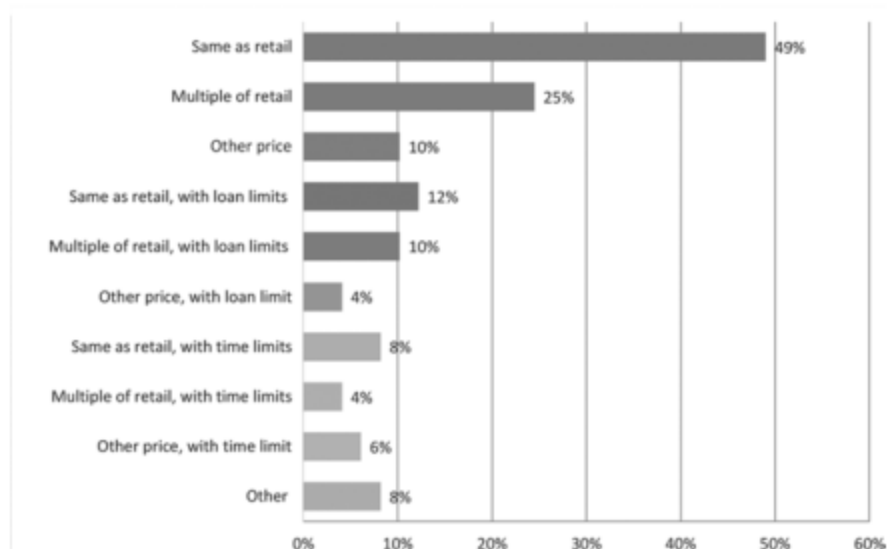


Figure 7.1: Pricing for Libraries: responses to the question “How are you pricing digital books for library sales?” (N= 49 respondents, 67 responses), from *The State of Digital Publishing in Canada 2014*, BookNet Canada.

Canadian public libraries access to eBooks from multinational publishers is generally similar to models used in the United States. Canadian libraries experienced delays in gaining access to some US pilot programs, such as the Simon & Schuster pilot lending program in 2013. Despite delays, publisher models launched in the United States have usually become available to Canadian libraries. There is one notable exception: Canadian public libraries cannot buy Kindle published books and cannot lend eBooks to Kindle reader users. Since the Kindle Fire tablet is an Android tablet that can run apps, Kindle Fire users can borrow library eBooks.

Canadian public libraries in 2016 received the following terms from multinational publishers:

- **Hachette:** Titles are sold with a perpetual licence. They have no price cap, and the most popular titles often exceed \$90 (\$68 US);
- **HarperCollins:** Titles are sold with a cap of 26 loans at a price comparable to retail. The average price of a bestseller is approximately \$20 (\$15 US);
- **Macmillan:** Titles are sold with a cap of 52 loans or 2 years, whichever comes first. Bestseller titles usually range from \$50–60 (\$38–46 US);
- **Penguin RandomHouse:** as of December 2015, Penguin RandomHouse titles are sold with a perpetual licence and a price cap of \$65 (\$49 US). The average

price of a bestseller is near the price cap. Prior to December 2015, Penguin titles were sold with a one-year licence at a price comparable to retail;

- **Simon & Schuster:** titles are sold with a one-year licence and a price comparable to eBook retail. Selected titles are offered with a two-year discounted licence.

Canadian public libraries have access to self-published eBooks through OverDrive and Odilo's agreements with Smashwords. They also have the option to upload content into OverDrive, and this facility can be used to lend self-published eBooks through the library's existing platform. As with eBooks published by traditional publishers, Canadian libraries must license materials through a vendor from outside Canada. Public libraries in Canada are discussing the opportunities to support local publishing and writers, and have identified the need to increase purchasing of self-published eBooks as they continue to grow in the marketplace. Amazon's ongoing policy of not licensing Kindle eBooks to libraries in Canada or permitting use of library eBooks by Kindle users outside of the United States (except via the Kindle app) presents an ongoing barrier to broad availability of self-published content in Canada and access to self-published works by Canadians.

Distribution and Lending: Technology Solutions in Canada

OverDrive is the most popular eBook platform vendor in Canada, with 78% of trade publishers selling to libraries through the platform;³⁰ however, other platforms for downloadable eBooks are available in Canada including Baker & Taylor's Axis 360, Cloud Library, BiblioDigital, EBSCO eBooks, Freading and Odilo. In addition, Canadian eBook platforms have been developed for the French-language market in the province of Québec and have expanded into public libraries in English-language Canada that want to offer French language Canadian eBooks, including CanTook Station and MaBiblioNumerique.

To add titles to public library eBook collections for lending, libraries use a website provided by the eBook platform vendor to find and purchase eBooks. They have options to search by various criteria or to browse collections of new books and featured topics. Platform vendors have taken on roles previously filled by print book distributors to libraries, including providing promotional emails, creating "shopping carts" of content by topic for consideration by librarians, and recommending popular titles for purchase. Purchases are billed to the library by

³⁰ BookNet Canada, *The State of Digital Publishing in Canada 2015* (Toronto: BookNet Canada, 2016). <http://www.booknetcanada.ca/state-of-digital-publishing>.

the platform vendor, and the vendor acts as the retailer/wholesaler, receiving a portion of the amount paid by the library for the eBook and remitting the publisher's portion. The publisher may receive from 45–75% of the amount paid by the library, and the remainder is retained by the platform vendor.

Public libraries in Canada also offer online or streaming eBook collections by subject or audience that sometimes contain trade titles, particularly for travel, health and business topics. Many of these sources have been available for more than ten years. Online or streaming collections include Books 24x7, Gale Virtual Reference and Research Library, Safari Books Online and Tumblebooks. Children's eBooks have continued to be popular in this format, which can offer enhanced features such as audio and video.

Many Canadian public libraries use the APIs available from eBook vendors who follow ReadersFirst principles to provide full catalogue integration of eBooks. Libraries load MARC records for their purchased eBooks into their library catalogue, and the APIs enable library users to borrow the eBooks directly from the catalogue or discovery layer. Brief MARC records are available without an additional charge from some vendors, and libraries may also pay for MARC records or create their own. Canadian public libraries are more likely to create more complete MARC records for Canadian content.

Patrons who use tablets and smartphones also use apps provided by eBook vendors to search for and borrow eBooks directly from their devices. For these users, this is often the fastest and easiest way to access an eBook, compared to downloading and transferring files through a computer, which is usually required to use an eReader like a Kobo.

Many public libraries in Canada saw an opportunity when patrons arrived with their eBook readers in hand in 2010 and 2011. They introduced training courses for using eReaders and finding library eBooks. They expanded on these to teach people how to use apps on their iPads.

As technology became easier, demand for basic eBook courses declined, and libraries have found new opportunities to incorporate eBooks into digital literacy training. They are offering digital story times for children and self-publishing courses for writers to produce their own eBooks, while continuing to address the needs of library users who are borrowing an eBook for the first time.

7.3.2 Québec

Jean-François Cusson³¹

An eBook lending platform for Québec's public libraries was launched soon after the second edition of the Congrès des milieux documentaires (Québec's libraries annual conference), held in November 2010. Public libraries, aware of their role in the balance of the book industry in Québec, and conscious of their duty to adhere to the spirit of the *Loi sur le développement des entreprises québécoises dans le domaine du livre* (an Act respecting the development of Québec firms in the book industry, also known as Bill 51),³² quickly expressed the need for a single interface between all libraries, booksellers and eBook publishers that would foster consolidation and stability in this changing business environment. Québec's public library association (Association des bibliothèques publiques québécoises),³³ le Réseau BIBLIO du Québec³⁴ (Québec's regional library network) and Bibliothèque et Archives nationales du Québec (Québec's national library and archives) therefore partnered to pool their expertise, assess the needs of the sector and take the project forward.

When Québec's libraries contemplated the idea of a platform that would manage digital collections and distribute them to their users, they naturally turned toward De Marque, a company established in Québec City. This choice rapidly gained acceptance, in view of De Marque's technical expertise in the distribution and diffusion of eBooks, notably with the establishment of the Entrepôt Numérique (digital warehouse), in collaboration with Association nationale des éditeurs de livres (the national book publishers association).

In partnership with De Marque, a committee of librarians from several Québec public libraries was established to identify the needs and priorities that would lead to the creation of an eBook lending platform for public libraries. The following principles were to be observed in the development of this platform:

- be accessible to all of Québec's public libraries, regardless of their budget or technical expertise;

³¹ Directeur-Général, BIBLIOPRESTO.CA.

³² Act Respecting the Development of Québec Firms in the Book Industry, chapter D-8.1. http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/D_8_1/D8_1_A.html.

³³ The Québec Public Library Association regroups the vast majority of "autonomous" libraries (those serving municipalities of more than 5,000 inhabitants).

³⁴ The 11 "Réseaux BIBLIO" (Library Networks) are regional organizations serving municipalities of less than 5,000 inhabitants.

- adhere to the spirit of the Act respecting the development of Québec firms in the book industry (Bill 51). Even though eBooks are not subject to Bill 51, it was agreed that all parties would benefit from adhering to the spirit of the Act;
- use a simplified set up in order to eliminate the maximum technological obstacles;
- avoid the proliferation of platforms. In order to offer diversified content, some libraries need to deal with many platforms. This affects costs and complicates the user's experience. PRETNUMERIQUE.CA was designed to host content from all distributors and publishers and to connect to all booksellers;
- support the distribution of Québec and French-language eBooks. In 2011, the French eBook market was in its infancy. The platform was intended to help the introduction of this new offering. At the same time, it had to be able to offer non-Québec published content (European, other Canadian, American, etc.);
- allow integration with library catalogues. PRETNUMERIQUE.CA's web platform was conceived as a tool, not an end in itself. Over time, it will be possible to integrate the lending, reservation and user file functions in online catalogues and integrated library systems.

The most striking characteristic of the PRETNUMERIQUE.CA project is undoubtedly the collaboration between a significant number of representatives of public institutions (libraries) and a private company, following a partnership approach. Indeed, the deal between De Marque and libraries was centred on an exchange of expertise: libraries identified their needs, described the necessary functionalities and followed the project through an iterative process as it moved forward. Thus, even if it had been conceived from a set of precise needs expressed by libraries, the PRETNUMERIQUE.CA project didn't go through a complex process of tender specification drafting and bid solicitation. On the contrary, it was designed from the outset to evolve with the needs and uses that would gradually arise following the system's adoption by libraries and their users.

The technology developed as part of the project is the property of De Marque, the company that now markets it in Canada and in Europe under the CanTook Station name. Many European and Canadian libraries have since implemented the CanTook Station technology to offer an eBook lending service to their users,

notably in Grenoble, France,³⁵ Edmonton, Canada³⁶ and in the Wallonia-Brussels Federation, Belgium.³⁷

In parallel with the design and ideation process, discussions were conducted with all the stakeholders involved in the book industry in order to define the necessary parameters and procedures to provide a framework for the purchase and lending of eBooks. These discussions mainly took place outside the works of the Table de concertation interprofessionnelle du livre (Interprofessional Round Table of the Book Industry in Québec), then led by the Société de développement des entreprises culturelles (Cultural Enterprises Development Society). As an outcome of these discussions, a system of letters of intent was established to enable the launch of a trial project until 31 December 2012.

A number of principles were defined and laid down in these letters of intent, notably a limit of 100 loans by licence acquired, the purchase of eBooks at the retail price fixed by publishers, and the stipulation that each copy of the eBook could only be loaned to one library user at a time.

Clément Laberge's blog post³⁸ published in December 2011, at the time of the rollout of the pilot phase of the project, explains the process that led to the establishment of the PRENUMERIQUE.ca model. Laberge was then Senior Vice-President at De Marque.

A group of six public libraries joined the project: Québec City and Montreal's library networks; the Réseau BIBLIO affiliates from Montérégie and Centre du Québec, Lanaudière and Mauricie; Brossard's city library and Bibliothèque et Archives nationales du Québec. The latter was the first to join the project in December of 2011, followed by the five other groups at the beginning of the year 2012. At the time, Québec's public library association managed the project on a provisional basis, while sharing the coordination tasks with a management committee made up of representatives from the organizations taking part in the pilot project.

In spring 2012, the project was presented to all of Québec's public libraries during an information day held at the Grande Bibliothèque in Montreal. Suzanne

³⁵ Bibook, Les livres numériques des BMG, Ville de Grenoble, accessed on 11 July 2016, <http://bibook.bm-grenoble.fr/>.

³⁶ Can Took Station, Edmonton Public Library, accessed on 11 July 2016, <http://epl.cantookstation.com/home>.

³⁷ Lirtuel, Fédération Wallonie-Bruxelles/Culture.be, accessed on 11 July 2016, <http://www.lirtuel.be/>.

³⁸ Clément Laberge, "Au sujet de PRENUMERIQUE.CA," *Jeux de Mots et d'Images: Le Blogue Personnel de Clément Laberge*, 3 December 2011, <http://remolino.qc.ca/2011/12/03/au-sujet-de-prenumerique-ca/>.

Payette, President of Québec's public library association and Clément Laberge, then Senior Vice-President at De Marque, explained the platform's functioning and presented the pilot project's first preliminary results. The public libraries of the province were then invited to express their interest in integrating the platform and, if they were interested, to initiate the subscription and setting up procedures.

At the end of the first year of service in 2012, 23 libraries or library networks had joined the project and became members of the platform. Those libraries were serving 3.5 million inhabitants, or some 43% of the Québec population.

During the summer of 2012, BIBLIOPRESTO.CA was officially incorporated as a non-profit organization with the core mandate to manage and develop the PRENUMERIQUE.CA platform. The idea of setting up such a body originated from the works of the provisional management committee, after the initial trials of the pilot project: the need for a legally established body, managed by representatives of public libraries and able to sign deals with various partners came to be seen as the most viable option, especially because of the flexibility allowed by such an autonomous structure.

On 17 July 2012, BIBLIOPRESTO.CA received its Letters Patent and formally gained a legal existence. A provisional committee was set up to find a project authority that would lead this new organization. The Directeur général was hired on 5 October 2012. One of the first tasks of the project authority was to prepare, with Québec's public library association, a statutory meeting that was held on 31 October 2012, at the Palais des Congrès, in Montreal, in conjunction with the Congrès annuel des milieu documentaires.

On this occasion, eight administrators were elected or appointed according to the criteria set out in the general rules of BIBLIOPRESTO.CA passed at that same assembly, namely:

- two representatives from cities of less than 100,000 inhabitants;
- two representatives from cities of 100,000 to 1,000,000 inhabitants;
- one representative from a city of more than 1,000,000 inhabitants;
- one representative from regional Réseaux BIBLIO;
- one representative from Bibliothèque et Archives nationales du Québec;
- one member appointed by the board.

Following a comprehensive strategic planning exercise, BIBLIOPRESTO.CA adopted a three-year strategic plan based on well-defined mission elements and values:

- mission: BIBLIOPRESTO.CA develops digital products and services that support libraries' missions;
- vision: BIBLIOPRESTO.CA paves the way for the development of a vanguard virtual library;
- values: Accessibility, Adaptability, Cooperation, Innovation, Universality.

Even if the mandate of BIBLIOPRESTO.CA encompasses all promotional and development activities associated with public libraries' online services, its role is threefold:

- manage, develop and promote PRENUMERIQUE.CA, the eBook lending platform launched in 2011;
- act as an acquiring consortium for digital resources from a number of different providers;
- establish a cooperative virtual reference service for all of Québec's public libraries.³⁹

Considering the purpose of this essay, the last two projects will not be covered in depth and the focus will be on the eBook situation.

In 2012, BIBLIOPRESTO.CA received a non-recurrent grant from Québec's Ministry of Culture to start the project and support the emerging organization. Since then, the operating budget has been exclusively based upon membership fees from participating libraries (annual subscription fees based on a cost per capita). The operating budget for 2015 was a little over \$300,000 Canadian (\$254,500 US).

As noted above, the pilot project was a real success. Many libraries of all sizes and from all parts of the province rapidly expressed their interest in integrating the platform in order to offer its services to their users. After the first year, Québec public libraries, using the PRENUMERIQUE.CA platform, had loaned 120,000 eBooks, from a global catalogue of 33,000 books.

The system of letters of intent that was established in the pilot phase of PRENUMERIQUE.CA was set to end on 31 December 2012. From that point, it was necessary to go back to the negotiating table with all involved partners in order to agree on terms and conditions that would ensure the project's continuation. It should be noted that due to the coming end of the initial agreement, no new library could be included in the platform until a new deal came into force.

It was agreed from the onset that libraries and publishers would negotiate face to face. A negotiating committee was thus set up, with the participation of Bibliothèque et Archives nationales du Québec, the Réseaux BIBLIO, Québec's public library association and BIBLIOPRESTO.CA. The committee members met the publishers on numerous occasions, with the publishers represented by a committee of the Association nationale des éditeurs de livres.

³⁹ The RÉPONSEATOUT.CA project was officially launched in the fall of 2014. For more information, visit <http://reponseatout.ca/>, accessed on 8 August 2016.

At the conclusion of the meetings, it was agreed that the project would continue under new conditions. The main new feature was the adjustment of the lending ceiling per licence, going from 100 to 55. In return, BIBLIOPRESTO.CA got to hold a security copy of all acquired titles, in order to protect itself from the withdrawal or the loss of those titles from their respective warehouses. BIBLIOPRESTO.CA only gets a copy of the file in the event of a withdrawal, not automatically when a title is purchased by any given library.

Key terms of the licensing model used by Québec's libraries:

- 1 licence acquired = 1 copy;
- 55 possible loans per copy;
- only successive loans are allowed (impossible to loan a copy to more than one user at a time);
- purchase at retail price, as fixed by publishers (in 2015 the average price was \$17 (\$12.07 US) per eBook);
- borrowing period to be decided by libraries;
- libraries can claim a security copy in case of a default with a publisher or distributor.

The drafting of this new agreement was coordinated by Société de développement des entreprises culturelles, with active participation from the Association nationale des éditeurs de livres and BIBLIOPRESTO.CA. After extensive legal research and consultation with copyright law experts, the creation of a management company responsible for collective rights administration, SOGANEL, was put forward in order to ensure that the agreement would be formalized in accordance with the law, notably the Federal Competition Act.

Since then, publishers who want to make their eBooks accessible to libraries must sign a “mandate”⁴⁰ in order to be covered by the SOGANEL licence, while participating libraries must sign an “acceptance notice” in order to indicate that they subscribe to all of the conditions included in the said license. The new agreement was signed on 17 July 2013.

In the end of 2013, 133 publishers, mainly from Québec (some francophone publishers from the rest of Canada were also participating) had made more than 11,000 digital titles available for purchase and loan by a library. In January 2015, Sogides (Groupe Livre Québecor Média), the largest publishing group in Québec, joined the project to the great delight of libraries and their users. From then

⁴⁰ The entire SOGANEL licence can be read on the ANEL website: “SOGANEL: Prêt de livres numériques en bibliothèques,” <http://anel.qc.ca/dossiers/soganel-pret-de-livres-numeriquesenbibliotheque/>, accessed on 8 August 2016.

on, the vast majority of digital titles published in Québec became accessible to Québec libraries.

If one of the main objectives of the project was to make Québec's publishing production available to library users, it was also clear that it would not be the sole purpose pursued. Thus, discussions were quickly initiated with different publishers and distributors in order to broaden the available offer.

The first outcome of this strategy came from the domestic market: a contract was negotiated and signed between BIBLIOPRESTO.CA and Diffusion Dimedia, a Québec distributor which had, amongst others, the rights to the digital catalogue of the La Martinière group. This agreement, reached in November 2013, complied fully with the conditions already established with Québec's publishers as described in the SOGANEL licence. From that point, Québec's public libraries were able to broaden their collections by choosing among thousands of titles of La Martinière, Seuil and a dozen other French publishers distributed by Dimedia.

Next, BIBLIOPRESTO.CA initiated discussions with other groups. An agreement was reached with the Madrigal group in the fall of 2014 (under conditions very similar to the SOGANEL licence), which made more than 7,000 new titles available to libraries. At the same time, discussions with most Canadian English-language publishers, represented by eBOUND Canada, and with Feedbooks, an online bookstore, allowed libraries using the PRETNUMERIQUE.CA platform to offer catalogues including several tens of thousands of English-language eBooks.

BIBLIOPRESTO.CA maintains ongoing discussions with staff from most of the main French-language publishers, in order to offer Québec public libraries the greatest possible selection.

In January 2015, the eBooks available to libraries using the PRETNUMERIQUE.CA platform were:

- French-language titles: 33,000 titles;
- English-language titles: 60,000 titles.

To date, the French-language eBooks are marketed to libraries under the terms of the Québec model of 55 loans and retail price fixed by publishers. About 5,000 English-language titles, mostly from Canadian publishers, are also marketed under the same terms. In contrast, most of the English-language titles available are from the Big Five and are available under the same varying terms and conditions offered to libraries in the rest of Canada.

Most of the publishers make their digital publications available to libraries simultaneously with the general public release date. At certain times, however, some publishers embargo specific titles for the library market. The embargo period can go from three months to a year. While frequent, this practice is not

systematic, and the publishers who use it usually only do so for titles with strong sales potential. Having said this, it still represents a major irritant for libraries and a source of complaints from their users.

Libraries using the PRETNUMERIQUE.CA platform must get their eBooks from booksellers. The acquisition system is completely decentralized. Each library can choose to do business with booksellers of its own choice, as long as those booksellers have established the necessary technical infrastructure. At the time of writing, the vast majority of Québec booksellers are connected to the platform and can sell eBooks to libraries. As well as those Québec booksellers, Feedbooks, a French virtual bookstore, is also connected to the platform. Paradoxically, the agreement with Feedbooks gives libraries access to the major American publishers' catalogues (including the Big Five).

When a library buys an eBook, the metadata is automatically integrated into its catalogue, and the title becomes available for eLending. However, the file of the eBook always stays in the digital warehouse where the publisher places it and the library only gets the metadata and access to the content of the file. When a library patron asks to borrow an eBook, his request is processed by his local library platform, which sends the information to the appropriate warehouse. The file, protected with DRM, is then sent back to the final user.

Each library controls its individual budget and makes decisions on which titles to buy in what quantities and which bookstore receives the order. Some libraries do business with several bookstores, and some with only one. Collection size differs from one library to another; some small ones only buy and offer a small number of bestsellers and popular titles. The biggest, like the Bibliothèque et Archives nationales du Québec, Montreal and Québec City have developed large and exhaustive collections composed of almost every available title.

In January 2016, four years after the launch of the project, the landscape has changed significantly for eBooks in libraries. In summary:

- 130 libraries or library networks are connected to the platform (more than 90% of Québec public libraries, a growing number of college libraries and Bibliothèque et Archives nationales du Québec);
- 245,000 unique users (of an 8,000,000 total population);
- 2,500,000 loans since day-one of the project and 100,000 loans per month, on average, in 2015;
- 330,000 eBooks (global collection);
- more than 4,500,000 visits on the platform since day-one of the project;
- 20% turnover rate of collections;
- about 80% of collections consists of EPUB and 20% of PDF;
- 65% of loans are adult fiction, 25% are adult non-fiction and only 10% are children's books. This reflects the relatively low demand for children's eBooks

by library users. That being said, a significant part of French language children's book production is not published in a digital format, mostly because of the cost but also due to the inadequate format options available;

- conversion rate of 8% (percentage of total users using digital lending) and according to a study published by Dosdoce.com,⁴¹ Québec public libraries have the highest conversion rate amongst studied models, including New York Public Library.

A report published in December 2014 by Dan Mount, of the independent consultancy Civic Agenda, concluded that Québec libraries paid the lowest average cost per digital loan (initial purchase cost divided by 55 loans) amongst all studied models.⁴²

Currently, the vast majority of Québec public libraries use the platform PRETNUMERIQUE.CA. The service was made available to college libraries in 2015.⁴³

From a budgetary perspective, some libraries use 20% of their purchase budget for eBooks, while some others allocate a very low 1 or 2%. The study of the data collected by BIBLIOPRESTO.CA shows that the percentage of eBook expenditure averaged 5% of the total collection budget.

In 2015, for the first time, Québec libraries have benefited from a Ministry of Culture grant programme to encourage the development of digital collections.

It is appropriate to highlight the training and support efforts made by Québec libraries over the last three years. Although difficult to quantify, this factor seems fundamental in order to understand the success of the PRETNUMERIQUE.CA platform: since the very beginning, libraries invested time and resources in training for users, by offering introduction clinics, troubleshooting sessions, conferences and workshops. In doing this, libraries have come to play a role that nobody was occupying in the book industry: training readers in the use of digital readers. Of note is the “Buffets numériques” experiment, provided by Bibliothèque et Archives nationales du Québec⁴⁴ that met with great popular success.

⁴¹ Javier Celaya, “Claves del éxito del préstamo digital en bibliotecas públicas,” Dosdoce.com, 22 February 2015, <http://www.dosdoce.com/articulo/opinion/3949/claves-del-exito-del-prestamo-digital-en-bibliotecas-publicas/>.

⁴² Mount, “A Review of Public Library E-Lending Models.”

⁴³ In Quebec, College or Cégep are an intermediate level between high school and university, which are not, at the time of writing, served by PRETNUMERIQUE.CA.

⁴⁴ “Ateliers d’Initiation: Buffet Numérique,” Bibliothèque et Archives Nationales du Québec, accessed on 3 July 2016, http://www.banq.qc.ca/ressources_en_ligne/livres-numeriques/initiation/.

Planning Ahead

PRETNUMERIQUE.CA is now a mature project, recognized by readers, and firmly established in Québec libraries. That being said, it is necessary to keep in mind that the ecosystem and digital uses are evolving. As a result, practices, tools and procedures have to evolve as well. The digital universe in libraries is set to re-define itself regularly, be it with the development of new technologies or the evolution of the economic models and access conditions.

Issues to be followed closely in the coming months and years include:

- enhanced eBooks and EPUB3: eBooks currently distributed through the platform PRETNUMERIQUE.CA are essentially digital versions of books initially published in printed form. Enhanced eBooks will probably bring new types of content use, both in terms of distribution and reading;
- DRM: PRETNUMERIQUE.CA currently uses Adobe's DRM ACS4 digital lock system. This solution was adopted because it was, at the time, the industry standard used by the majority of publishers. This lock has the inconvenience of being a very expensive and completely closed system (in the Québec model, libraries assume the DRM costs) and makes the lending process much more complex, particularly for new users. BIBLIOPRESTO.CA has been following the works of the Radium Foundation for a certain time now, and hopes to be able to experiment with the rollout of the Licensed Content Protection⁴⁵ open solution in the near future, as soon as it becomes operational;
- streaming: file downloading has been the distribution method used by Québec libraries since the initial discussions on the PRETNUMERIQUE.CA project. The extensive use of eReaders, as well as reading habits in contexts where network connections are not available, led libraries to choose this approach. However, with the development of technology and the impending arrival of a different offer (the audiobook, for instance), it seems important to evaluate the integration of a streaming model;
- self-publishing: self-publishing is a rising phenomenon. As it is generally produced and distributed outside the traditional platforms, the risk exists that libraries cannot access this content. Consequently, it appears essential to develop the technical capacity to acquire any literary work, regardless of its origin or the lack of industrial infrastructure to distribute it. Increasingly, libraries will themselves become content creators and need to take the necessary steps to distribute this content;

⁴⁵ Radium, "Radium LCP (Licensed Content Protection)," Radium, <http://readium.org/projects/readium-lcp>.

- discoverability, presentation and sustainability of collections: some Québec libraries now have a few tens of thousands of titles in their digital collections. How to promote those immaterial collections and do work on them? What needs to be done in order to help libraries promote their digital content efficiently?
- some libraries developed interesting initiatives to promote their digital collections. For example, the public library networks of Montréal and Québec City joined with their respective public transportation systems and with the booksellers association of Québec to set up the “Lire vous transporte”⁴⁶ project (Books Make You Travel). This project allowed citizens using public transport the free download of the first chapter of selected books. At the end of the chapter, the reader was directed to a link that allowed them to continue their reading by buying or borrowing the eBook.⁴⁷ The project was taken up in 2015 by Bibliothèque et Archives nationales du Québec as part of a partnership with Aéroports de Montréal;⁴⁸
- integrating digital forms in libraries’ physical spaces: library digital collections are often invisible to users in physical library branches. Too often, libraries don’t know how to promote their digital collections and do not have efficient means to do so. That is why BIBLIOPRESTO.CA is working on the Manivelle project, a digital and open interactive poster network,⁴⁹ in association with Espace Temps, an organization dedicated to the free flow of information and knowledge;
- licence management: some titles acquired by libraries that joined the platform at the beginning are already reaching their “end of life”, as they are nearing the loan limit set in the licence agreement with the publishers. These cases of the expiry of rights granted are still few, but they will increase over time and present libraries with new challenges in the management of their digital collections. Until now, there was very little data on digital use but increasingly there will be clearer understanding of the use patterns of eBook collections;

⁴⁶ “Lire Vous Transporte.com,” Réseau des villes francophones et francophiles d’Amérique, accessed on 3 July 2016, <http://www.lirevoustransporte.com/>.

⁴⁷ CBC Radio Canada, “41 livres à découvrir en attendant l’autobus à Montréal et Québec,” CBC Radio Canada, 9 October 2014, http://ici.radio-canada.ca/nouvelles/arts_et_spectacles/2014/10/09/004-livres-numeriques-transports-en-commun-de-montreal-et-quebec.shtml.

⁴⁸ “Lire vous transporte à l’aéroport Trudeau,” *Le Devoir* 3 April 2015, <http://www.ledevoir.com/culture/livres/436346/lire-vous-transporte-a-l-aeroport-trudeau>.

⁴⁹ Manivelle: Un réseau d’affichage, numérique ouvert présentant des contenus ultralocaux interactifs,” Espace Temps, accessed on 3 July 2016, <http://espacetemps.ca/projets/manivelle/>.

- technical sustainability: the system is based on a relatively stable model and on the use of standard format files, such as EPUB and PDF. But who knows which formats will be emerging in three to five years? Will there be backward compatibility when new formats are introduced? After the initial excitement has worn off, will users want to keep purchasing new equipment to replace their devices made obsolete by these technological advances? How will the digital collections carefully put together today be accessed in 20 years?

The place of eBooks in Québec public libraries has evolved considerably over the last five years. While there were practically no libraries offering this service in 2011 (or any form of digital lending of French-language eBooks), it is now an asset and something that is practically considered as a basic service.

The strength of the Québec model undoubtedly lies in the cooperation and collaboration it has shown, be it between libraries themselves (the creation of BIBLIOPRESTO.CA is an excellent example) or throughout the whole book industry, as evidenced by the launch of a project such as PRETNUMERIQUE.CA. More than a popular service or an efficient distribution tool, it is essentially a collective success that allowed libraries to reaffirm their relevance and position themselves as key players in a book ecosystem undergoing profound changes.

7.4 Chile

Florencia García Oyanedel⁵⁰

7.4.1 Introduction

The rapid development of new technologies has placed libraries in Chile at a turning point, forcing them to negotiate carefully in order to avoid being isolated from new information circles. In this new scenario, libraries have to:

- participate in the development of digitization and coordinate with other libraries;
- understand new uses of the internet;
- guide the demand of the public for access to library services and digital resources.

Digital innovation is an opportunity to develop new audiences, but it includes difficult technical, economic and legal dimensions.

⁵⁰ Director, Digital Public Library of Chile.

In 2012, the National System of Public Libraries, a state agency that is part of the Directorate of Libraries, Archives and Museums, launched the design of the first digital public library of Chile, BPDigital, intended to operate as a centralized service to lend eBooks at a national level, allowing access for all users of public libraries.

7.4.2 Exploration and Analysis of the Digital Platform Market

The first difficulty detected in the Latin American market was that there were no studies about digital public libraries in Latin America, and there were no known implementations of digital libraries that could serve as references to replicate. Most of the offers of platforms and software for digital libraries had, by default, integrated the content of specific publishers. That meant that if a library wanted to acquire a specific platform, the library was forced to acquire content managed exclusively by that platform, or if it wished to buy a publisher's digital content, the library was also obligated to acquire the platform. Eventually, when libraries wanted to incorporate additional content from other publishers not included in the acquired platform, they would be obligated to assume two extra costs: the price for the acquisition of the content, and the cost of placing that content in the existing platform. It is necessary to emphasize that most of the international platforms offered content with non-concurrent user licences, some in perpetuity and others with expiration times or packs of limited downloads.

The market also included a significant number of platforms offering an individual account for each user, allowing them to use databases of streaming content under concurrent licences. One of the major constraints to the acquisition of a platform of this kind was the high cost of the accounts to access these databases, approximately \$1 US per potential user.

For the national digital library, the potential users not only included the total number of members of the Chilean public libraries, but the totality of Chilean citizens resident in Chile. Investing in such a database would have cost \$17 million US, an amount far exceeding the budget assigned by the Chilean government for the implementation of the national digital library platform. In reality, the contents of those databases did not match readers' interests, since the contents were largely academic and mostly in English. Finally, the possibility of incorporating new collections purchased from external suppliers would have involved an additional cost for the National System of Public Libraries.

The Hispanic market had a very limited offering in Spanish in comparison with the English language eBooks available. In particular, the Chilean market had very few contemporary books scanned and converted to EPUB format. Major

digital customers were higher education institutions, and eBooks were available through platforms such as Librisite, Pearson, McGraw Hill and Cengage. Their business models did not include offers for public libraries. Also, the manifest reluctance of Chilean publishers to put their content in a digital library was due to fear that their eBooks would be hacked and then available free and illegally.

In spite of a decline or stagnation of the loans of physical books in public libraries in Chile, the Chilean state decided to proceed with the design of a digital public library that would not only benefit the users of public libraries, but also readers who, for different reasons, did not use public library services.

7.4.3 The Model for BPDigital

In view of the above, and believing that libraries should be delivering digital services, we focused on the design and planning of a public digital library with modern features, with collections from the consumer publishing market and with social web tools that would enable the users to interact with the contents. The project started in 2012 with a public tender to acquire a platform to manage digital collections that would comply with the following conditions:

- being an independent web portal that allowed easy integration with the already existing catalogue of the National Network of Public Libraries, complementing its bibliographical resources, with the possibility of sharing the contents in digital format;
- being a solid platform, with outsourced servers that the National System of Public Libraries could define and manage;
- allowing the incorporation of contents in different formats: EPUB, PDF, MP3, MP4, and streaming files;
- allowing the incorporation of the library's own eBooks, with or without DRM, without additional costs;
- being independent from any publishing group, allowing the library to negotiate individually with different publishing houses for content;
- being capable of integrating with the Aleph databases of users, the software of the network of Chilean public libraries, with a total of 2,500,000 registered individuals, so that the platform would recognize a user of a public library.

After a process of public tender, the platform OdiloTK of the Spanish company Odilo was selected. Odilo offered “Software as a Service (SaaS)”, therefore they took charge of the installation, support, updates and backup, and the implementation of the hardware on which the application worked. Odilo offered its services on a pay-per-use model adapted to the number of loans by the library or working on a fixed budget. Odilo features included:

- libraries could upload their own content for free and distribute it to all the users who have digital accounts;
- local authors could promote and distribute their content without additional costs;
- integration services were free of charge to libraries;
- through the use of APIs, Odilo allowed integration with software to manage physical content. This way the clients are able to find and borrow eBooks and make reservations online.

7.4.4 Outcomes

The digital library launched at the end of 2013, with a total of 4,100 eBooks and a marketing campaign. Table 7.2 illustrates the growth in the number of titles since its launch.

Table 7.2: Chile: Number of Digital Library Titles

	2013	2014	2015	March 2016	2016 Projection	2017 Projection
Titles	4100	5605	7853	9501	9816	12,270

Slowly but constantly, BPDigital has expanded its universe of users. While in 2013, the use of BPDigital was restricted to users of the system of 450 libraries who were members of the network of national libraries, since 2015, the service has expanded to all Chileans including those living outside Chile, as well foreigners with residence in the country. This has resulted in exponential growth of digital lending. The publication of information about the increase in digital lending has caused both national and multinational publishers to incorporate their collections into BPDigital, achieving certain balances with their commercial offerings.

The negotiations with publishing groups, both national and foreign, proceeded in varying ways depending on the publisher. The publishers in general expressed interest in providing their files with a perpetual licence model, with agreement that their circulation policies would be respected, and that hacking and piracy would be prevented. They set that the concept of a perpetual or “lifetime” licensing model would be reviewed five years after the initial agreement, recognizing that technology and formats could change in that period. As very few commercial offers of digital books existed in Spanish, the National System

of Public Libraries was obligated to acquire copies from the existing suppliers at high prices. When we launched the project at the end of 2013, very few local vendors dared to collaborate with us, and those who showed interest in putting their contents in BPDigital sold copies at exorbitant prices. The increasing use of the library and statistics have shown that BPDigital is a powerful platform for promoting locally published books, and this has helped us to standardize the acquisition models: purchase in perpetuity or acquire packs of licences with limited downloads. The prices, as more providers have joined the project, have decreased considerably for each copy. From an initial average of \$250 US per copy, we can now buy each copy for \$20 US. We hope to reduce these prices as more users are included. During the second half of 2016, we will add 33,000 users from 100 public schools, and they will be able to find the readings suggested by the Ministry of Education in BPDigital. Since this Ministry is the main buyer of books at a national level, we believe that this is an opportunity to renegotiate pricing for each copy that we will incorporate into BPDigital.

Finally, in January 2016, the BPDigital app for Android and iOS, developed in partnership with the Chilean telecommunications company Entel, was launched. This had a high impact on the borrowing of digital content. The download of the app resulted in lending more than doubling in the first three months of 2016 when compared to 2015, as illustrated in Figure 7.2.

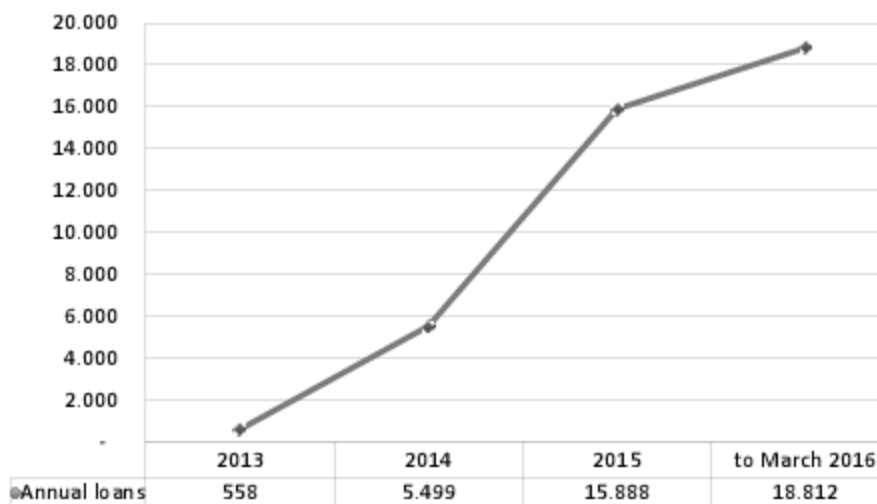


Figure 7.2: Chile: Annual Loans 2013–March 2016.

While the results associated with innovative initiatives to strengthen the use of mobile devices for reading have been favourable, there are outstanding issues that must be worked on and improved so that digital reading can become a vehicle for cultural dissemination in Chile:

1. Digital libraries are only successful if they are supported by permanent marketing strategies and systematic promotion through social networks. Libraries that do not have enough promotion on the internet are doomed to failure;
2. Users of public libraries do not use search engines, their navigation is intuitive and depends to a large extent on the way in which the offers of titles are deployed in the digital library site. In this sense, it is necessary to have a flexible platform that allows the contents to be exposed and changed daily, by way of a “carousel” that operates as a showcase;
3. It is necessary to work with a platform that allows the library to negotiate independently and to make content of different types, including public domain material, available to users;
4. Users want to find all kinds of material in a digital library, including public domain content hosted on other websites;
5. It is necessary to define business models that allow for reviewing and controlling the systems for acquisition of content. In the case of a library that operates at the national level, it becomes important to work with mechanisms that allow local governments to get involved in the maintenance and financing of this kind of project;
6. It is necessary to coordinate with other initiatives of digital public libraries in order to lower costs and to facilitate the delivery of files by transnational groups;
7. It is necessary to establish negotiating strategies to achieve lower prices of digital books for public libraries, without restrictions, cancellations, or limited duration licences.

7.5 Denmark

Mikkel Christoffersen⁵¹

Public libraries in Denmark are the responsibility of the 98 municipalities, supporting a total population in Denmark of 5.7 million. The largest municipality, Copenhagen, has 592,000 citizens, while the smallest, Læsø, has 1,800. Municipalities are further united in six different regions each with a designated central

⁵¹ Senior adviser, Copenhagen Libraries and Project Manager, eReolen.

library with various coordinating functions. In 2014, the libraries had collections of 16.1 million physical books that were collectively checked out 27.5 million times by library users; 1.8 million unique users throughout the country borrowed at least one physical item in 2014. Denmark's libraries spent €31 million (\$34 million US) buying physical books in 2014.

There are now estimated to be close to 28,000 unique eBooks in Danish available through traditional market channels in Denmark and 7,000 digital audiobooks. The commercial market share of eBooks is impossible to measure at the moment, but is believed to be 5%-10% of the total book market. Digital audiobooks are estimated to be a much larger part of the total audiobook market than their eBook brethren. Also, as digital audiobooks are now experiencing a commercial breakthrough, eReolen is no longer the completely dominant platform for this medium as was the case only a few years ago.

7.5.1 The Beginning: 2011 to mid 2012

The history of eReolen is a tumultuous one: at times triumphant and at times in crisis. At the time of writing, the beginning of 2016, we are somewhere in between these extremes.

eReolen (in English “The eBookcase”) started its life in 2011 as a co-funded project between the public libraries in Denmark – most notably Aarhus – and the Ministry for Culture through its Agency for Culture and Media (now The Agency for Culture and Palaces), when both the municipality and the government level of the library sector were looking for a national solution to eBooks in public libraries. Many publishers, including all the big ones, joined the project on the commercial side. eReolen had its own website and titles were made available for download to tablets through Adobe rights management thereby allowing the use of eReaders and standard iOS and Android apps such as Bluefire Reader. The lending and business model was one-copy multiple-users, pay-per-click. The municipalities each paid for their citizens' loans. The loan period was 30 days with no option of returning titles in advance. Most municipalities put in place local restrictions on the number of allowed simultaneous loans in order to control costs, usually between three and ten. At that time, Netlydbog (in English “The net audiobook”) was a separate library service for audiobooks, but with the same lending model. Library patrons could stream digital audiobooks and only buffer a few minutes. There was a difference in payment though, because eReolen used a tiered payment structure based on the age of the title, whereas Netlydbog used the same amount for all titles. The tiered payment from library to publisher on eReolen was (and still is):

- €1.95 (\$2.15 US) for titles less than 6 months old;
- €1.75 (\$1.93 US) for titles between 6 and 24 months old;
- €1.41 (\$1.55 US) for titles older than 2 years.

Age is determined from time of publication as an eBook.

Netlydbog used €2.28 (\$2.51 US) for all titles (but now uses a tiered model as well).

On top of this there was a fee of €0.20 (\$0.22 US) to the eReolen project's maintenance and development and a €0.20 fee for eBooks to a third-party platform, Publizon, who supplied the titles on behalf of publishers. For audiobooks the fee was €0.30 (\$0.33 US) to eReolen and €0.30 to Publizon.

In the summer of 2012, eReolen had approximately 4,200 titles and the record month showed approximately 41,000 unique users and 88,000 loans.

7.5.2 Crisis and Consolidation: mid-2012 – 2014

After a great summer of 2012 for eReolen, the seven biggest publishers announced that they were leaving eReolen due to disappointing summer eBook sales that they attributed to eReolen's growing popularity. Some of the year's bestsellers, such as the Danish translation of Suzanne Collins's international smash hit *The Hunger Games*, accounted for over 1% of all loans by themselves, and 6% of the titles accounted for over half of the total loans. eReolen did indeed show signs of a top-heavy lending pattern.

Various attempts were made by the libraries to offer compromises, but instead the group of big publishers planned a competing library service called "EBIB" and withdrew from eReolen altogether. The split between libraries and the big publishers caused commotion in the national press and much debate and pressure from national politicians to solve the issues, to no avail. eReolen lost 60% of its titles, dropping from 4,200 to 1,700 overnight including most best-sellers, whereas Netlydbog remained unchanged. No publishers left the digital audiobook service in spite of loans increasing steadily, probably because there was almost no commercial market Netlydbog could threaten. Month-on-month eReolen lost 40% of its loans and 32% of its unique users. Usage indeed fell as predicted but not nearly as much as expected.

Private investors also launched the first commercial eBook streaming service in 2013, called Mofibo, with all major publishers as suppliers.

In 2013, libraries also saw the end of eReolen's use of Adobe rights management and a switch to streaming-only due to security breaches and an increased number of illegal copies of books from eReolen. This meant that eBooks now only

worked in the eReolen app. The user base did not on average take kindly to the fact that most eReaders and iOS apps like Bluefire Reader were no longer usable. Nor were librarians happy with the situation. While eBooks were available for download into the secure environment of the eReolen app that also included a reader, it was not quite of the quality of third-party readers and devices.

In 2014, the eReolen steering group took steps to become an association with all municipalities as members through a founding general assembly. The steering group felt that an association would ensure both widespread interest in the strategic and practical work with eBooks as well as a strong democratic organization as a supportive framework for the increasing number of hours put in by work groups dealing with editorial work, acquisition, support, negotiation, digitization talks and technical infrastructure. Later in 2014, eReolen launched a new website, new apps and the option for users to download both eBooks and digital audiobooks to the apps for offline use. Digital rights management was managed by streaming and the security layer of the apps respectively. Also Netlydbog was taken over by eReolen both organizationally and technically. Many stakeholders were worried that this would weaken audiobook availability when the format no longer had a dedicated service and had to fight for attention in a collection with twice as many eBooks. In fact, the exact opposite happened.

In 2014, eReolen's negotiators landed a deal with four medium-sized publishing houses with strong series and young-adult catalogues for 2015. The basic idea was to experiment with an unlimited-use pay-annually model in order to ensure that even though local restrictions and cost control measures might hamper activity, there would always be a pre-paid part of the catalogue available. The annual payment is re-negotiated every year based on last year's activity, which means that both parties must make educated guesses about next year's numbers. The experiment was mostly aimed at young readers – an identified important demographic for eReolen – because much young adult literature is in the form of series, which suffers greatly under monthly restrictions. Now, they could read their series without restriction.

7.5.3 The EBIB Intermezzo

EBIB was the big publishers' version of a library service designed to allow them to sell to libraries without damaging the commercial market. The major difference was the lending model, because EBIB employed a one-copy one-user model for all titles. The model was inspired by the HarperCollins model in North America, but instead of the 26 loans per licence offered there, the EBIB group offered four loans per licence. Individual eBook pricing was set at the net price in online stores.

Rather than a national solution, EBIB relied on regional purchases through the central library system. EBIB launched with most municipalities as customers except the two biggest ones – Aarhus and Copenhagen – where the one-copy one-user model was deemed unpalatable for libraries. In the autumn of 2013, EBIB was not succeeding while eReolen was struggling with stable, but low, numbers.

EBIB's problem turned out to be not only the one-copy one-user model which meant that users had to queue for most titles, for which they registered a distinct dislike, but also a lack of promotion and presentation of the titles. eReolen had promotion and presentation and the more user-friendly lending model (no queue), but lacked the popular titles from the big publishing houses.

The public libraries gave up on EBIB in 2014 amidst rising stockpiles of unused digital loans. Such had been the dramatic low use of EBIB that some of the libraries had been much too optimistic when buying licences even though the licences only contained four loans each. The central libraries would buy licences to satisfy initial demand, then be left with the remaining loans, when very few library users showed an interest in making eBook reservations.

7.5.4 Rebirth and Re-divorce: 2015 – Early 2016

Meanwhile, in 2014, the municipalities of Denmark and the Ministry of Culture had formed the Danish Digital Library together: a national collaboration with a secretariat to coordinate national digital infrastructure and negotiations for content including eBooks. They started a series of talks with the EBIB publishers to once again join eReolen – a decision made easier by the libraries' joint cancellation of EBIB. The Danish Digital Library negotiated with the EBIB publishers for over a year while consulting with eReolen and the parties finally agreed upon a compromise. From 2015, all publishers would be back on eReolen, but the big publishing houses would have the option of using a one-copy one-user model for new titles in the first six months from publication. Then they would revert to the usual one-copy multiple-users model. Hence publishers would be able to protect their new titles from too many loans while sales were high and only when consumer interest faded in bookstores, friction would cease. Publishers were also given the option to designate so-called "steady sellers": titles that for contractual or commercial reasons would never leave the one-copy one-user model.

Once again it was projected that the use of digital audiobooks would suffer. For two years they had been the only way to get titles from the big publishing houses through the library, but now these titles would also be available as eBooks. Once again the interest in audiobooks did not falter but rather rose steadily.

On 15 January 2015, eReolen re-launched with all publishing houses and the new lending models accompanied by many press releases and festivities. The service was an instant success. The number of unique users and number of loans doubled and so did the numbers for the audiobooks, which had actually undergone no change. An expert group with representatives from publishers, libraries and eReolen was established by Denmark's Digital Library in order to look into ways to move demand away from new bestsellers to the back catalogue and special interest titles. Though the expert group engaged in many interesting discussions and initiated projects with positive ramifications, eventually the lending models themselves solved the problems of top-heavy lending patterns.

The one-copy one-user model in its 2015 version was the result of the EBIB experience and the fear of buying stockpiles of unusable digital loans. Whereas with EBIB the individual municipality would buy licences for itself only available for its own citizens, in the new version Denmark's Digital Library actually bought the licence and the loans were nationally available. The queuing system, naturally, was national as well. This effectively eliminated the problem of digital stockpiles. The automated purchasing system designed by eReolen and Denmark's Digital Library also ensured a very strict pattern of only buying a new licence with four loans when all existing licences had four reservations by users.

The free-for-all titles became somewhat of an overnight sensation when colour coding was added to the user experience in the middle of the year. Users could now see what titles were available, either counting toward local restrictions or not, and what titles they had to queue for. The colour coding update coincided with two other factors; namely the strong young adult catalogue of one of the free-for-all publishers, Tellerup Publishing, and eReolen's summer campaign that focused on children, teenagers and series. July 2015 use of eReolen was by far a record month with more than 125,000 loans nationwide.

eReolen was once again doing far too well according to many of the big publishing houses and now there was also Mofibo, the commercial eBook streaming service. Though everyone agreed that the goals of promoting the back catalogue and discouraging loans of the new bestsellers were more than met, this became a problem as well. The old pattern between eReolen and EBIB was re-enacted on the new eReolen, when users once again seemed to prefer ease of access over content. When they could not get hold of the premium titles right away, they just borrowed something else. This caught the one-copy one-user titles in a catch-22 position where too much activity is wrong and too little is also wrong. The big publishing houses also once again believed that eReolen was taking up too much of the reading market and getting potential eBook buyers or subscribers used to what they call free eBooks. Libraries countered that publishers are challenged by a declining willingness to pay to own digital content on the part of consum-

ers, and not by library eLending services, which stimulate the market, and that the average taxpayer subsidizes the literature market both through government programmes and for every loan through the public library, so library eBooks are hardly free. This debate continues.

At the top in 2015, eReolen had 12,500 titles, 61,000 monthly unique users and 126,000 loans.

Late in 2015 many of the big publishing houses announced that they would be leaving eReolen again, but this time the second-biggest one – and number one in the digital market – Lindhardt & Ringhof, decided to stay on. Once again debate raged in the media and once again political parties urged the parties to seek consensus on a viable model and once again it has not been possible.

In early 2016, eReolen and Lindhardt struck two digitization collaboration deals. In one, librarians will help the publisher pick titles for digitization and in the other, the publisher has sent Copenhagen Libraries a list of 12,000 titles they want to digitize, but first need a physical copy. Copenhagen Libraries will supply the physical copy where possible. For both deals the digitized titles will end up on eReolen for as long as the partners can agree on general terms but for at least two to three years. This ensures a steady stream of new titles from the back catalogue to enrich the offer on eReolen, but also that libraries get a say in the larger discussion on what to digitize.

So, once again eReolen has lost a significant number of titles from the big publishing houses, but this time a much less dramatic percentage at 26%, falling from 12,500 to 9,200. For the first time there has been a decline in the number of audiobooks available. Very early data suggest that the number of unique users and the number of loans are holding steady despite the drop in the number of available titles. Equally early information from commercial parties suggests that Mofibo has seen an increase in their customer base. This information cannot be verified nor whether it is the result of increased marketing efforts on the part of Mofibo. If numbers hold on both sides, they suggest a market strong enough to support both a library and a commercial streaming service.

For audiobooks, the price has been lowered 15% on average and payment is now tiered based on the length of the audiobook. Also, the one-copy one-user model has been implemented to support the nascent commercial market, but it is as yet very seldom used.

Whether libraries and the dissatisfied publishers will meet for negotiations again is unknown.

7.5.5 The Inner Workings of eReolen

For libraries and commercial services there is one major backend for eBooks and digital audiobooks in Denmark: Publizon. Publizon is owned by a conglomerate of publishers. When publishers upload their titles they can choose a variety of digital bookshops, streaming services and making them available for eReolen if they have a signed framework agreement with the library service that delineates standard prices and terms and conditions. Metadata is harvested for the national bibliography and database from which libraries draw data for their catalogues. This ensures that all eBooks and digital audiobooks are presented on equal footing with physical holdings when users search their local library's collection.

The eReolen service combines data from Publizon, the national bibliographical database and local library systems to manage discovery and lending from which titles are available in which models, making keyword searches possible and managing the rights and constraints on the individual user.

Statistical analysis of eReolen's use and its relation to the physical library is mired in complicated law and data protection, because a library patron's ID is typically their social security number. Lately, we have had breakthroughs in collaboration with Publizon and the Danish data protection agency and data has begun pouring in. For now they confirm that women use the service a lot more than men – as with all cultural offers – but there are also surprises. eReolen has significantly fewer users of both eBooks and digital audiobooks than projected. Users tend to be in one camp or the other. Sophisticated data analysis of use of both eLending and physical lending is high on eReolen's 2016 agenda.

7.5.6 Acquisition and Self-Publishers

Acquisition processes are organized differently for eReolen than for physical libraries. In principle, all municipalities take care of their own acquisition of physical resources, though many have outsourced to larger libraries in certain areas. eReolen employs a national model. A group of five experienced librarians monitor the daily offerings and make decisions to acquire based on the author, the publisher, physical library holdings, reviews and genre. Like the physical libraries, eReolen is challenged by the self-publishing boom: unknown authors publishing titles through unknown publishing houses or self-publishing aggregators with few or no reviews anywhere.

Offering a title to eReolen is very easy. Anything published through a self-publishing aggregator can be offered and micro-publishers only need to sign the framework agreement to become a recognized supplier to eReolen. In

2015, eReolen personnel started liaising with the primary Danish self-publishing interest group, NewPub, in earnest. A couple of collaborations have sprung from this, including an active role for eReolen personnel in Facebook groups and at self-publisher meetings to describe digital acquisition processes and principles. eReolen very explicitly will not enter the publishing market nor the market for services to self-publishers, but most of the public library sector is looking for ways to interact more with hobby writers, and eReolen personnel is involved in projects establishing local writing groups, looking for digital services to aid the groups, knowledge sharing with NewPub on developments, etc.

7.5.7 Presentation and Promotion

The lesson from the eReolen–EBIB rift was that presentation and promotion of literature and reading is paramount in a digital environment. Titles do not sell themselves as they do in the physical domain. Users' attention is a precious commodity online. If they cannot get what they want, they will either just borrow something else or leave. eReolen has taken great pains to deliver a literary, reader-friendly environment online and in the apps. The Danish digital library has funded three projects as a result of the discussions in its expert group. One of them has had intense focus group feedback from a variety of segments using eReolen and many respondents say they use eReolen's apps as inspiration for purchase and streaming from other services.

Editorial work, writing inspirational articles, social media, visiting conferences etc. now takes up the equivalent of two full-time employees for eReolen. Titles are presented in standard carousels and libraries can make their own carousels for their websites. The real promotional work is done through articles, reviews syndicated from Litteratursiden.dk (in English "The Literature Page" – another library service for readers) and author biographies available as stand-alone articles and via the page for each individual title.

7.5.8 Financial Data

eReolen's income is based on a click fee and a membership fee. Every municipality pays to be a member and offers eReolen to its citizens through the library. The rate is approximately €0.01 per citizen and the fee is based on municipality size. The majority of funds for eReolen's operations come from the click fees. The surprisingly large activity in 2015 meant that eReolen took in €655,000 (\$721,000 US) with expenditures of €456,000 (\$502,000 US). The board will present a budget to

the general assembly later in 2016 where editorial work, support and technical development are ramped up to reflect the increased activity.

eReolen also runs an experimental service with Anglo-American eBooks and digital audiobooks through OverDrive called eReolen Global. This service has its own website and apps. It has proved very popular and will receive more attention in 2016. The start-up was financed by the central libraries of Denmark with approval from the Agency for Culture and Palaces.

7.5.9 Basic Statistics as of 1 February 2016

- There were 9,173 eBooks available through eReolen. Of these, less than 10% were protected with the one-copy one-user model, whereas about 15% were in the free-for-all model;
- January 2016 saw 53,346 unique users make 103,948 loans;
- for comparison, in 2014 library patrons nationally made 27,500,000 physical loans and in Copenhagen libraries alone there are more than 425,000 physical book titles to choose from. Danish public libraries have 1.8 million unique users and they had 36 million visits in 2014;
- the 2016 budget estimates income of €636,000 (\$700,000 US) and costs of €674,000 (\$742,000 US) for the association behind eReolen.

7.6 England

Catherine Mills⁵²

7.6.1 Overview

The Society of Chief Librarians has identified five key areas which are considered by both customers and stakeholders as being integral to a modern 21st-century library service. They are a reading offer, information offer, health offer, digital offer and learning offer. The importance of a strong eBook service underpins all of these offers, from ensuring eBooks are included as part of any reading programmes and book lists, to ensuring all library staff are equipped with the necessary digital and information skills to support library users in accessing eBook services and using the technology required.

⁵² Stock Services Manager, Economy, Transport and Communities Department, Derbyshire County Council.

The majority of English public libraries now offer an eBook lending service. The latest Chartered Institute of Public Finance and Accountancy (CIPFA) statistics show that only 28 out of the 151 English authorities do not have or have not declared to have an eBook service.⁵³ Collectively, there are 672,477 eBooks and eMagazines in circulation across England, which is about 1.03% of the total number of physical books in English public libraries.⁵⁴ The average size of a collection is between 2,000 and 6,000 titles with 16 authorities having collections over 10,000 titles.

In 2014–2015 the total loans for eBooks and eMagazines in England were 2,312,012, about 1.2% of the total loans for books in the same period.⁵⁵ The number of annual loans at each library varies enormously due to the varying size of collections and the length of time the service has been available at each library. Loans are from 200 to tens of thousands; only two authorities reported annual loans of over 100,000 in 2014–2015.

It is a slightly more complicated picture to ascertain the overall budget allocations for eBooks. In the CIPFA report, the budgets for all online and eLending materials have been added together to present a total figure for England of £10.4 million (\$13.7 million US)⁵⁶ that includes eBooks and eMagazines, eAudio, online database subscriptions and anything else which library authorities consider to be electronic or online expenditure. This also includes some subscription and platform costs for the services in addition to the content they make available.

All the publishers who have released their eBook catalogues to the public library lending services have attached licensing restrictions and conditions to their collections, but they all comply with the recommendations of the report *An Independent Review of E-Lending in Public Libraries in England* published by the Department for Culture, Media and Sport for the single licence model of one copy, one user.⁵⁷ However, not all publishers are with all aggregators in 2016, and

53 CIPFA collects statistics on eBooks and eMagazines together so all figures include both collections. CIPFA Information Services, *CIPFA Public Library Statistics 2014–15*, Chartered Institute of Public Finance and Accountancy, December 2015.

54 Total Book Stock Figure as of 31 March 2015: 65,204,437 (CIPFA Information Services, *CIPFA Public Library Statistics 2014–2015*).

55 Total Book Annual issues: 190,939,253 (CIPFA Information Services, *CIPFA Public Library Statistics 2014–2015*).

56 Total Online/Electronic figure: 192 per 1000 population, English population 54314.4 per 1000. (CIPFA Information Services, *CIPFA Public Library Statistics 2014–2015*).

57 William Sieghart, "An Independent Review of e-Lending in Public Libraries in England," Department for Culture Media and Sport (UK), March 2013, <https://www.gov.uk/government/publications/an-independent-review-of-e-lending-in-public-libraries-in-england>.

the cost of purchasing the books varies according to the negotiations conducted between the publisher and individual aggregators.

In December 2015, Penguin RandomHouse launched a year-long scheme allowing public libraries access to their full eBook catalogue. Restrictions include a three-month waiting period before front list titles are released to libraries and a 36-loan or two-year limit from date of purchase for the licences for lending all titles.

HarperCollins allows English libraries to have access to their full eBook catalogue, with the condition that books have to be re-purchased after 26 loans.

Pan Macmillan has made its front-list titles available to libraries since 2013. Each title has a maximum of 52 loans or two years from purchase. Faber and Faber have released their eBook catalogue with the same terms.

Simon & Schuster have also released some of their eBook catalogue for library eLending. The titles are on a 365-day licence from date of purchase and can only be loaned for 21 days at a time.

There is a mixed picture concerning the presence of self-publishing in library eBook collections. This is partly due to what eBook aggregators provide in terms of titles and the ability for libraries to upload self-published materials and partly due to what librarians will allow in their catalogues. Only one of the key aggregators will allow libraries to upload self-published books into their eBook catalogue; however, the number of books added to catalogues in this way is less than ten for each authority. A couple of authorities have used the ability to upload materials to promote the eBook catalogue by running writing competitions, with winners having their stories added to the catalogue, and some have used the facility to add the work of community writing projects which have been done in conjunction with the library service. A number of authorities have reported that this is an area that they are interested in developing but others are concerned about quality. A couple of authorities have decided to use this facility to upload digitized public domain local materials instead.

Materials from some self-publishing companies are available through some aggregators' platforms but many librarians are reporting that if they purchase self-published materials, they are limiting it to local authors and local history books.

7.6.2 eBook Aggregators and Technology

In the last few years the growth of eBook suppliers to the public library market has meant that many authorities are now required to tender for these services.

Some authorities have added it as a separate component to their normal book supply tender, while others have come together to form a consortium.

There are a few authorities who are subscribing to two or more eBook suppliers. Authorities who have had an eBook service for a number of years and do not want to lose their eBooks and investment in their original service after a tender process has required them to change to a new supplier may retain this platform for a transitional period of time, in addition to their new service. Some suppliers will include in their tender proposals an offer to replace a portion of the previous eBook collection, but it will depend upon the size and use of the original collection as to whether libraries will completely move over or not, or choose a transitional period as they move from one service to another.

Another reason for libraries to maintain multiple eBook services is that the digital audiobook market is also adding eBooks into their eLending offers. The audiobook market is quite different from eBooks as there are no suppliers who can offer one service that includes access to all audiobook titles. This is due to the fact that the suppliers only have licensing agreements for their own catalogues, so to ensure a comprehensive range of audiobook titles, libraries need to subscribe to all the suppliers. When subscribing to these audiobook services, some suppliers allow libraries to opt in for their eBook service as well. Some libraries are opting in as a way of offering an eBook service and some are opting in and running this alongside their main eBook catalogue as a way of enhancing their offer.

Discoverability and integration of the eBook services with the library's physical collections is a mixed picture across authorities. Some of the library management system suppliers are offering integration solutions to provide users with one access point to search across all digital library content, including eBooks and the library's public catalogue. However, not all providers offer this solution, and even where they are available, not all of the suppliers' platforms work with them. A number of authorities have indicated that this would be their preferred option once available.

Most of the eBook suppliers have their own website and apps, though not all of them have their own dedicated app. Access to the services is normally through the library website and users need to choose which catalogue to search. A few authorities have the titles integrated into the library's catalogue with live links in the MARC catalogue; the link will take the user out of the library's catalogue and back to the aggregator's website in order to check out the item.

7.6.3 An Independent Review of E-Lending in Public Libraries in England

In March 2013, the Department of Culture, Media and Sport published the report *An Independent Review of E-Lending in Public Libraries in England* written by William Sieghart.⁵⁸ In compiling his report, Sieghart was supported by a panel of experts including representatives from the publishing industry, booksellers, authors and the then President of the Society of Chief Librarians.

The panel received a wealth of evidence, both written and verbal, from writers, publishers, wholesalers, retailers, librarians, library authorities and readers. What was clear from the evidence was that most stakeholders were concerned about the challenges, rather than identifying the opportunities, that these services could offer. One of the main concerns expressed throughout the evidence was remote downloading and the impact this would have upon book sales and whilst publishers, authors and booksellers articulated a wish that libraries should be successful in digital lending, they did not want them to be so successful that they significantly inhibited the purchase of the publishers' titles and therefore damaged their operating model. From a library perspective, and much of the evidence was submitted by librarians, library authorities and library customers, the view was universally in favour of eLending and remote eLending.

The panel heard about the increasing popularity of eBooks within library settings, their increased use by the elderly and partially sighted who can increase font size or change lighting levels appropriately, and pilots within some authorities where eReaders were being loaded up with eBooks and loaned to household and elderly readers.

However, what was also clear was the increasing frustration voiced by libraries that if they were to remain relevant and accessible in a digital age they must be able to provide access both within libraries and remotely to the same range of stock electronically as they do in hard copy.

And the view from library customers was unanimous. They required and expected choice, so that they could access services when and how they wished, and in a way that suited their lifestyle.

In the final report, published in March 2013, William Sieghart recognized that:

⁵⁸ Sieghart, "An Independent Review of e-Lending."

...the atmosphere between the publishing and library communities has become strained and, combined with other, bigger uncertainties that the digital revolution poses, makes it hard for both parties to establish agreed norms for digital lending.⁵⁹

The report set out four key principles for a system that could work for consumers and publishers and the report recommended that the government should encourage the development of eLending pilots which should: "...test business models and user behaviours, and provide a transparent evidence base." Sieghart also suggested that "all major publishers and aggregators should participate in these pilots".⁶⁰

For consumers and libraries the key principle was that eLending should be free at the point of use for the library member and those members should be able to borrow eBooks remotely. For publishers and authors the pilots should create 21st-century versions of the frictions which inherently impact upon the physical eLending market, whilst simultaneously developing eLending models which encourage opportunities to purchase eBooks (e.g. click-to-buy buttons).

The recommended friction mechanisms included a one-copy one-user licence, as well as measures to limit the number of total loans per eBook licence in imitation of the deterioration which affects physical books. This "experiment" was intended to open up the eLending market for a number of library authorities.

7.6.4 The eLending Pilots

To develop the eLending pilots, the Society of Chief Librarians drew down funding of £40,000 (\$65,600 US) from the British Library Trust that was used to appoint MTM London, a strategy and research consultancy, who devised and managed the research programme. The key research questions were to assess the impact on library users, the commercial impact and the impact on the library itself.

It was agreed that a controlled testing programme would provide greater certainty and ensure that the pilot outcomes were robust. Two key variables were agreed: to encourage authorities from different types of areas, rural and urban, and to use different loan periods of seven and 21 days.

The key similarities were:

- the pilots would all run over the same time frame;

⁵⁹ Sieghart, "An Independent Review of e-Lending," 6.

⁶⁰ Sieghart, "An Independent Review of e-Lending," 13.

- each of the pilot library authorities would be asked to license the same pre-agreed list of 1,000 titles, which would include a combination of front, mid and backlist titles from the major publishing houses participating in the pilot.

It was also stressed that participating library authorities would be expected to comply with additional criteria which included:

- meeting the standard business terms of each publisher;
- complying with industry standard digital rights management;
- providing a “click-to-buy button” for all titles included in the pilot;
- ensuring that the titles were all available on the same devices.

The following authorities were selected as pilot authorities:

- Newcastle City Council (as a 21-day loan period and an urban pilot);
- Peterborough (as a seven-day loan period and an urban pilot);
- Derbyshire County Council (as a 21-day loan period and a rural pilot);
- Windsor and Maidenhead (as a seven-day loan period and a rural pilot).

All of the authorities had existing eBook collections and had been successful in their eLending work to date.

Seven major publishers placed almost 1,000 adult fiction titles into the pilot. These titles had not been previously available for eLending, each publisher was free to set their own commercial and licensing terms, and two aggregators, Overdrive and Askews, served the pilot authorities. The pilots ran from March 2014 through to March 2015.

The research and evaluation drew on four types of data to develop its conclusions: library management system data which included visitor numbers and physical issues, an analysis of the eLending data generated from the aggregators’ platforms, a detailed consumer survey to discover the demographics and attitudes of library users, and an analysis of third party data to compare the findings with national trends.

At the six-month review point an additional piece of research was agreed upon, which was funded by Arts Council England: to look at future spending patterns of library authorities and to assess what the impact on their thinking and behaviour would be if there was unlimited access to eBook titles.

It is no surprise that remote eLending attracted new users to the libraries and was seen as a very positive development, however the absolute numbers did remain small. eBook downloads accounted for less than 5% of all fiction borrowing within the pilots. However, this 5% does completely reflect the number of eBooks which were available for loan within the authorities relative to all available print fiction. Related to this, fewer than half of the borrowers of eBooks said

that they were happy with the range of titles available and 95% said that if there were more titles available they would borrow more. It was no surprise to see that the most popular 10% of titles accounted for up to 36% of the loans, which supports the idea that a consistent offer of bestsellers would attract more customers and therefore result in more loans.

The research demonstrated that remote borrowers of eBooks were older and from a more affluent demographic and they were also less likely to visit their local library than other users. Within the pilots, 68% of remote borrowers were above the age of 45, whereas 47% of all UK library visitors fit this profile.

In terms of the commercial impact, there was no evidence that the pilot damaged eBook sales within the pilot areas. The analysis of the remote eBook borrowers demonstrated that they were already enthusiastic buyers of eBooks. What the eBook borrowers did state through the survey was that if there were more eBook titles to borrow, then they might purchase less.

The click-to-buy button was actually used by under 1% of the library borrowers and what was clear was that if the title that a customer was looking to specifically download was unavailable, they began to explore the catalogue more widely. It seemed as though people approached the eLending environment very much as they did the physical lending environment, which is that they were there to borrow a book. If they wished to buy it this was something that they would do later and probably via their normal online shopping route.

Librarians stated that they would increase their eBook spending from 17% to up to 25% of their total book budget if there was a greater selection available. They would also focus their spending on front-list titles, but would balance this against the need to provide value for money, so if the eBook was a great deal more expensive than the physical book they would purchase more physical copies than eBook licences.

When the pilots were first launched, there was a lot of concern voiced that eBooks for the Amazon Kindle would not be a part of the pilot. Evidence suggested in 2013 that the Kindle took about 90% of the consumer eBook market in the UK and library eBooks cannot be read on the Kindle platform in the UK. However as the pilots got off the ground, so did the development of further eReading devices, including tablets and smart phones. The pilot results demonstrated that library users used a range of devices to access the services, with the iPad being the most popular at 40%. Despite the older demographic using the service, smart phones were used by 31% of the borrowers. So the conclusion is that whilst the unavailability of eBooks for the Amazon Kindle is difficult, it is not a serious obstruction to the development of remote eLending services.

It was also interesting to note that librarians believed that remote eLending could help them better serve customers, particularly older users. There was

evidence that library customers move from format to format depending upon their feeling on the day and, of course, on what is available. What came through very strongly was that library customers are flexible and that the library and its catalogue are fantastic reader development tools and do enable and promote discoverability.

7.6.5 Outcomes from the Pilot and Future Developments

As noted above, the majority of the big publishers have released their eBook catalogues to libraries for eLending, some during the pilot and some afterwards. The pilot findings were not able to completely allay the fears of the booksellers with regards to the loss of book sales to eBook users and this remains an issue which is still under discussion.

The pilots were not designed to address all the recommendations made in the original report, for example the lack of payment to authors for eBook issues under the public lending right scheme, so this work, as well as the continuing work from the eBook pilot report, has transferred to the Department of Culture, Media and Sport Libraries Taskforce as part of its digital enablement priority. The taskforce continues to regularly bring together all the stakeholders involved in eLending from both the public and the commercial sectors to discuss and move forward issues and ideas on how to improve the eLending offer for public library users. The pilot can also be seen as a catalyst in creating a new way of working across partners and stakeholders in addressing concerns and frustrations concerning new developments in library services and the impact these may have in the commercial sector.

7.7 France and French-speaking Belgium

Alexandre Lemaire⁶¹

7.7.1 Background

Historically, for public libraries, three associations have played a significant role in the development of digital resources in France. One of them has also been

⁶¹ Responsible for digital for Belgian public libraries, Belgian Ministry of Culture (French-speaking part).

joined by the Belgian public libraries network, which recognized the key role played by this association in the digital field.

First was the Association des bibliothécaires de France that launched a group called “hybrid librarians” in the early 2000s, under the initiative of Franck Queyraud, a digital pioneer in French libraries. Unfortunately, while an eBooks subgroup was emerging, the group was dissolved, mainly because of the departure of its founder and head.

Then an association appeared which worked mainly on advocacy and the promotion of eReaders and digital resources in public libraries: Association pour le développement des démarches numériques en bibliothèques (Association for the development of digital library approaches). The association was very efficient at the beginning but its activity gradually declined from 2012. The association still exists and tries to integrate with the last of the three associations active in the eBooks field: Réseau Carel.

Réseau Carel⁶² is an association that became more active around 2012, but was originally developed in 2002 as a service to libraries from the Bibliothèque publique d’information, a national institution based in Paris. Its members are libraries, distinct from other associations which have a member base of library associations. The primary objective of Réseau Carel is to negotiate better prices and conditions for digital resources offered to public libraries, for the benefit of its members. Recently it extended its scope of action by including negotiations on infrastructure for lending digital resources, such as an eBook lending platform.

Réseau Carel is very much inspired by the Couperin Consortium which negotiates digital resources for university and academic libraries, but doesn’t cover the public libraries’ needs.

Réseau Carel has had fast and large growth since its creation and now includes a lot of municipal and departmental libraries and also the public libraries network (400 libraries) of the French-speaking part of Belgium, the network of the Instituts français (more than 100 libraries) and the school libraries of the Canopé network (more than 100 libraries and documentation centres). All in all this means that around 1,000 libraries or documentation centres are covered by Réseau Carel.

Réseau Carel played an important role in the negotiations between librarians and publishers inside the PNB project (Prêt numérique en bibliothèques), presenting itself as the voice of the libraries in the large eBook lending system which is further described in this paper.

62 Réseau Carel is an acronym for *Coopération pour l’acquisition de ressources électroniques en ligne* (Cooperation for the acquisition of online electronic resources).

7.7.2 Streaming to PNB

During the first years of this century, the landscape of eBooks in French and Belgian libraries was made of different small and medium-sized offers (from 100 titles to 20,000) all based on a streaming model for library users and including a large collection of eBooks offered to libraries without any option to pick and choose. Those offers were built with a vertical architecture proposed by a single actor: publisher or digital distributor.

Most libraries neglected this offer for the following main reasons:

- no possibility of access to the content for the library user when no internet connection is available (which is a barrier for travellers or commuters, who are an important audience for eBooks, as different studies show);
- user inability to use an eReader instead of a mobile device;
- for librarians, the lack of control over collection development when the collection package offers them many titles they are not interested in; as a result, this means that it is impossible to establish a match between the library collection and the specific library audience;
- no opportunity to adapt the proposed vertical technology to the requirements or needs of the library except within small parameters;
- significant difficulties in getting standardized data for library use from the different service providers;
- the issue of sustaining collections over time as the collection completely disappears the day the library chooses to end the contract and/or switch providers.

But the primary reason that these streaming products didn't achieve significant success was that they were forced to limit the breadth of their catalogue because competing publishers or distributors would rarely allow their titles to be made available in a platform that they didn't own or control. As a result, either public libraries would, as is done by the academic libraries, implement single-sign-on systems or they would have to implement a neutral discovery layer that would gather a significantly large collection of titles from the various providers. The first approach would need much coherence in the metadata harvesting and/or the federated search and display tool, as well as uniformity in the rules of access to the texts. It was not to be, as the technology tools of the public libraries and the APIs or web services of the digital providers for public libraries were not technically up to the needed level.

This is where the second option materialized. A first attempt by Numilog (a distributor originally part of the Hachette group) to introduce an eLending model failed to persuade a significant number of Hachette competitors to participate.

Then suddenly Numilog significantly raised its prices following a change of pricing policy by Hachette. PNB stepped in.

The French Ministry of Culture and the Centre national du livre (National Centre for Books) were strongly inspired by Québec's experience, which saw eLending grow from small to two million eBooks loaned in only three years thanks to the efficient work done by BIBLIOPRESTO.CA, the Association nationale des éditeurs de livres and De Marque. The Québec experience inspired publishers and independent bookstores from France to build an eLending project that would maintain the role of each player in the traditional book trade in the new digital ecosystem.

The project is managed and centralized around Dilicom, a multisector operator. It is organized as a star-like structure made of four players interacting via web services, which present a lot of similarities with a service-oriented architecture (SOA) model: a distributor eBook repository, an eBook store, a library (or network of libraries) eBook lending platform, and in the centre, the Dilicom System. The process is as follows, from the metadata flow, to the acquisition of an eBook (which is actually not an eBook acquisition but a licence, issued but the eBook's publisher, authorizing the library to lend the eBook a certain number of times), to the final library user who borrows the eBook.

1st sequence: the metadata flow:

- distributor sends the metadata to the Dilicom hub (in ONIX standard format);
- the bibliographic descriptions are then sent to the different bookstores selling the PNB titles to libraries;
- the bookstore displays the metadata for these titles on the institutional online store specifically designed for libraries;
- the distributor is in charge of online hosting of the EPUB and PDF files; copies only leave the repository to be downloaded by the final user (with added Adobe DRM for protection and chrono-degradability).⁶³

2nd sequence: acquisition of a title by the library:

- the library buys titles from the bookstore via a professional and secured zone of its website;
- the bookshop transfers the information about the sales to the Dilicom system;
- the Dilicom system sends the information to the concerned distributors so that they know which library has a licence for which titles, so that they know

⁶³ Property of an eBook to have its access locked after a time determined in the parameters of the DRM.

to give access to that title for the patrons of that library until the end either of the licence duration or of the authorized number of loans (tokens) covered by the licence;

- the Dilicom system uploads the metadata of each title bought to the library eLending platform at night.

3rd sequence: the borrowing of a title by the patron:

- the reader selects the “borrow button” for the title they want to read;
- the library platform transfers the lending request to the Dilicom system;
- the Dilicom system checks that the licence of the concerned library is still valid for the selected title and forwards the request to the distributor’s system which, in return, sends back the download URL to the library platform;
- the library system gives access to the URL for its user (into their account zone and/or by email);
- the reader clicks on the hyperlink, chooses the reading app they want the file to be downloaded to and downloading proceeds (if the final destination is an eReader, the software used for the transfer is usually Adobe Digital Editions).

The system requires, as a prerequisite, the creation of an Adobe account which includes the creation of an “Adobe ID”. The patron will be asked to enter this Adobe ID in each reading app or device he or she will use in the future to read the borrowed eBooks coming from a PNB library. At the end of the lending period, the eBook will still be visible in the list of eBooks on the app or device but the file will not be accessible anymore. In most reading software and devices, an early return of the title by the user is possible (because most libraries have established simultaneous eLending limits, it gives the user the opportunity to borrow another eBook without having to wait for the end of the designated lending period).

In this model, each publisher can define five variables (also called “conditions”):

- the number of authorized loans of a title (usually 20, 30, 40 or 50);
- the price of the title (usually defined for each publisher by a formula based on the public retail price of the eBook or the paper version of the title);
- the duration of the licence (usually 3, 5, 6, 10 years or unlimited);
- the maximum number of simultaneous loans of a unique licence;
- the maximum time of lending to a patron (usually 59 days as the publisher has to pay a double fee for the DRM if it exceeds 59 days).

The Ministry of Culture has been responsible for the assessment of PNB, which was first presented as an experimental offer. About a year after the six pilot libraries launched their platform, the Ministry of Culture and Communication pub-

lished an initial assessment of the lending of eBooks by public libraries and of the offers proposed by publishers through the PNB portal:

These first results confirm the good development of the activity:

- sixty library systems, including 54 French networks of different sizes, have now subscribed to eLoan agreements. After Grenoble and Montpellier, the City of Paris opened its digital library to the public on 13 October 2015. Nine departmental libraries serving many rural communities have also joined PNB. Nearly eight million French people can therefore access this service;
- thirty-seven booksellers offer this new service to libraries;
- early 2016, the publishers' offer to libraries consisted of 106,216 titles, versus 207,999 offered to the general public. Nearly half of the offer consists of general fiction; non-fiction and practical books represents 37% of the offer;
- French libraries have bought 12,716 eBooks over the year 2015; of that total 73% were bought between October and December;
- 41,259 loans have been made in 2015 by French libraries, including nearly 50% between October and December.

All indicators show a clear acceleration of activities in the last months of 2015.⁶⁴

The Ministry of Culture qualified these results as “encouraging”.

Librarians and library associations active in the digital field such as the aforementioned Association des bibliothécaires de France and Réseau Carel also published communications on PNB. At first, the Association des bibliothécaires de France expressed some fears about the creation of digital fractures between libraries of different budget sizes. They hypothesized about the risk of small libraries not being able to join the project because of the entrance costs of infrastructure and digital collection acquisition. They also expressed concern about basic technical skills that might not be mastered by some library users, preventing them from using the service. Then Réseau Carel expressed signs of encouragement about PNB but also noted some concerns about economical issues, and about acquisition difficulties for less popular titles.

Following these announcements, the pilot group of libraries conducting the experiment found it necessary to report their experiences. Although they did not deny the issues and concerns expressed by their professional association, (they

⁶⁴ Translated by the author from Ministère de la Culture et de la Communication (France), “L’offre de prêt de livres numériques en bibliothèque a accéléré son développement en 2015,” Le site du Ministère de la Culture et de la Communication, 16 March 2016, <http://www.culturecommunication.gouv.fr/Presse/Communiqués-de-presse/L-offre-de-pret-de-livres-numeriques-en-bibliotheque>.

did qualify the system as being “not perfect”), they were positive about the two identified risks.

During a “PNB day” organized by Réseau Carel held on 8 March 2016 in Levallois, in the Paris area, it was pointed out that those risks, although real, were limited and had not represented insurmountable obstacles in Québec, which had had a similar project up and running since 2012. Practical solutions existed, even if some significant efforts were still necessary to encourage and convince publishers and other corporations working on eBooks to adopt better standards and procedures in order to achieve improved accessibility and usability.

As for the economic aspect, it was noticed that helpful developments were under way including:

- the cooperative approach of the digital project;
- the added financial support of decentralized public institutions from the Ministry of Culture;
- ongoing and promising negotiations involving Réseau Carel and publishers and library software providers to reduce limitations and frictions on the content and infrastructure prices.

On the technical front, significant evolution had taken place, provided in part by eReading apps like Aldiko, which made the obstacles to eLending less difficult to overcome (suppressing, for example, the necessity to create an Adobe ID, with the alternative use of a vendor ID). The reading app could also, thanks to a protocol called Open Publication Distribution System (OPDS), directly send requests to the library’s digital catalogue. In addition, librarians were providing an efficient support to users with both online and library-based assistance.

For the future, there is great hope about a new type of DRM called LCP or “Licensed Content Protection” developed by Paris based EDRLab (an institution linked to the IDPF and Radium associations) that would have the capacity to replace Adobe DRM. The main issues with Adobe DRM are the impossibility of renewing a loan, the retention by a private corporation for an unknown purpose of user data and their reading habits and, last but not least, the high cost of the system (LCP should be a lot more affordable for all concerned players).

7.7.3 Library and Publishers/Distributor Relations

The PNB model was introduced in 2012 in four test library systems that became six in 2013 with the addition of Paris Public Libraries and the Belgian network of

public libraries.⁶⁵ These six libraries were invited to the steering committee of the project and to the assessment committee. A Réseau Carel representative was also invited to the assessment committee and to a technical committee formed to solve technical issues encountered among the systems.

While libraries were not part of the initial deliberations that developed the project, the model is very similar to the Québec model, the result of collaboration among publishers, bookshops and public libraries. Dilicom and the Centre national du livre provided the opportunity for librarians to commit to the project and to discuss their needs via different committees. Nevertheless, among the topics discussed in those committees, the model and the variables were not included. For that reason, direct meetings between publishers' groups and librarians were held following the initiative of Réseau Carel to set meetings with the publishers and digital distributors.

The meetings first included the pilot libraries with all the distributors, then Réseau Carel's PNB group carried on the negotiations aiming to adjust the conditions with the publishers so that they would consider four points:

- inclusion of the needs and constraints of the small libraries;
- taking into account the provision of in-depth collections as one of the crucial missions of libraries;
- not letting the prices go too high as this would negatively influence the number of libraries joining PNB in the future;
- the necessity of the publishers sticking to their commitment to provide the PNB catalogue with all their eBook titles as the SNE (Syndicat national de l'édition) had accepted the 12 recommendations on eLending.⁶⁶

For the first two points, Réseau Carel made two recommendations. First, to increase the duration of the licences, so that a library that buys, for instance, the right to lend an eBook 40 times could have the time to do so. That evolution would, moreover, favour the buying of backlist and less popular titles as the borrowing of those titles is much lower than the borrowing of the front list and bestsellers.

⁶⁵ To be complete, French-speaking libraries in Switzerland also committed quickly to PNB, including cities like Lausanne and Geneva, but they were not involved in the pilot project.

⁶⁶ The twelve recommendations for distribution of digital books by public libraries were approved on 8 December 2014, under the auspices of the Minister of Culture and Communication, by eight professional associations of the book trade (authors, publishers, booksellers, librarians) and the national federation of the local authorities for culture.

Second, to keep the number of loans allowed around 20 (with related prices, of course) so that a small library may have the opportunity to use all of them before the end date of the licence. That would also help the sales of less popular and backlist titles.

Another recommendation was to adapt the pricing of an eBook to its retail life, from front list, to midlist to backlist.

Regarding pricing, long discussions occurred among the librarians to ascertain if a comparison with paper books was relevant or not. At the beginning, some made direct comparisons between the price proposed in PNB with the one fixed for general retail, but as the number of loans included in each licence tended to be very different from one publisher to another, the price of one loan became a better indicator of value. Réseau Carel then introduced an indicator of value based not only on dividing the price of a title by the number of loans available in its licence but also on dividing it by the retail price of the title. This latter division limits the effect of the cost of the book; it makes possible, for instance, the comparison between the prices of a publisher of youth books and the prices of a publisher of art books.

The indicator also provides a comparison to the PRETNUMERIQUE.CA price as the denominator is the price of that book in the Québec model, which is in many ways the paper model applied to eBooks, whereas in PNB a title bought is worth more than a paper book as it can be loaned simultaneously to several readers.

In many ways, we should see the buying of eBooks by a library in the PNB model as the selling of a service (the possibility of lending a licensed title a number of times simultaneously) and no longer as the acquisition of a product. The comparison to paper is also limited by the fact that the total cost of a title should take into account the reduced handling required for adding an eBook to the library collection and circulating it to users compared to physical books, no cataloguing (metadata is delivered), no “fitting” of the book (plastic protection, anti-theft chip, barcodes and other “tags” or labels...), no human scanning of the books borrowed or returned, no weeding, no discarding. On the other hand, there are new tasks, such as introducing the training of librarians, more online highlighting of the catalogue, and helpdesk work.

Simultaneous lending is a high-value option for recently published titles and other bestsellers because it allows a library to repurchase a title that meets great success with its patrons quite quickly. This saves the library from making its patrons wait for long periods before getting access to the book or from having to buy many copies of the same title. Buying multiple copies entails the risk of ending with a great number of unused loans, if the projection of the demand for the title by the librarians was too high. Simultaneous loans allow librarians

to manage their budgets with greater consideration of the real needs of users, and with the capacity to precisely match demand. That is, using a “re-buying on demand approach” instead of an “estimate approach”. This also saves libraries from buying too many copies of the same titles and thereby frees up funds to ensure a greater diversity of titles in the collection.

7.7.4 The Debate on PNB

The PNB model faced some critics from the start, even before the pilot project, as some librarians considered the model to be unsustainable. But, as we say in Europe, “a fact is stronger than the lord mayor” and results showed by the Québec model (three million loans in four years and growing) proved that assertion to be largely unfounded, at least in the short and medium term.

The Québec originators of PRETNUMERIQUE.CA, as well as many defenders of the PNB project, consider it might nevertheless not be a long-term model. However, they think that it is still worth providing eBooks to libraries with a model that is not perfect and could change in the future but at least involves a large number of publishers. PNB is seen by many librarians as an opportunity to present a digital offering to their users without delay, as some private players offer eBook subscriptions very similar to libraries’ offerings.

Recognizing this, the Association des bibliothécaires de France, though not opposed to PNB, insisted on the necessity to explore other models for the long term. Despite some critics of a so-called “unique model supported by the Ministry of Culture” coming from some anti-PNB librarians, two models are running: PNB and the ancient model of streaming (with different variations) from some distributors but as said before little ability to gather a critical mass of publishers of different types. None of those are really alternatives to PNB but nevertheless, some, but not all, libraries carry on subscriptions to those offers as a supplement to PNB. Some of those offers are interesting niche products but the issue for the participating libraries is to find solutions for implementing a satisfying single-sign-on system.

Some voices were heard among Réseau Carel and Association des bibliothécaires de France members in favour of testing a “pay-per-view” model. That kind of model would probably provide better representation of less popular titles, as libraries would then pay less to offer those titles than for the mainstream titles, and so should then be less afraid of going for less popular titles that deserve to be highlighted. However, as it is already difficult to gain multi-sector agreement for using the existing model, it is difficult to imagine running two parallel models on a national scale, a fortiori in a legal situation where an agreement has to be

made with each publishing group. Different models are being tested in different countries across Europe, including the pay-per-view model in Italy, for example.

The main fear that was expressed by the libraries towards PNB is the contract-based approach that gives publishers the possibility to impede access for libraries to their titles or at least to a significant part of them. To encourage the publishers to make all of their eBook catalogue available and to comfort librarians in relation to that apprehension, a Ministry of Culture action led, in December 2014, to an agreement between the different associations of professionals including the publishers' association for twelve recommendations. This agreement, although it has a high symbolic value, has no legal value, which draws the criticism of some librarians. However, the two main library and librarians' associations involved with PNB, Réseau Carel and the Association des bibliothécaires de France signed the agreement. PNB is not named in any part of the text but is clearly present in its spirit. Nevertheless many librarians ask for a law with mandatory requirements.

7.7.5 What Happens Next?

While EBLIDA advocated for better European library access to eBooks (see Section 6.5), in France, the Ministry of Culture has expressed on many occasions that it will not legislate on that subject, believing that contractual negotiations with the publishers are the best route to follow. They point to the “encouraging results of PNB” to reinforce that position, as noted in the translation of their communication of 16 March 2016.

Most librarians want an eLending right and all the associations supported this position via an inter-association organization called IABD. But the library community is divided on PNB. Some say that while PNB is not ideal, it is a good offer to present to their users and they can't wait for the implementation of a law. Others say libraries should avoid committing to PNB as it will legitimize the position of the Ministry to avoid legislation on eLending rights, which is also the position of most French publishers. But as the decision will be at the European level by all member countries, France's voice could be marginalized. It is not certain at all that France's official position will have a significant weight in the European decision. Moreover, the French Parliament and Senate do not always agree with the government.

But if, on principle, an eLending right is something to defend for libraries, as Nietzsche said, sometimes “the devil is in the details”! So the practical details of the law called for by many libraries, if realized, could be quite harmful to the interests of libraries. In France some ask for a similar law to the one existing for

physical books but this ignores that 15 years ago many librarians argued against PLR which was considered inappropriate because libraries are the best promoters of books and, therefore, contribute to increasing sales. So in some ways it is quite strange for librarians to take a lost battle as an example of how to move forward.

What will happen with the possibility of simultaneous loans of a title? Could it be prohibited by the law or restricted to unrealistic (very expensive, for instance) terms for libraries? How will the numerous models be integrated by the law, could it make some interesting models that are impossible to implement in the real world?

Would the appearance of an eLending law in France sound the death of PNB? Or would it only have to adapt as the technical open system that provides services that will still be useful for libraries?

And what would happen with the integration of independent libraries and small integrated library system companies or eLending platform sellers in the system? Will this open the place for big companies like OverDrive and big French bookstores like Decitre, Mollat or even giants like Amazon? Isn't there a risk of different monopolistic situations, with all the linked drawbacks, being established? No one knows...

7.8 Germany

Barbara Schleihagen⁶⁷

German public libraries started eLending in 2007 with a pilot project in four libraries. In 2009, the so-called *Onleihe*, the eBook lending system offered by the aggregator Divibib GmbH, was opened to all libraries. Divibib GmbH is a subsidiary of the ekz.bibliotheksservice GmbH, a company active in public library services since 1949. In 2012, eLending was offered by almost 500 libraries in Germany, and by the end of 2015, 1,594 public libraries in Germany participated in the service. *Onleihe* is also used by public libraries in other German-speaking countries like Austria and Switzerland and worldwide by the Goethe-Institute's libraries and extends now to France. By May 2016, altogether 2,716 libraries from various countries participated in the service⁶⁸ offering online access to more than 104,000 eBooks along with 12,500 audiobooks and 6,500 music and 1,800 video selections.

Public libraries in Germany are mainly the responsibility of the 11,084 municipalities, with a total population of 81.9 million inhabitants. The largest municipi-

⁶⁷ Executive Director, German Library Association.

⁶⁸ *Onleihe*, <http://www.onleihe.net/>, accessed on 9 August 2016..

pality is the capital Berlin with 3.5 million inhabitants, while the smallest one is Gröde (North Frisia) with only nine inhabitants.

A particularity of the German public library system with 7,757 library systems comprising 9,218 service points⁶⁹ is that 5,718 of these library systems are run by part-time staff or volunteers only. Two-thirds of these part-time staff/volunteer-run libraries are the responsibility of the Christian churches, and one-third are the responsibility of the municipalities. These libraries are supported by about sixty library service institutions that are either run by the 16 federal states or by the churches.

In 2014 in Germany there were 2,039 public library systems run by full-time staff with 3,252 service points and collections of 119 million items of which 93 million were in libraries with full-time staff. Together there were 355 million loans of physical items of which 320 million were from public libraries with full-time staff. There were 118 million visits of which 105 million visits were to libraries with full-time staff and there were 7.3 million active users who borrowed at least one physical item of which 5.8 million were in public libraries with full-time staff.

According to the publisher and bookseller association, 87,134 new publications were available on the book market in Germany in 2014,⁷⁰ and the share of sales in eBooks was 3.9% in 2013⁷¹ and 4.5% in 2015.⁷² In the end-user market, 24.8 million eBooks were sold in 2015, compared to 21.5 million in 2013. The fixed book price system for printed books was recently explicitly confirmed by the German government to be valid also for eBooks. In 2014, 79% of publishers offered eBooks, and in 2014 and 2015, 3.9 million people (5.7% of the population) have bought an eBook.⁷³

All German public libraries acquire their media at prevailing market terms, thereby paying a great deal of money to publishers and authors for printed and electronic media. In 2014, the total acquisition budget of public and academic libraries amounted to €418 million (\$568 million US). In addition, the remuner-

69 Deutsche Bibliotheksstatistik, "German Library Statistics, Kerndaten, engl. Ab 1999," DBS – Deutsche Bibliotheksstatistik, <https://wiki1.hbz-nrw.de/display/DBS/02.+German+Library+Statistics%2C+Kerndaten%2C+engl.+ab+1999>.

70 Börsenverein des Deutschen Buchhandels, "Der Buchmarkt in Deutschland: Zahlen & Fakten," <http://www.boersenverein.de/de/182716>.

71 Börsenverein des Deutschen Buchhandels, "Das E-Book in Deutschland 2014," <http://www.boersenblatt.net/sixcms/media.php/1117/ig2014-4.png>.

72 "Das E-Book in Deutschland 2015," Börsenverein des Deutschen Buchhandels, <http://www.boersenverein.de/sixcms/media.php/1117/ig2015-4.png>.

73 Börsenverein des Deutschen Buchhandels, "Veranmert im Markt – Das E-Book in Deutschland 2013," http://www.boersenverein.de/sixcms/media.php/976/Kurzversion_E-Book-Studie2014.pdf.

ation for lending paid by the federal states and central government adds up to about €10 million (\$13.6 million US) annually.

Lacking clarity about statutory eBook exhaustion, eLending in Germany is provided by licensing. In the case of public libraries this is almost exclusively via aggregators, the dominant one being, as mentioned above, the private company Divibib GmbH with a business model called Onleihe. In recent years, the US company OverDrive and the mainly end-user company Ciando have begun to offer their services to public libraries in Germany, however, on a much smaller scale. Only a handful of libraries use OverDrive, mainly for foreign literature, and about 200 libraries use Ciando. A library card is needed before a reader can use these services.

In 2015 in public libraries, about 17 million online titles (magazines, newspapers, eBooks, audiobooks, music and videos) were borrowed by library readers compared to 354 million physical media that were borrowed in the same year.

Divibib GmbH offers a complete service with all components to the library: the implementation of an online platform as “digital library branch”, an internet service without installation in the library needed, technical support for running the services, the negotiation of licences with publishers and distribution of digital contents, as well as subject indexing and delivery of catalogue entries in MAB2 (the former German cataloguing record exchange format).

For library users, the offer is simple and straightforward: registered library users visit the website of their local library, login with their personal data, browse the digital content (searchable by format, topic, full-text), place interesting materials into their library basket and download materials to their PC or eReader. There are no streaming eBooks. There is a digital rights management system installed. The library determines the length of lending (between two and four weeks) and the number of items that can be borrowed at the same time by one user.

The underlying business model of Divibib GmbH is that one supplier negotiates on behalf of all libraries, that a single platform for the delivery of the eBook to the user is offered, that packages are possible for libraries (e.g., the whole offer by a certain publisher), but that libraries can also license individual titles. The currently most common licence is a so-called M-Licence, where one digital copy is lent to one reader at a time. In addition, there are other licensing models, like the L-Licence which gives availability for several users at the same time for titles that are two years or older, and the XL-Licence, where parallel downloads for current titles are possible for an extra price.

Almost all eBooks are available to public libraries for more or less the same price as for a consumer, although there are some exceptions where the price is twice as high. There are window times for some titles, during which the title is not available to libraries, but altogether more than 4,026 publishers from Germany

and abroad are currently cooperating with Divibib GmbH.⁷⁴ Until the end of April 2016, some big and very important publishing houses especially for fiction titles like the Holtzbrinck-Group (with Droemer Knaur, Fischer, Kiepenheuer&Witsch und Rowohlt), which is one of the six big media companies in Germany, and Bornier (Piper, Ullstein, Carlsen) were missing as they developed their own commercial offers. On 26 April 2016, it was announced that finally a contract was successfully negotiated between these publishing houses and Divibib GmbH. It remains to be seen how this will impact the availability of eBooks in public libraries. Both publishing companies are, despite the contract, still free to decide on which of their titles they will offer to libraries, as are the other publishing companies.

The integration into the library environment works well: some library software producers offer interfaces to the library catalogue and Divibib GmbH offers MAB & MARC data and media covers for integration into library catalogues. In this way, the maximum visibility of the digital offer is achieved. Additionally, apps are available for iPad, iPhone and Android platforms. Various marketing tools are also available like digital frames, bookmarks, posters, stickers and labels for media, giveaways, flyers, or postcards.

However, there are still major problems with eLending in public libraries, e.g., that publishers are free to decide on which titles they offer for libraries, that licences are only available for a specific time span and have to be re-negotiated or that titles disappear. This means licences for eBooks can be much more expensive for libraries than print books. Often, copyright exceptions are not reflected in the terms of the licences, and the long-term availability of eBooks is not guaranteed.

According to the Federal Government Commissioner for Culture and the Media, this contradicts the cultural policy interest in broad, comprehensive access to cultural assets.⁷⁵ The widespread accusation within the publishing world, that libraries would offer free flat-rate services that compete with the publishing houses, is simply not true. Because access to eBooks in public libraries is, as shown above, only possible to a limited extent: consecutive loans make simultaneous access by many readers impossible, because as soon as an eBook

⁷⁴ Onleihe, "Für Verlage," Onleihe, accessed on 17 July 2016, <http://www.onleihe.net/fuer-verlage.html>.

⁷⁵ "Culture policy requirements for copyright in the digital environment" translated by the author from: Bundesregierung, "Medienstaatsministerin Grütters: Kulturpolitische Forderungen für das Urheberrecht im digitalen Umfeld: Ungebändigter digitaler Internetkapitalismus mit sozialer Marktwirtschaft unvereinbar," Die Bundesregierung, 10 March 2015, <https://www.bundesregierung.de/Content/DE/Pressemitteilungen/BPA/2015/03/2015-03-10-bkm-urheberrecht-digital.html>

is borrowed, it is no longer available to anyone else. There can still be no talk of supplying the entire population with eBooks from a single library, as public libraries are funded by municipalities and their services are only provided for their registered residents.

The German Library Association has therefore advocated since 2012 to extend the current copyright act to cover eBooks. In 2014, the Association joined the European campaign “The Right to E-Read” initiated by EBLIDA. With the help of a celebrity supporter, a master letter to the member of the German Parliament of the respective constituency, master print materials and a master press release for libraries and various press events, the association raised awareness of eBook problems nationwide.⁷⁶ In addition, the association has written letters to the respective ministries, one jointly with the local authorities associations, and to members of European Parliament; organized a parliamentary evening on the issue, and still uses each and every contact with politicians and with journalists to explain the situation and ask for support.

The major reason for the above-mentioned problems lies in the legally unregulated situation. Whereas library lending of tangible media is clearly regulated, there is complete uncertainty about digital media. The German Copyright Act⁷⁷ permits library lending “where the original or copies of the work have been brought to the market by sale with the consent of the person entitled to distribute them within the territory of the European Union or another state party to the *Agreement on the European Economic Area*, their dissemination shall be permissible, except by means of rental”.⁷⁸ Consistent with the EU requirements discussed in Chapter 4, libraries do not need authorization before they lend a book, but the 16 federal states and the central government are obliged to pay remuneration for the lending in publicly funded libraries (“Bibliothekstantieme”) to the collecting society VG Wort. Article 27 (2) of the German Copyright Act addresses this requirement:

The author shall be paid an equitable remuneration for the lending of those originals or copies of a work whose dissemination is permissible according to Article 17 (2) if the originals or copies are lent through a publicly accessible institution (library, collection of video

76 Deutscher Bibliotheksverband, “E-Medien in der Bibliothek – mein gutes Recht!,” Deutscher Bibliotheksverband, <http://www.bibliotheksverband.de/dbv/kampagnen/e-medien-in-der-bibliothek.html>.

77 Copyright Act of 9 September 1965 (Federal Law Gazette Part I, p.1273, as last amended by Article 8 of the Act of 1 October 2013 (Federal Law Gazette Part I, p.3714) (Germany), accessed on 3 July 2016, https://www.gesetze-im-internet.de/englisch_urhg/englisch_urhg.html.

78 “Copyright Act of 9 September 1965”, Article 17(2).

or audio recordings or other originals or copies thereof). Lending within the meaning of the first sentence is the time-limited transfer for use which neither directly nor indirectly serves profit-making purposes.

As German libraries, especially academic libraries at present, increasingly acquire content in digital form, the application of the exhaustion principle to digital content becomes a crucial issue (see Section 4.2).

Fundamentally there are three legal solutions for eLending. The first is the known model of individual licensing with all its known problems, the second one would be statutory exhaustion, and the third one a compulsory licence. The latter two could provide reasonable solutions. The German Library Association proposed in 2012⁷⁹ to broaden the scope of the above cited Article 27 (2) of the Copyright Act, stating that it should also apply to eBooks. A similar initiative was launched in 2015 by the parliamentary group of “DIE LINKE”.⁸⁰ Furthermore, the current governing coalition agreed to analyse this issue in their coalition treaty of 2013.⁸¹

In Germany, courts refused the application of the so-called UsedSoft judgment⁸² on downloaded eBooks or digital audiobooks and gave the following reasons:

The exhaustion principle, set in Art. 4 (2) of the Infosoc Directive⁸³ and §17 par. 2 German Copyright Code (UrhG), cannot be applied to the download of E-books as an analogy. Different from software, respective to the court’s decision, the download of other works does not imply the transfer of ownership, because there is no “substance” transferred. In software, because of its specialties, this is different... [The court refers to the difference between software and other works] Everybody can read a book, watch a film, listen to a record, view a painting. (But) the mode of operation and function of the program cannot easily be determined on the basis of the data carrier.⁸⁴

⁷⁹ Deutscher Bibliotheksverband, “Positionspapier des Deutschen Bibliotheksverbandes e.V.: Gleichstellung von gedruckten Büchern und E-Books,” Deutscher Bibliotheksverband, 19 October 2012, http://www.bibliotheksverband.de/fileadmin/user_upload/DBV/positionen/dbv-Positionspapier_E-Books_Ausleihe_kurz_2014_02.pdf.

⁸⁰ Deutscher Bundestag, “Verleihbarkeit digitaler Medien entsprechend analoger Werke in Öffentlichen Bibliotheken sicherstellen, BT-Dr. 18/5405,” Deutscher Bundestag, 1 July 2015, <http://dip21.bundestag.de/dip21/btd/18/054/1805405.pdf>.

⁸¹ Bundesregierung, *Deutschlands Zukunft gestalten: Koalitionsvertrag zwischen CDU, CSU und SPD; 18. Legislaturperiode Bundesregierung*. 13 December 2013. https://www.bundesregierung.de/Content/DE/_Anlagen/2013/2013-12-17-koalitionsvertrag.pdf.

⁸² UsedSoft GmbH v. Oracle International Corp., C-128/11, 3 July 2012, <http://curia.europa.eu/juris/liste.jsf?num=C-128/11>.

⁸³ Directive 2001/29/EC.

⁸⁴ Translation by Armin Talke from Oberlandesgericht Hamburg, Beschluss v. 24.03.2015, Az. 10

However, the expected Court of Justice of the European Union decision on “Vereniging Openbare Bibliotheken” could change the situation completely, as discussed in Chapter 4.

Bookshops, publishers and libraries in Germany all advocate for fixed book prices and a consistent application of VAT for printed books and eBooks. Whilst there is already legislation for fixed book prices, politicians also criticize the unequal treatment of VAT: “Be it digital or analogue – it is the content that distinguishes a book and not the format in which it is made available to the reader. A book is a book, regardless of how it is supplied.”⁸⁵

Until a legal solution is found that ensures that all libraries can license or buy all eBooks that they see fit for their collections, the advocacy and lobbying efforts of the German Library Association will continue.

7.9 The Netherlands

Myrna Vossen⁸⁶

7.9.1 Introduction

The KB (*Koninklijke Bibliotheek*; National Library of the Netherlands) has always been at the forefront in new digital developments. The KB is currently building the national digital library. By making library collections of all publically funded libraries in the Netherlands, including content and metadata, digitally available, visible and usable, the KB brings people and information together via various services⁸⁷ and platforms while also assuming a central position in this network of libraries. The digital library also includes eBooks. An eBook platform where eBooks can be borrowed by members of the public library was launched by Stichting Bibliotheek.nl in 2014. In 2015, Stichting Bibliotheek.nl was integrated into the KB.

The eBooks on the platform are purchased at a national level by the KB purchasing committee (*KB Inkoopcommissie*). The committee consists of a delegation

U 5/11, <https://www.telamedicus.info/urteile/Rundfunkrecht/Urheberrecht/1551-OLG-Hamburg-Az-10-U-511-Weiterveraeusserungsverbot-in-AGB-fuer-digital-e-Gueter-ist-wirksam.html>.

⁸⁵ Translation by Armin Talkle from the German text of a press release of the culture secretaries of France, Poland, Italy and Germany: Bundesregierung. “Gemeinsame Erklärung zur Mehrwertsteuer auf E-Books,” 19 March 2015, https://www.bundesregierung.de/Content/DE/_Anlagen/BKM/2015/2015-03-19-bkm-e-books.pdf?__blob=publicationFile&v=1.

⁸⁶ Process Coordinator, Koninklijke Bibliotheek (KB).

⁸⁷ To name a few: Delpher, DBNL, national library catalogue, etc.

of a few public libraries and local library service organizations, the Netherlands Public Library Association (Vereniging Openbare Bibliotheken or VOB) and the KB. The sector decides, via the Netherlands Public Library Association, what they wish to have purchased and in what numbers, and the KB purchasing committee acts based on those wishes.

Up until the introduction of the new Library Act, digital content was purchased for each public library using funds from the Municipalities Fund. Since 2015, these funds are provided through a government grant from the Ministry of Education, Culture and Science. The government will make €9.2 million (\$10.1 million US) available in 2016 to the KB for the nation-wide purchasing of digital content for public libraries. About €3 to €3.5 million (\$3.3 to \$3.9 million US) of these funds are intended for the purchase of eBooks.

Some publishers offer a selection of titles after negotiation with the KB via Centraal Boekhuis; certain other (smaller) publishers offer titles directly via Centraal Boekhuis without a predetermined agreement. Centraal Boekhuis is the central distributor for all Dutch book purchasers. eBooks find their way to the KB's eBook platform via Centraal Boekhuis' system. Users can borrow the available eBooks in the available format(s) via the KB's eBook platform.

To borrow eBooks, one needs an account. Members of the library can borrow eBooks within the limits of their library subscription type using a created account. Since 1 January 2016, it is possible to have digital-only subscriptions. This allows people to borrow eBooks, but no physical books or other materials. In the Netherlands, people pay a membership fee for library borrowing and it costs on average €45 (\$49.50 US) annually for a library card with eBook borrowing.

At the end of 2015, approximately 240,000 library members had digital accounts, with almost 80,000 new accounts in 2015 and 1.6 million items borrowed. Of these, 80,000 to 100,000 were active accounts. A campaign was conducted to promote eBook borrowing beginning in January 2016 which also had an objective of activating dormant accounts.

When the eBook lending service began in 2014, there were about 3,000 mostly older titles available for lending. That number has been growing steadily, with a significant number of bestsellers among them. The collection is dynamic, and efforts are constantly being made to expand the number of available titles to be able to offer a broad selection of titles to meet the expectations of all library members.

At the start of 2016, 11,000 titles were available on the eBook platform for public library lending. The total number of eBook titles available to consumers in the Netherlands is approximately 40,000. There are approximately 170,000 physical books available from Dutch publishers in the Netherlands.

Separate agreements are made with each publisher about the offering of eBooks and which titles are included. Agreements have been made with three of the five

large publishing companies, who together provide about half of the total number of available titles. The remaining titles are offered by smaller publishing houses.

Originally, when the eBook platform was first launched in 2014, publishers received up-front non-refundable payments per title. This meant that titles that were not used – or the number of purchased loans that were not used – were also paid for by the library, which was undesirable. As of January 2016, the KB adopted a model based on pay-per-loan. Publishers are paid every month via Centraal Boekhuis for the exact number of times that their titles have been borrowed in that month. Usage is monitored online on a daily basis by Centraal Boekhuis.

When titles purchased in advance from publishers and the number of purchased loans is reached, they are no longer available to library users. In such instances the library may purchase additional loans, for example, for popular titles.

In 2016, publishers can offer titles on the basis of a negotiated agreement with the KB or can choose to offer titles on their own initiative at a standard fee. Agreements with publishers are drafted on a payment-per-loan basis. Based on how old and/or commercially successful a title is, the price differs per loan.

Smaller, independent publishers can directly offer titles for the platform via the Centraal Boekhuis system. They are paid a standard price per loan. The downside of this construction is that publishers can also always 'deactivate' a title, meaning titles may suddenly disappear and no longer be available for users, although this does not happen often. The number of titles offered per publisher is illustrated in Table 7.3.

Table 7.3: Titles on Netherlands eBook Platform per Publisher February 2016

Publisher	Number of titles
WPG	1,534
VBK	1,615
Singel Uitgevers	3,026
HarperCollins	798
Balans	66
De Geus	822
Gottmer	308
Podium	13
Prometheus/BB	20

Technically, the KB eBook platform offers no other option for making a title available if no Centraal Boekhuis connection exists. As self-published titles have no formal publisher, it is not possible to include a self-published title in the eBook platform. As an aside, no strategic decision has yet been taken with regard to the

inclusion or exclusion of self-published titles as opinions on the matter are not yet understood.

7.9.2 Licence Model

The “one copy, multiple users” model is important in the Netherlands. This principle entails that a title is made available by the publisher in Centraal Boekhuis Online for an agreed number of loans or a certain period. In the “one copy, multiple users” model the eBook title is always available for all who wish to borrow it, i.e. the title is never unavailable. Publishers are paid for each loan, so if a title is borrowed simultaneously by ten borrowers, they are paid a sum ten times.

For Dutch library members who wish to borrow eBooks, it is of course very convenient that these eBooks are simply available at all times. This model does make it difficult to make agreements with foreign publishers, however, as in other countries the rule is one copy, one user for most titles. Translated titles are therefore usually not included in the Dutch system, because the foreign authors and/or publishers withhold permission.

It must be said that the “one copy, multiple users” model results in other types of restrictions in agreements with publishers and their authors, e.g., a reduced amount of total loans permitted or a restricted period of time that a title is made available for library borrowing. Dutch publishers are cautious, and wish to monitor as much as they can themselves: if titles are borrowed with high frequency from libraries, this makes it clear that the title could also do well in the market.

7.9.3 Technology

The eBooks on the platform can be read in three ways: online, in the app and on eReaders. Publishers can determine, per title, in which form to make titles available. Users can see in what form a title can be borrowed on the title details page. In principle, all titles have been made available for online or in-app reading. A large number are also available for eReaders.

eBooks available online can be read on PCs and laptops. If one has borrowed an eBook, it can immediately – after a one-time agreement to the terms – be read online via one’s bookshelf. eBooks are opened in an online reader, which also offers certain setting options such as font size or full-screen viewing.

If a user has borrowed a book for the app, it can be read in the library app (Bibliotheek-app) on a smartphone or tablet. The app can be downloaded for free in the Apple App Store or the Google Play Store. The borrowed eBook can be

found on the bookshelf upon logging in to the app, and opens on the smartphone or tablet. A number of options are available for modifying certain settings; pages are turned by swiping.

Finally, many eBooks are also available for eReaders. All eBooks on the platform are secured, and Adobe software is required for reading. The library's manual for reading using eReaders therefore also contains a manual for the installation of Adobe Digital Editions. Depending on which eReader one uses (and whether one uses Windows or Mac), the borrowing and reading of eBooks on an eReader may require a number of technical steps.

From the start of the development of the eBook platform, it has taken into consideration that discoverability issues could be prevented if existing library systems and the eBook platform could be linked. Therefore all eBooks are registered in the National Library Catalogue. This does not work perfectly yet, but once a title is registered in this catalogue, it is automatically also included in all national library systems. The title can then be searched in the national catalogue and borrowed directly from there using one's library card.

eBooks are provided with a NUR code, through which certain metadata (e.g. genre) is fed into the system. The eBooks on the website are thus registered and shown within a genre.

7.9.4 Promoting eBooks

The marketing and promotion of eBooks on behalf of the library is also centrally managed. The KB organizes campaigns and initiatives that can be implemented locally.

An important promotional tool is the VakantieBieb or holiday library. This app has been launched every summer since 2014. During the summer months, a free app is available to everyone, both members and non-members, in which approximately 50 youth and adult titles spanning a variety of genres are available. For these titles, separate agreements are made with publishers, and licences are bought for the period in question.

The idea behind the VakantieBieb is to offer people a small gift from the library during the summer holidays, introducing them to the library's eBooks in a free and easy way. The VakantieBieb has been a great success each time with a total of 328,500 users in 2015 and 238,900 in 2014, as illustrated in Table 74.

Table 7.4: VakantieBieb Results 2015 & 2014

	2015	2014
Total users (new and existing VB-users)	328,500	238,900
Active users (downloaded at least one eBook in the summer of 2015)	268,308	198,838
New registrations	233,807 (goal 225,000)	193,454
Activations of the new registrations	195,456	167,068
Books downloaded	2,255,397 (goal 1.7 million)	1,491,686
Books opened	536,174	544,345

In addition, there have been several national campaigns to increase awareness of the library's eBooks. Folders, posters, radio commercials, etc., were developed. The latest campaign started in January 2016, and was primarily aimed to acquire 50,000 new digital accounts and to activate dormant accounts (i.e. members who made an account at some point in time, but have not used or no longer use it).

In order to involve local libraries more and make them more familiar with the national eBook service, progress emails are sent every month and toolkits containing promotional materials are available.

In 2015, a number of meetings were organized throughout the country, where libraries could learn from other employees of libraries (so-called book ambassadors) in a train-the-trainer-style programme. The programme consisted of a workshop and an eBook promotion toolkit that libraries could use to draw attention to eBooks in their own venues.

7.9.5 Legislative Framework

The Ministry of Education, Culture and Science wishes to increase digital reading and borrowing among the population. The Ministry of Education, Culture and Science therefore assigned the KB the task of sustaining public libraries and of developing the national digital library. In this sense, the Ministry of Education, Culture and Science supports libraries, but is also very aware that that we should not disrupt commercial initiatives: the balance between buying and borrowing

and between commercial and publicly funded initiatives can be characterized as precarious.

The VOB has launched legal action to obtain clarity with regard to the applicability of lending rights to eBooks. For a discussion on recent developments in this case see Chapter 4.

The KB has a long tradition of harmonious collaborations with publishers and libraries alike and therefore is closely following the various developments around PLR.

7.10 Spain

Concha Vilariño Perriáñez⁸⁸ and Mónica Fernández Muñoz⁸⁹

7.10.1 Introduction

Spain has a population of 46.27 million and is divided into seventeen autonomous regions and two autonomous cities. This territorial division results in three administrations: central, regional and autonomous. The autonomous regions are responsible for library affairs, while the central administration has the duty of assuring every citizen's right of access to culture. On the other hand, 96% of the management of public libraries is done by the local administration.

There are 4,700 public libraries in Spain according to centralized statistics, with 53 public libraries situated mostly in provincial capitals. These libraries are owned by the state and managed by the autonomous regions. This network allows the central government to guarantee reading access for every citizen. Through these libraries, the central government has stimulated improvements and innovative services in libraries, from automation in the 1980s to the improvement of collections, training and providing the latest technologies in library services, like RFID and, more recently, eLending.

The State Secretary of Culture, in its *Strategic Plan 2012–2015*, included among its strategies promoting the access of citizens to quality library services throughout the state.⁹⁰ One of the projects for 2013 was the initiation of an eLending service in public libraries.

⁸⁸ Subdirectora General de Coordinación Bibliotecaria, Secretaría de Estado de Cultura, Ministerio de Educación, Cultura y Deporte.

⁸⁹ Subdirectora General de Promoción del Libro, la Lectura y las Letras Españolas; Secretaría de Estado de Cultura, Ministerio de Educación, Cultura y Deporte.

⁹⁰ Ministerio de Educación, Cultura y Deporte (Spain), *Plan estratégico general 2012–2015*. Sec-

The Directorate General of Fine Arts and Cultural Assets and Archives and Libraries launched this eLending service due to the growing importance of digital reading in Spanish society, the proliferation of eReaders and the need for public libraries to keep constantly updated and attending to the evolution of society to ensure the best performance of their duties.

On 29 November 2009 the *Non Law Proposition 161/001344* on support of eBooks in public libraries was approved, urging the government to equip libraries with eReaders to allow the proper reading of eBooks.

Following this action, the Ministry of Culture set up a pilot programme between 2010 and 2011 to introduce eBooks in the 53 state public libraries. This project supplied around 50 eReaders per library and allowed the setting up of a lending service for both the eReaders and public domain eBooks uploaded to them or to their SD cards.

Later on, the Ministry conducted a survey in order to learn the opinion of users and librarians. The service was highly valued in general terms and 96% of the people surveyed said the first time they used an eReader was thanks to this service.

In February 2010, the Ministry of Culture proposed the creation of a working group on eBooks with participation from every public administration with responsibility for library policy. The working group was charged with studying how the eLending service should be incorporated into library services and the added value for citizens.

In 2013, the Ministry of Education, Culture and Sports launched a call for tender for the acquisition of licences for eBooks for lending through public libraries, as well as the implementation of a platform allowing the lending. The amount invested was €1,604,700 (\$1,766,000 US).

The platform would be required to host at least 300,000 digital objects and support a minimum of 5,000 transactions a day. The platform had to be available in all the official languages of the state and accessible through any of the common web browsers.

The platform had to allow the library management of eBooks and other digital content like audio and video, regardless of format (supporting at least EPUB, PDF, MP3 and MP4). It also had to be able to manage the description of the content hosted or linked through bibliographic records describing the works and their holdings, as well as the integration into the system and the visualization

retaría de Estado de Cultura (Madrid: Ministerio de Educación, Cultura y Deporte, 2012) <http://www.lamoncloa.gob.es/espana/eh15/culturaydeporte/Documents/PlanEstrategicoGeneral20122015.pdf>.

of the results through an interface accessible through the internet, and access to the content through DRM or streaming. It was further necessary that the records would be compatible with the MARC 21 format.

The platform had to offer a module for statistics that would be able to measure use of the digital content, the registered users in each of the networks and the use they made of the platform. It had to be customizable to serve up to 19 public library networks. This customization would include at least the possibility of independently managing the content and users, lending policies and the incorporation of graphic elements that would differentiate each of the networks.

Regarding the content, the call for tender divided it into eight packages:

- adult fiction;
- science and technology;
- social sciences and humanities;
- health, personal development, hobbies, sports, computing;
- languages;
- children's fiction;
- children's non-fiction;
- audiobooks.

The bidders committed to provide the electronic files with the works offered or allow access through the platform selected for the lending service.

At the start of the service provision, works would be purchased from the list of works offered, up to a maximum value of 75% of the amount awarded. The other 25% would be invested in new releases. The bidder awarded the contract was required to offer a selection of new releases at least every three months, so the Ministry could update the titles.

After evaluating the offers presented in late 2013, the contract for the platform was awarded to Librandia for €84,700 (\$93,200 US). The packages for children's books were awarded to Odilo and the rest of the content packages were awarded to Librandia. There were no proposals received for the language package.

The service, named eBiblio, is an open project based on cooperation with the autonomous regions. It can be adapted and enlarged according to their own policies and interests, allowing for the enrichment of their library services and collections.

The service is accessible 24/7, 365 days a year through the web. The user only needs to have an eReader (compatible with EPUB and PDF) and an internet connection, and needs to have the library card of a public library in Spain.

After accessing the eBiblio web page of any of the autonomous regions from a computer or mobile device, the user can log in with his or her username and password as provided by the library and browse the collection. The main page shows

the recommended titles and latest acquisitions and a menu with the main functionalities of the catalogue. It also allows searching by title, author and subject.

Downloading eBooks or online reading is offered for a limited period on different devices: computers, tablets, eReaders and smartphones. For reading in the cloud (reading eBooks through mobile devices) the user must download the free eBiblio app through the Google and Apple stores.

If a user wants to borrow an eBook that is currently being borrowed by another user, eBiblio allows for the reservation of the book and, when it has been released by the former user, the system will send the new user an email and make the reservation for the lending time established by the library. Each user has a personal account where they can monitor the books they have borrowed and their reserves.

In the first stage, 1,190 titles in Spanish were offered to the autonomous regions. In the first quarter of 2015, two more packages of newly published titles were offered so the collection was refreshed. The titles were selected by a working group of librarians that specialized in collection development.

On 8 September 2014, the State Secretary of Culture presented the project in a press conference, highlighting these objectives: to make available at a national level a service that so far had not been developed in Spanish public libraries, to offer citizens access to new formats and new editions of devices, to contribute to boosting the legal consumption of quality digital content, to make reading available for new sectors of the population and to invigorate the market for eBooks in Spain.

From this moment on, the autonomous regions joined the project. Most of them did so during the last quarter of 2014. The process concluded with the incorporation of Catalonia. The platform is offered in all the regions of Spain except for Basque country, which has its own project: eLiburutegia⁹¹ for which they have set up their own platform.

In 2014 an eBook Working Group was created by the Council for Library Cooperation, with the aim of monitoring the service and proposing improvements.

During the last quarter of the year 2014 a series of training sessions took place, allowing the librarians dealing directly with the service to get familiar with it and develop products to raise awareness amongst the users: tutorials, flyers, etc.

Also in 2014, the government purchased tablets that were distributed amongst the 53 state public libraries aiming to carry out workshops on digital skills

91 eLiburutegia, <http://www.eliburutegia.euskadi.eus/>, accessed on 10 August 2016.

allowing, amongst other things, the opportunity to show users the possibilities of electronic reading through these devices.

7.10.2 2015: Review of the first year of operation

In order to support this newly launched service, the government decided to maintain its financial support of the project. The central administration Contracts Act required that a new call for tender be launched, as the first contract provided for one year of service. For this new contract, some improvements were introduced in the technical requirements as suggested by the Working Group on eBooks of the Council for Library Cooperation. The new contract was awarded to the company Odilo. This meant that the platform had to migrate from Libranda to Odilo, with the subsequent drawbacks for users and librarians.

The improvements were:

- one-click lending;
- previews of 10% of books;
- early returns up to a maximum of fifteen returns for a single user per month;
- a personal record of borrowing;
- advanced search and faceted search;
- consistent username and password for Adobe Digital Editions and the lending platform;
- adaptation of eBiblio to small screens;
- new apps in iOS and Android and a unified user experience:
- from the apps, users can search the catalogue, borrow a book, make reservations, read a book online or download it.

A call for tenders was published in 2015, separated from the call for tenders for the platform, in order to purchase licences for eBooks. Six packages were requested. The budget was €726,000 (\$799,000 US) VAT included, which would allow the purchase of around 400 titles with 240,157 licences.

This investment, one third of the investment in 2013, makes clear the need for all the administrations involved to make an economic effort for this service so a wider catalogue can be offered and a better service provided.

As of 31 December 2015, eBiblio had a collection of 4,098 titles and 240,157 licences. Of these, 1,506 are common to all the autonomous regions and have been offered by the Secretary of State for Culture. Some autonomous regions enlarged this basic collection by the acquisition of new titles and the purchasing of new licences for titles that have a higher demand.

The evolution of the service has been different in each autonomous region. In the case of the autonomous region of Madrid, the collection has been enlarged with the purchase of new content, a training program for the librarians of the municipalities and the purchase of tablets for all the libraries of the network. In Catalonia, they have also enlarged the offer of contents and acquired magazines.

In spite of the adverse circumstances related to the budget, the balance of the eBiblio project is positive and the number of users and loans grows on a daily basis. The loans grew from 45,081 in 2014 to 246,115 in 2015 across the 18 participating regions, with active users growing from 16,307 in 2014 to 48,037 in 2015.

7.10.3 2016 and beyond

We must keep working with the publishing sector. We are convinced that this new service will not replace the lending of physical books, but will coexist with it.

Slowly, the situation is changing towards a climate of better understanding between publishers and the libraries. A result of this better communication is meetings attended by representatives of the ministry, the autonomous regions and the Spanish Federation of Publishers. The aim of these meetings is the creation of a document that specifies the terms and conditions for the acquisition of licences for libraries. The idea is to have a document that can be used by all the administrations when purchasing licences for their libraries.

This changing environment shows a future where flexibility and constant adaptation will be essential in order for libraries to offer the best service to our users, and for publishers to publish their catalogues and consider the libraries as partners worth having. The threat of piracy turns libraries into key institutions to educate readers in responsible reading habits that are respectful of copyright.

By way of conclusion, we can advance that in 2016 we are working from the different administrations on improving the training of library staff dealing with this service, improving the training of our users in digital reading skills, in analysing and studying the criteria that should govern the configuration of the digital collection of a public library, in continuing working on the improvement of the technological solutions for this service and its integration with the rest of services of the library, in the preparation for a user study and, last but not least, the design of a communication campaign that will bring the service closer to the citizens.

7.10.4 An overview of digital publishing in Spain

Spain has undergone a slow revolution towards digitization, following the trends and experience from other countries. Like many others, Spain's book industry and public administration have evolved from uncertainty towards new business models, fearing the threat to the protection of authors' rights, to an ongoing effort to promote legal access to content under these rights, and open access to public domain content, combined with initiatives for better access and user participation concerning arts and culture.

Spain and Spanish-language publishers also have a special commitment to Latin America. Our common history but, most of all, our common language, and the rapid growth of internet use in the area (255 million users now, compared to 15 years ago there were no more than 18 million) presents a great opportunity to make the most of the digital means and, of course, of digital books.

In considering the eBook reality in Spain, we should consider the public and commercial statistics.

According to *Panorámica de la Edición Española de Libros 2014*,⁹² (Overview of Spanish Publishing 2014) the latest official statistics published, 20,263 eBook titles were published in Spain during 2014. Global book production reached 90,082 titles that year, so eBooks represent 22% of the total amount. The number of eBooks published has grown from 2,519 in 2008.

However, this official data reflected only eBooks with ISBN records, and currently not all eBooks are assigned an ISBN. Some platforms, such as Amazon, use their own coding and many self-published eBooks are only available on the supplier's platform. Unfortunately, many eBook platforms don't provide statistical data that libraries can use.

There were 381 publishing houses that published eBooks in 2014, according to *Panorámica de la Edición Española de Libros*. The total amount of active publishing houses during that year was 3,109, so the companies with ePublishing activity represent 21.9%. The biggest eBook publishing houses were: Harlequin Ibérica, Anaya, Editorial UOC, Santillana, Editorial Editex, Servei de Publicacions de la UAB, Editorial Círculo Rojo, Ediciones SM, Centro de Estudios Financieros and Editorial Tirant Lo Blanch. Among them, these publishers represent about 30% of total digital publishing.

⁹² Ministerio de Educación, Cultura y Deporte (Spain), "Panorámica de la Edición Española de Libros 2014," Gobierno de España, Ministerio de Educación, Cultura y Deporte, <http://www.mecd.gob.es/cultura-mecd/areas-cultura/libro/mc/pee/contenedora/presentacion.html?jsessionid=8CBDC5C0B76C185BAD8A25C846822A44>.

The market share of eBooks grew from 1.6% in 2009 to 5.0% in 2014. The slow increase is similar to that of many European markets, except the United Kingdom. In 2014, publishers' revenue from eBooks was €110 million (\$150 million US), according to the Comercio Interior del Libro report.

The main channel for distributing and selling eBooks is digital platforms (72%, i.e. €80.2 million or \$90.5 million US), mainly retailers, such as Amazon (37.8%, i.e. €41.6 million or \$45.8 million US), Google Books, the App store and the Spanish Casa del Libro (a bookstore both physical and online owned by Planeta Group). There are, however, a growing number of publishers (59% of those present at LIBER bookfair in 2015) which are creating their own platforms. Currently they represent €31.7 million (\$34.9 million US) in sales, that is, 28.8% of eBook sales.

Last but not least, we should look at the streaming offer, since around 33% of the eBooks published are conceived for streaming. Spanish eBook streaming has been growing since 2011, through several platforms. Different platforms, both Spanish and international have different numbers of titles, and many do not offer bestsellers or new releases. New releases often appear faster in Spanish platforms rather than in the international ones. This business model is, therefore, still developing.

7.11 The United States

Carrie Russell⁹³

7.11.1 Introduction

eBook lending in US public libraries is well established in spite of a doubtful start. Ninety-five percent of public libraries offer eBooks⁹⁴ and comprise an average 9% of the overall materials budget allocation, up from 1% in 2009.⁹⁵ According to the 2014 *Library Journal Materials Survey*, eBooks made up 5.4% of total circulation.⁹⁶ Public libraries spent an estimated \$113 million US on eBooks in 2014.⁹⁷

⁹³ Director of the Program on Public Access to Information, American Library Association.

⁹⁴ Library Journal/School Library Journal, *Ebook Usage in U.S. Public Libraries, Fifth Annual Survey, 2014*, (Library Journal, 2014), https://s3.amazonaws.com/WebVault/ebooks/LJSLJ_EbookUsage_PublicLibraries_2014.pdf.

⁹⁵ Barbara Hofferton, "Materials Breakout/Materials Survey 2015," *Library Journal* 2 March 2015, <http://reviews.libraryjournal.com/2015/03/lj-in-print/materials-breakout-materials-survey-2015/>.

⁹⁶ Hofferton. "Materials Breakout/Materials Survey 2015."

⁹⁷ Library Journal/School Library Journal, *Ebook Usage in U.S. Public Libraries, Fifth Annual*

Moreover, in the US nearly all publishers who sell eBooks to consumers also sell eBooks to libraries. This is a dramatic change of events since the public library eBook crisis began to emerge in 2010, and then exploded in 2011 when Kindle owners increasingly looked to the public library for eBooks. Demand for and use of eBooks skyrocketed, but library users were dissatisfied with the content available. At that time, only two of the Big Six trade publishers sold new eBooks to libraries – HarperCollins and Random House.

HarperCollins initially sold eBooks to libraries for a consumer price and with perpetual access. In March 2011, they changed their business model to licensing eBooks for 26 loans after which access ended unless the library chose to re-buy the eBook. Librarians were shocked, and when trying to get answers they were told that the model was intended to replicate the lifespan of a library book (26 loans). HarperCollins assumed that print books wear out and that libraries were accustomed to re-purchasing titles. Of course, this assumption was mistaken – many print books remain in good condition for many years of library use.

In 2012 an ALA commissioned study examined friction with print books and the effect “frictionless” eBooks would have on retail sales:

First, unless a library purchases multiple copies of the same print book, only one patron can borrow it at any given time. Second, print books “wear out” after multiple uses, or may be lost or stolen, so that libraries must either purchase new copies or repair the copies that they have in order to be able to continue to lend them. Third, in order to borrow a print book from a library, a patron must be present at the library during a time when the book has not been checked out. Fourth, if a library maintains a waiting list for a print book, a borrower must wait for his or her name to reach the top of the list at which point he or she must make a trip to the library within a given period of time in order to check the book out. Finally, a patron must return a print book to the library when he or she is finished using it and must do so within a specified period of time in order to avoid late fees.⁹⁸

Because of the ease of downloading a free eBook from anywhere, 24/7, publishers believed that book sales would plummet. To compensate for lost sales, the Big Six publishers would only sell to libraries under their terms – business models requiring the re-purchase of rented content and/or much higher prices for library eBooks.

Penguin and Hachette were the next publishers to test the library market by negotiating eBook sales to a small number of New York libraries before making

Survey.

98 Stanley M. Besen and Sheila Nataraj Kirbey, “EBooks and Libraries: an economic perspective,” American Library Association, September 2012, <http://www.ala.org/transforminglibraries/sites/ala.org.transforminglibraries/files/content/final%20economic%20report%20sept2012.pdf>.

any further decisions. In June 2011, Penguin started with a pilot programme with the public libraries in New York and Brooklyn, and began selling backlist eBooks to all libraries in November 2011 only to pull out due to a dispute with OverDrive over security issues. On 2 April 2013, Penguin returned and began to sell all titles to libraries, eliminating its previous six-month embargo. In May 2013, Hachette began selling its entire catalogue, after a pilot with New York Public Library. In the spring of 2013, Macmillan joined but initially limited the content to 1,200 backlist titles from its Minotaur crime fiction imprint. In September 2013, Macmillan made all of its backlist available. Eventually Simon & Schuster was the last Big Six holdout finally selling eBooks to libraries in June 2014. In the United States, the Big Six account for an estimated 80% of the trade book market, so getting these publishers on board was critical. Without the Big Six, libraries simply could not buy most of the eBooks that consumers expected libraries to lend.

Many medium-sized and independent publishers sell eBooks to public libraries at the consumer price with perpetual access. Libraries can now acquire eBooks from self-published authors through established vendors like Baker & Taylor Axis 360, cloudLibrary by bibliotheca and OverDrive. Self-published eBooks also can be acquired through aggregators like Smashwords where books generally cost no more than \$9.99. SELF-e is another venue for attaining self-published eBooks. A joint venture of *Library Journal* and BiblioBoard, SELF-e emphasizes its editorial component and curation features of its service. Another option for acquiring self-published eBook content is eBooksAreForever. This project was started by the independent author J. A. Konrath who has been a vocal advocate for public libraries. In eBooksAreForever, authors do not get paid, and the books are free. Some authors are willing to provide free content to attract readers and just get their books exposed to the public. Many libraries in the United States promote local authors or self-published titles at book fairs and other events.

7.11.2 Vendors

Currently, the majority of libraries who purchase eBooks obtain them on an ongoing basis through an annual fee payable to a vendor who has acquired the non-exclusive right to sell and provide access to titles from publishers: that is, as well as paying the purchase price the library pays the vendor a continuing access fee. Libraries pay an annual fee to the vendor who also takes a percentage from the sale of eBooks. They provide the server platform for lending and employ digital rights management (generally Adobe Editions). For every circulation, the vendor pays a small fee to Adobe (currently eight cents). The ability to transfer titles – even titles with perpetual access – has been a sticking point for libraries.

Unless negotiated in the licence agreement with the vendor, titles cannot be transferred and the library loses access, unless they engage in separate negotiations with the publishers for the titles lost.

OverDrive entered the eBook market in 2002, and with many years of experience in the eBook vendor business clearly dominates the library vendor market in the United States and internationally today. With more funds at their disposal, OverDrive provides regular upgrades, develops more apps, and tests new business models. Other vendors have entered the market place such as Baker and Taylor's Axis 360 and cloudLibrary by bibliotheca, but some more recent entrants need an influx of library customer revenue to effectively compete. Some do not have the expertise and resources on hand to move quickly, create more apps, and effectively manage the number of business models currently in use.

Recent vendor entrants offer different eBook lending models without the one-user/one-eBook framework. TotalBoox provides an entire catalogue of books that can be downloaded by each library user, and libraries pay only for the pages read. Freading allows simultaneous access to content, and the library pays for each download on a sliding scale set by the publisher usually depending on the popularity of the book. Libraries can manage their book budget by using Freading's token system. Each library user gets a set amount of tokens that are traded in to download eBooks. Popular or best-selling titles require more tokens than backlist titles. After a library user expends all of her tokens, she can no longer download Freading books until she receives a new set of tokens. Although this is changing, most of these more recent vendors have been unable to sign with the Big Five publishers so their catalogues of eBooks are limited. However, Odilo, a relatively new player in the US library market, has managed through persistent negotiation to obtain titles from the Big Five. The least established vendors do provide non-fiction or more obscure titles not generally available in the trade eBook market providing the collection diversity that libraries seek to have. Most libraries use more than one vendor to meet eBook collection needs, and with the various business models currently employed as well as differing vendor interfaces, managing eBook collections is complicated and difficult for library users.

7.11.3 Library-managed Systems

Some libraries have gone a different route – they created their own eBook platforms, and bought their own servers, eliminating the need for the private vendor to a certain extent. In 2013, Califa, the largest network of libraries in California, was the first library system to implement its own eBook platform, followed by Douglas County Libraries in Colorado. Both approached medium-sized and independent

publishers for eBook content under an agreement that the library acquire the books in perpetuity and be able to exercise library exceptions and limitations in the US copyright law such as preservation and first sale. Obtaining content from the Big Five, however, continues to be problematic for these innovative library systems. The publishers prefer the private sector vendors because they trust the vendors to keep their content safe and more importantly, they do not want to deal with selling eBooks to hundreds of libraries with different platforms and requirements. Thus, these institutions must continue to invest in private sector vendor service in order to obtain access to the most popular titles. Most US public libraries do not have the expertise or financial resources to develop and manage their own eBook platforms and choose to work with vendors.

7.11.4 Library Cooperatives

Rather than develop their own eBook lending system, some libraries are using regional or state-wide library consortiums to buy eBook content for all of the libraries to cooperatively share, offsetting some acquisition costs with greater buying power. The Massachusetts Library System is trying cooperative buying, but not all publishers and vendors are willing to sell to consortiums. Amigos Library Systems, a consortium of libraries in the Southwest, offers Amigos eShelf Services aimed at helping library members augment their existing eBook collections. They host the content for all of the libraries, handle publisher negotiations and licence payments, and provide MARC records for the library catalogue or a separate interface for search. However, they, too, do not have any eBooks published by the Big Five.

The Queens Public Library in New York is approaching eBook lending in a different way. The New York State Community Action Association, whose mission is to supplement and increase the capacity of New York State's nonprofit networks, worked with Google to obtain Nexus tablets for areas hit hard by Hurricane Sandy in 2012, including Queens. Through this effort, the Queens Public Library received 5,000 Nexus tablets. Queens created a proprietary software interface to link the device to the digital content of the library including eBooks. They use an icon format to make it easier for library users unfamiliar with the technology. Library users borrow a tablet that with WiFi, can access the library's digital resources. When library users check out a tablet or download the mobile app version, they have complete access to the Queens' eBook collection. A digital connection is only necessary when the user wants to access the libraries' digital databases. Thus far the program has been successful and library use and readership has increased dramatically. Under this model, Queens has been able to

acquire eBooks from the Big Five because Queens is buying the books through the established vendors publishers trust. The sustainability of this model has been challenged. Other libraries are unlikely to have tablets donated to them, and as digital technologies and networks change, older tablets may become obsolete.

The Institute of Museum and Library Services, a federal agency that provides grant funds to libraries and museums, identified “digital infrastructure” as a priority goal in 2013. A number of stakeholders who are working collaboratively to create a national eBook infrastructure received a number of large grants. One of the stakeholders, the Digital Public Library of America, convenes workshops for library stakeholders to plan and build an eBook infrastructure. Their plans are ambitious, and include the idea of an eBook marketplace where libraries can acquire eBooks from any publisher from one single source, using buying power to save costs. Several library networks are participating in these discussions and may initially serve as collection hubs for the eBook project. In year three, the project is still in early stages and further progress is dependent on funding. The New York Public Library is another leading partner in this effort and has developed a reader app called SimplyE reducing the number of steps to download a book to three. SimplyE is the app used for Open eBooks, another multi-stakeholder partnership project that provides elementary and high school students living in lower income communities free access to \$250 million US worth of age-appropriate eBooks donated by publishers.

7.11.5 Library Lending Increases Book Sales

Over the last three years, several studies were conducted by the *Library Journal* and Bowker, the Book Industry Study Group, the Pew Research Center, and others regarding lending and its effect on sales as well as library user behaviour regarding eBooks. These studies specifically targeted the concerns of the publishers – did library lending decrease consumer sales and did libraries aid in reader discovery of books. The *Library Journal Patron Profiles* showed a direct link between library borrowing and book buying.⁹⁹ Based on the survey, all library users buy books discovered or previously borrowed from the library. “Power patrons” – those that use the library at least once a week – buy the most books as a result of titles and authors discovered at the library.

⁹⁹ Barbara Genco, “Understanding the Behaviors and Preferences of U.S. Public Library Users,” presentation, Patron Profiles Conference, *Library Journal*, 2012, <http://slideplayer.com/slide/172579/>.

7.11.6 Advocacy

Several state library associations lobbied their state legislators about eBook concerns – access to eBooks, reasonable licence terms and costs. Some thought that the states could force publishers to sell to libraries under reasonable terms and prices through legislation, but such action would conflict with federal laws and the *Commerce Clause*. In Connecticut, advocacy efforts led legislators to pass a law requiring the Department of Consumer Protection to conduct a study to explore issues related to libraries and the eBook market.¹⁰⁰ As a result the legislators made funds available for Connecticut libraries to build their own eBook infrastructure in order to host eBooks throughout the state, saving tax dollars that would have been spent on an intermediary vendor or distributor. At this time, they are working with the Institute of Museum and Library Services/New York Public Library/Digital Public Library of America eBook national infrastructure project to take advantage of the work completed thus far.

In Ohio, the library association met with their US congressional representative to make him aware of the eBook pricing situation and call for a hearing. While the Representative expressed interest in learning about the problem, ultimately no action was taken.

Various groups of librarians arranged boycotts of eBook publishers in 2011–2013, but none of these efforts led the publishers to change their positions. The boycotts did draw attention to the issue. Reporters covered the story in both the national and the local press. Library patrons also wrote letters of protest to publishers, but to little effect.

100 William M. Rubenstein, “Report to the General Assembly’s General Law Committee pursuant to Special Act 13-10, ‘An Act Concerning a Study Regarding the Availability of Electronic Books to Users of Public Libraries’,” Connecticut Department of Consumer Protection, 30 January 2014, <http://www.scribd.com/doc/207144112/Connecticut-Report-to-the-General-Assembly-s-General-Law-Committee-pursuant-to-Special-Act-13-10-An-Act-Concerning-a-Study-Regarding-the-Availabi>.

8 What Comes Next in Publishing, Distribution and Libraries?

8.1 Introduction

Downloadable trade eBooks have had a relatively short life in library collections and the circumstances around their availability to libraries and how they are read by library users are still evolving. It would be quixotic to suggest that future developments with eBooks in library collections can be predicted with confidence.

Several trends with varying implications for libraries do appear probable:

- timely access to trade eBooks for libraries in established and underdeveloped eBook markets will continue to improve but will not be universal;
- there will continue to be wide variations in publisher terms and conditions including pricing for libraries to provide access to eBooks;
- print books will continue to be the preferred medium for many readers in retail and libraries but their share of total reading activity will decline;
- self-published and small independently published eBooks will continue to increase in terms of publishing market share;
- unlike music and movie provision, subscription eBook services will continue to be a niche market;
- multi-use tablets will be increasingly favoured as the means of reading eBooks, displacing dedicated eReaders;
- the conventionally accepted understanding of a trade eBook (a linear narrative downloaded to a portable device) will change as eBooks increasingly exploit technological advances.

There are also significant uncertainties:

- will a government take steps to insure universal individual access to text works in digital form and, if so, how;
- to what extent will precedents set in court rulings and legislation influence developments in other jurisdictions;
- will the prevalence of print endure as born digital millennials become the population majority in regions where eBooks are established in the market;
- irrespective of format, will reading text retain its importance in an increasingly digital world?

8.2 The Changing Book Market

Using the US market numbers, 2015 book retailing indicated that a change in reader behaviour was under way and the negative effects were most pronounced for the traditional publishers including the Big Five. The AAP reported an overall 2.6% decline in sales with variable performance between publishing categories. The eBook category showed the biggest decline, down 9.5%.¹ As noted in Section 3.4 and further in this section, this does not constitute a decline in overall eBook sales as the market share for non-AAP published eBooks has grown.

The much-publicized Hachette-Amazon standoff over pricing was the highest-profile example of the power struggle between the Big Five and Amazon, their most important eBook customer.² While neither party released details of the settlement reached in November 2014 following a seven-month dispute, it was widely reported that Hachette gained more control over setting the retail price of its eBooks and this became a general model for establishing terms with other large publishers. The result was higher consumer prices for eBooks and this apparently contributed to the 2015 sizable decline in overall eBook sales for the AAP members. The Big Five believe that lower eBook prices devalue print books and would therefore increasingly damage their core business. Critics described this as a distortion of the market solely designed to protect the print book market and postpone what they viewed as the inevitable shift to digital.

The British Publishers Association also reported that in 2015 digital sales revenue was down 0.2% (£563 million to £554 million or \$620 million to \$610 million US) while print books registered a very slight increase from £2.748 billion to £2.76 billion (\$3.024 billion to \$3.037 billion US). These statistics were jumped on by eBook sceptics such as Simon Jenkins who cited them in *The Guardian* to debunk the “hysterical cheerleaders of the e-book”, whom he referred to as “the technodazzled”. The title of Jenkins’s column proclaims “Books are back”.³ To declare as Jenkins does in his column that “virtual books...are not real” rightly was challenged by commentators who, like Canadian fiction writer and novelist

¹ Jim Milliot, “Industry Sales Fell 2.6% in 2015,” *Publishers Weekly* 26 April 2016, <http://www.publishersweekly.com/pw/by-topic/industry-news/financial-reporting/article/70079-industry-sales-fell-2-6-in-2015.html>.

² For a concise summary of the dispute see Carolyn Kellogg, “Amazon and Hachette: The Dispute in 13 Easy Steps,” *LA Times* 3 June 2014, <http://www.latimes.com/books/jacketcopy/la-et-jc-amazon-and-hachette-explained-20140602-story.html>.

³ Simon Jenkins, “Books are back. Only the Technodazzled Thought they would Go Away”, *The Guardian* 13 May 2016, <http://www.theguardian.com/commentisfree/2016/may/13/books-ebook-publishers-paper>.

Russell Smith, argued that words are words irrespective of format. In a column published partially as a response to Jenkins, Smith concludes:

So the medium for our reading – print versus screen – is a minor issue. The issue is what we will actually read. And, indeed, whether we will actually read.⁴

Smith cites Matthew Ingram's reporting on publishing in *Fortune* which makes the case that official trade industry statistics provide a distorted view of consumer and reader behaviour. Ingram cites two factors which influence the AAP's 2015 statistics showing a decline in eBook sales: the price increases and the omission of small independent publishers and self-publishers. Ingram concludes that the "implication of ebook sales falling while remaining 20% of the industry is that the industry itself is in decline".⁵ Given that what success print publishers have had in recent years may be attributed to blockbuster books which have dominated retail sales (the Harry Potter series, *The Hunger Games* trilogy, *50 Shades of Grey*...) and the relatively new phenomenon of adult colouring books (in late 2015, five of the top ten bestselling Amazon books were adult colouring books),⁶ concerns are raised for the medium term viability of "serious" publishing on a large scale especially in regard to "consumables" such as colouring books.

There are significant implications for library trade book acquisitions in these trends. They suggest that while print books have been maintaining their sales in the retail market, this is happening due to books which are either not appropriate for library collections (colouring books) or hugely popular titles which always present a library with challenges in meeting demand in a timely manner. Given societal and publishing trends, it can reasonably be projected that print circulation in libraries will gradually decline. In order to maintain their relevance in their communities by offsetting this probable decline, public libraries will need to ensure that their eBook collections meet the interests of their readers. This implies that eBooks published by the Big Five will decrease in importance in library collections as they continue to lose retail market share.

The website Author Earnings has been producing inclusive data analysis on eBook sales for over two years to assist authors in making informed decisions

⁴ Russell Smith, "Read between the Lines of the e-Book Debate," *The Globe and Mail* 23 May 2016, <http://www.theglobeandmail.com/arts/books-and-media/russell-smith-read-between-the-lines-of-the-e-book-debate/article30110302/>.

⁵ Matthew Ingram, "No, e-book Sales are Not Falling, Despite What Publishers Say", *Fortune* 24 September 2015, <http://fortune.com/2015/09/24/ebook-sales/>.

⁶ Matthew Ingram, "Print Book Sales Are Up, But Don't Start Celebrating Just Yet", *Fortune* 22 December 2016, <http://fortune.com/2015/12/22/print-book-sales/>

on how to publish their work. Its February 2016 report⁷ shows that Big Five-published eBooks now account for less than 25% of purchases on Amazon while independent publishers are “closing in on” 45%. This constitutes a reversal of position in less than two years. In terms of dollars spent, the independent publishers have increased by 10% in the same two years despite having generally lower unit prices, while the Big Five have declined by 10% despite having generally higher unit prices. Author earnings by publisher type show an even more divergent trend line between the independent publishers and the Big Five. The report notes “higher prices and other missteps are a likely contributor to this accelerating trend, but the reality may be that major publishers simply are finding it difficult to compete with indie authors on diversity, price, quality, and frequency of publication, as this divergence has been increasing for the last two years”.

Public libraries will increasingly have to collaborate with self-published eBook aggregators such as Smashwords (which distributes over 400,000 titles) in order to access eBook titles which are largely ignored by mainstream book alert and review sources. Sifting through literally tens of thousands of self-published and independently published eBook titles, many of dubious quality with minuscule sales, will require reliance on a very different set of filters than those used for traditionally published trade eBooks many of which also appear in print. In 2013 in *Fortune*, David Vinjamuri proposed that libraries cooperate to address this, observing that if each library in the United States reviewed one unique book per month, as a group they would cover 192,000 titles per year, or 58% of the total books published in 2010.⁸

It should be noted in this context that while traditional publishers are rightly credited with issuing better written, edited and produced eBooks, this is not a guarantee that they will sell. In a 2016 BookNet survey of the Canadian digital market, 55 publishers including large multinational, larger Canadian-owned and smaller, niche publishers reported that 27% of their eBook titles had no Canadian sales in 2015.⁹

7 “February 2016 Author Earnings Report: Amazon’s Ebook, Print, and Audio Sales,” Author Earnings.com, accessed on 27 May 2016, authorearnings.com/report/February-2016-author-earnings-report/.

8 David Vinjamuri, “Why Public Libraries Matter: And How They Can Do More,” *Forbes* 16 January 2013, <http://www.forbes.com/sites/davidvinjamuri/2013/01/16/why-public-libraries-matter-and-how-they-can-do-more/#16d830d57704>.

9 *The State of Digital Publishing in Canada 2015*, BookNet Canada, April 2016, <http://www.booknetcanada.ca/state-of-digital-publishing>.

8.3 Opportunities for Libraries in a Shifting Environment

With changes in technology, distribution, and public expectations, libraries have opportunities to introduce new services that support local creation and have the potential to increase access to eBooks. In both developed markets and developing countries, libraries have identified their role in supporting literacy, including digital literacy. They have recognized that for the internet to be relevant to every individual, globally, more content will need to be available in languages other than English. Libraries further recognize that they can contribute to increasing the skills and access of their communities, and support the creation of local content in local languages through their programmes and services that will increase what is available digitally, globally.

This expanding role has been identified in documents such as the Principles on Public Access in Libraries, created by the Dynamic Coalition on Public Access in Libraries and discussed at the Internet Governance Forum in João Pessoa, Brazil, in November 2015:

Local content: Through providing technology and offering support, libraries have the capacity to promote and enable the creation of local content and to ensure its preservation. Libraries should be supported in using and facilitating access to open data and open access solutions and libraries' role in providing access to government information and services should be recognized.¹

In Africa, this role was recognized in the Cape Town Declaration of 14 August 2015, in which ministers and country representatives from Angola, Burkina Faso, Cape Verde, Côte d'Ivoire, Lesotho, Guinea, Madagascar, Malawi, Mozambique, Nigeria, South Africa, South Sudan and Swaziland committed to “Encourage the development and promotion of local content in African libraries as part of the promotion of African Renaissance and Pan Africanism” and to “Encourage the sharing of skills, collection and preservation of African stories from our own communities.”²

In many countries, libraries are supporting local authors through providing writing programmes, and some are creating library-based publishers or providing printing services. One such example is “Asquith Press Book Printing Service” at Toronto Public Library, where authors can have their books printed and bound

¹ International Federation of Library Associations and Institutions (IFLA). “Principles on Public Access in Libraries,” IFLA, <http://www.ifla.org/publications/node/10328>.

² International Federation of Library Associations and Institutions (IFLA), “Cape Town Declaration,” IFLA, 14 August 2015, <http://www.ifla.org/node/9767>.

in paperback format. Services are offered at several libraries in the United States, such as iStreet Press in Sacramento, California; Provincetown Public Press in Provincetown, Massachusetts; and Academy Park Press in Williamson, Tennessee. These services include support from library staff for editing, design, layout/formatting, and preparation for publication. In Massachusetts and Tennessee, the libraries support the authors to distribute on eBook platforms and the authors agree that the books will be added to the libraries’ collections.³

The interest among libraries worldwide is demonstrated in the IFLA 2016 satellite conference “Libraries as Publishers: Building a Global Community”, where presenters from regions including Brazil, South Africa, and Croatia discussed case studies and local considerations.⁴

While the library as publisher may not be realistic for most libraries, the increasing numbers of libraries that support local content creation through writing programmes, digital literacy programmes and information will help to build understanding of libraries’ potential among authors, and libraries’ role in the promotion and distribution of eBooks to readers. In time, as independent publishing continues to develop, increased understanding and collaboration between authors and libraries and direct agreements could contribute to increasing public access to eBooks under terms and conditions that are reasonable for all.

8.4 Fixing the “Problems”

As has been noted, there has been a consistent increase in eBook availability to libraries in established markets since 2010. At times this growth has been painfully slow and wide variations in terms and conditions, including pricing, continue to be frustrating. As discussed throughout this book, negotiations on eBook licence terms and conditions between libraries and trade publishers will continue and, as is usually the case in such negotiations, neither side will gain everything they wish. In the absence of court and/or government intervention, publishers (and to a certain extent, authors) have the ability to withhold eBooks

³ Jennifer Koerber, “The Public Library as Publisher,” *Library Journal* 26 March 2014, <http://lj.libraryjournal.com/2014/03/publishing/the-public-library-as-publisher/>.

⁴ International Federation of Library Associations and Institutions (IFLA), “Libraries as Publishers: Building a Global Community, IFLA 2016 Satellite Meeting, Ann Arbor, Michigan, August 10–12, 2016,” IFLA, <https://ifalibpub.org/>.

from libraries if they feel this is detrimental to their financial interests, meaning that libraries remain in a weakened position in these negotiations.

The library community has struggled to identify straightforward legislative solutions which would require the availability of eBooks for library loan under reasonable terms and conditions. Regulatory regimes globally vary widely and it is evident that, even if there was a multinational consensus on the necessity of library availability of commercially published works (e.g. in a WIPO treaty), there is no one solution available to all legislators to deliver the desired outcome.

It is probable that short term “fixes” are available which could be implemented to resolve immediate problems while longer term solutions are developed. For example when a situation arises where a digital only commercial text is withheld from the library market, for non-commercial uses the library could, through a copyright exception, be granted the right to make one or more print copies for lending without payment or rights holder permission. While this “solution” appears counterintuitive and backward looking, it would address immediate issues such as those described in Section 5.2 where library user access is denied to works of societal importance in any format.

8.5 Distribution Models and Technology Shifts

It remains to be seen if downloadable trade eBooks will continue to dominate the market or if, as is the case with music (Spotify, YouTube...) and movies and TV (Netflix...), streaming subscription services will gain significant market share. The increasing consumer preference is for convenience and access over ownership when it comes to content in various media. This suggests that reading on handheld devices connected to the internet will come to dominate the market. The eBook streaming service Oyster posted the following statement on its company blog concurrent with the announcement that it was winding down its service:

...we couldn't be more excited about the future of e-books and mobile reading. We believe more than ever that the phone will be the primary reading device globally over the next decade – enabling access to knowledge and stories for billions of people worldwide.⁵

Despite this optimism and an auspicious start for eBook streaming services with three companies each offering over one million books by 2015 in the United States

⁵ Oysterbooks, “Dispatches from Oyster HQ,” Oysterbooks.com, <http://blog.oysterbooks.com/>.

(Amazon Unlimited, Oyster and Scribd) by February 2016 there was only one unrestricted use service remaining: Amazon Unlimited. The streaming services offered unlimited access to their extensive services for a monthly fee in the range of \$10 US. Oyster and Scribd paid publishers the wholesale price for a title each time it was borrowed and this model proved not to be viable as publisher payments and operating costs exceeded subscription revenue. In 2015 Oyster announced that it was winding up its operation and Scribd reduced the number of romance and erotica eBooks and audiobooks available to subscribers as demand exceeded their ability to pay publisher royalties. Still struggling financially, in early 2016 Scribd announced a significant reduction in the titles available on an unrestricted basis and introduced a small quota on the monthly “loans” available to subscribers. Amazon Unlimited paid lower fees based on pages read and this caused complaints from both publishers and authors. Three of the Big Five made titles available to Oyster and Scribd but withheld content from Amazon Unlimited.

With Amazon Unlimited as the only remaining general-interest streaming service, publishers will have to determine if they can ignore a distribution channel which proved so successful for other media: e.g. in 2014 27% of music industry revenue was derived from streaming services. Ubiquitous piracy of music was no doubt a major incentive for the music companies and artists to cooperate with the streaming services. eBook piracy, while present, has not reached anything approximating the extent of music piracy so the same incentive is not there. On the other hand, if younger demographics do more and more reading on mobile devices connected to the internet, publishers may have to reach an accommodation with Amazon Unlimited. In the words of publishing commentator Mike Shatzkin:

...book publishers are probably fighting a rearguard action trying to perpetuate the ‘own-this-content’ model, particularly at relatively higher prices than they could demand last year or five years ago...Publishers should always be aware that it’s a risky business model that contradicts the trends in consumer behavior.⁶

Amazon’s recent dominant position in eBook subscription business combined with their large market share of eBook and print book sales gives rise to increasing speculation over their seeming monopsony⁷ position triggering investiga-

⁶ Shatzkin, Mike, “The Shatzkin Files; Now Kings of ebook Subscription, What Will Impede the ebook Share Growth for Amazon?”, *Idealog.com*, 17 February 2016, <http://www.idealog.com/blog/now-kings-ebook-subscription-will-impede-ebook-share-growth-amazon/>.

⁷ A monopsony is a customer which controls a substantial part of a market.

tions in the United States and European Union. As Amazon has been no friend to libraries in the past, primarily demonstrated by a reluctance to supply them with eBooks, its growing dominance of the publishing environment is not good news. Government intervention to promote a more diverse customer base in the publishing marketplace certainly wouldn't hurt library interests and may well improve library access to eBooks. The issue also would provide a common cause for advocacy with authors and publishers which could lead to improved relations and thereby increased consensus in future negotiations.

9 Conclusion

One of the great unknowns in projecting how digital text will be distributed in the future is how Google intends to develop Google Books. At the time of the 2016 US Supreme Court decision not to hear an appeal of Google's 2015 court victory where the scanning of books and the display of snippets was found to be permissible as fair use,¹ Google's digital "library" contained over 25 million of the estimated 130 million book titles worldwide. Hachette CEO Amaud Nourry in his 2016 address to the International Publishers Congress presented a Google doomsday scenario for publishers (and libraries perhaps?):

I would say that Google is the player the most likely to pose a clear and present danger to our industry. By now, the millions of books they have scanned without our consent make up the world's largest virtual library. If the European Commission caves in to the demands of their proxies, what's to stop them from defining themselves as a library and making all those books available for free on a non-profit basis? They could claim their profit derives from advertising, not from charging browsers an access fee. And who's to stop them if the European Commission, no less, has given them its blessing?²

Exciting and also uneasy times ahead are likely for all those involved in the dissemination of digital works. Google aside, it is clear that libraries will continue to face challenges in making all written content freely available in our communities. There is cause for optimism in the cautious words of the *US Department of Commerce White Paper* (discussed in Section 4.3): "If over time it becomes apparent that libraries have been unable to appropriately serve their patrons due to overly restrictive terms imposed by publishers, further action may be advisable."³ But it is especially the preliminary opinion presented by the CJEU Advocate General (also discussed in Section 4.3) that points the way to the continuing relevance of libraries as disseminators of our written record:

Today in the digital age, libraries must be able to continue to fulfil the task of cultural preservation and dissemination that they have performed when books existed only in a paper

1 Alison Flood, "Authors Guild denied appeal to stop Google scanning books", *The Guardian*, 19 April 2016, <https://www.theguardian.com/books/2016/apr/19/authors-guild-google-scanning-denied>.

2 Philip Jones, "Nourry warns on Google, EC copyright 'attack'", *The Bookseller*, 11 April 2016, <http://www.thebookseller.com/news/nourry-warns-google-ec-copyright-attack-326118>.

3 United States Department of Commerce, "White Paper on Remixes, First Sale, and Statutory Damages."

form. That, however, is not necessarily possible in an environment that is governed solely by the laws of the market.⁴

The authors are very aware that as soon as this book is submitted, let alone published, there will be new developments in the evolution of eBook collections in libraries. For the latest eBook and eLending news, you may check the IFLA site “eLending & eBook Updates”⁵ where updates will be posted periodically.

⁴ Opinion of Advocate General Szpunar delivered on 16 June 2016 (1), *Vereniging Openbare Bibliotheken v Stichting Leenrecht*, Case C-174/15, section 15, <http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d0f130d517f273ffa04f4bacb9cdacbc068e888.e34KaxiLc3eQc40LaxqMbN4Pa3aPe0?text=&docid=180332&pageIndex=0&doclang=EN&mode=req&dir=&oc=c=first&part=1&cid=271325>.

⁵ “eLending & eBook Updates”, IFLA, accessed 31 July 2016, <http://www.ifla.org/node/10653>.

10 Appendix

10.1 Introduction

When writing this book the authors became conscious of the transitory nature of web-based content on eBooks. Documents which one assumed would be archived by library organizations proved elusive. Broken links abound. For example, the UK Society of Chief Librarians' "SCL Position on E-Book Lending in Libraries" appears to have disappeared from the web. The Government of Australia's multi-sector review "Principles of Consistent Models of Supply of ebooks to Libraries" was not formally issued by the Government following an opposition election victory and at one point only remained available on a publishers' association site. One wonders for how long? A query regarding a broken link to a politician's site which previously made it available thankfully resulted in the Australian National Library incorporating the text into its digital collection. To confuse matters the Council of Australian Librarians maintains an early draft on their site and this features prominently in a Google search but apparently they do not host the final text.

There is a lot of talk about the threat of the loss of the historical record with digital content. Our experience with this project is that this threat is real, and the library community needs to be more conscious of their responsibility to preserve the record of the evolving debate on the issues which affect the future of libraries.

The important Swedish Library Association "Say hello to your new librarian" campaign brochure in English is on the Association's website¹ "albeit quite hard to find" in the words of a staff member and likely to disappear when a website redesign is implemented later in 2016. This is why, with the kind permission of the Association, the brochure is reproduced in this appendix.

Also reproduced is the open letter from the then ALA President Maureen Sullivan on the impasse between public libraries and several of the Big Six. The letter was released in September 2012 at that time when Penguin, Macmillan and Simon & Schuster were not making eBooks available to libraries and the situation appeared to be deteriorating. The ALA letter and rapid response from the AAP which is also reproduced here present the impasse which seemed entrenched. Thankfully the situation is significantly better in 2016 in the United States but and to a lesser extent

¹ "Say hello to your new librarian," (Stockholm: Swedish Library Association [2012]). <http://www.biblioteksforeningen.org/wp-content/uploads/2012/08/Folder-Say-hello-120906.pdf>.

in other countries. But much remains to be done globally to ensure that libraries can continue to fulfil their role of providing access to the world's cultural record.

10.2 ALA President Maureen Sullivan's Open Letter to Publishers

September 24, 2012

It's a rare thing in a free market when a customer is refused the ability to buy a company's product and is told its money is "no good here." Surprisingly, after centuries of enthusiastically supporting publishers' products, libraries find themselves in just that position with purchasing e-books from three of the largest publishers in the world. Simon & Schuster, Macmillan, and Penguin have been denying access to their e-books for our nation's 112,000 libraries and roughly 169 million public library users.

Let's be clear on what this means: If our libraries' digital bookshelves mirrored the *New York Times* fiction best-seller list, we would be missing *half* of our collection any given week due to these publishers' policies. The popular "Bared to You" and "The Glass Castle" are not available in libraries because libraries cannot purchase them at any price. Today's teens also will not find the digital copy of Judy Blume's seminal "Forever," nor today's blockbuster "Hunger Games" series.

Not all publishers are following the path of these three publishers. In fact, hundreds of publishers of e-books have embraced the opportunity to create new sales and reach readers through our nation's libraries. One recent innovation allows library patrons to immediately purchase an e-book if the library doesn't have a copy or if there is a wait list they would like to avoid. This offers a win-win relationship for both publishers and library users since recent research from the Pew Internet Project tells us that library users are more than twice as likely to have bought their most recent book as to have borrowed it from a library.

Libraries around the country are developing mobile applications and online discovery systems that make it easier to explore books and authors on the go. Seventy-six percent of public libraries now offer e-books – double the number from only five years ago – and 39 percent of libraries have purchased and circulate e-readers. Public libraries alone spend more than \$1.3 billion annually on their collections of print, audio, video, and electronic materials. They are investing not only in access to content and devices, but also in teaching the skills needed to navigate and utilize digital content successfully.

Librarians understand that publishing is not just another industry. It has special and important significance to society. Libraries complement and, in fact, actively support this industry by supporting literacy and seeking to spread an

infectious and lifelong love of reading and learning. Library lending encourages patrons to experiment by sampling new authors, topics and genres. This experimentation stimulates the market for books, with the library serving as a de facto discovery, promotion and awareness service for authors and publishers.

Publishers, libraries and other entities have worked together for centuries to sustain a healthy reading ecosystem – celebrating our society's access to the complete marketplace of ideas. Given the obvious value of libraries to publishers, it simply does not add up that any publisher would continue to lock out libraries. It doesn't add up for me, it doesn't add up for ALA's 60,000 members, and it *definitely* doesn't add up for the millions of people who use our libraries every month.

America's libraries have always served as the "people's university" by providing access to reading materials and educational opportunity for the millions who want to read and learn but cannot afford to buy the books they need. Librarians have a particular concern for vulnerable populations that may not have any other access to books and electronic content, including individuals and families who are homebound or low-income. To deny these library users access to e-books that are available to others – and which libraries are eager to purchase on their behalf – is discriminatory.

We have met and talked sincerely with many of these publishers. We have sought common ground by exploring new business models and library lending practices. But these conversations only matter if they are followed by action: Simon & Schuster must sell to libraries. Macmillan must implement its proposed pilot. Penguin must accelerate and expand its pilots beyond two urban New York libraries.

We librarians cannot stand by and do nothing while some publishers deepen the digital divide. We cannot wait passively while some publishers deny access to our cultural record. We must speak out on behalf of today's – and tomorrow's – readers. The library community demands meaningful change and creative solutions that serve libraries and our readers who rightfully expect the same access to e-books as they have to printed books.

So, which side will you be on? Will you join us in a future of liberating literature for all? Libraries stand with readers, thinkers, writers, dreamers and inventors. Books and knowledge – in all their forms – are essential. Access to them must not be denied.

Reprinted with permission from the American Library Association, <http://www.ala.org/news/2012/09/open-letter-america%E2%80%99s-publishers-ala-president-maureen-sullivan>, accessed on 10 August 2016.

10.3 American Association of Publishers' Statement in Response to ALA President's Letter

Washington, DC; September 25, 2012 – On September 24, the recently-elected president of the American Library Association, Maureen Sullivan, released a harshly critical open letter to the US publishing industry about e-lending. The following is a statement from the Association of American Publishers:

Publishers and local libraries have had a lifelong partnership dedicated to increasing literacy and nurturing the love of reading. The publisher members of AAP provide libraries with innumerable free resources, programs and services – all designed to serve their cardholders, inform their librarians and sustain the vitality of their institutions.

Publishers recognize libraries' interest in serving their customers and we want books to have the widest distribution possible. The issues surrounding e-lending, however, are not as simple as Ms. Sullivan claims. Publishers support the concept of e-lending but must solve a breadth of complex technological, operational, financial and other challenges to make it a reality. Each publishing company is grappling individually with how to best serve the interests of its authors and readers, protect digital intellectual property rights and create this new business model that is fair to all stakeholders. And while the 9000-plus library systems' non-profit status permits them to convene, debate and reach consensus on these issues, commercial publishers cannot likewise come together due to antitrust restrictions.

Within the narrow scope of our authority as a trade association, AAP has tried to help advance the dialogue on e-lending between libraries and publishers. The session we organized for former ALA leadership at our Annual Meeting remains our most-watched online video. In that spirit, AAP is set to host an event to be held in a few days welcoming Ms. Sullivan and providing her with a platform to speak to more than 100 members of the publishing community.

At a time when individual publishing houses are more actively engaged than ever in exploring viable solutions to e-lending, we are disappointed that the new leadership at ALA chose this path, with this particular timing, to criticize those efforts.

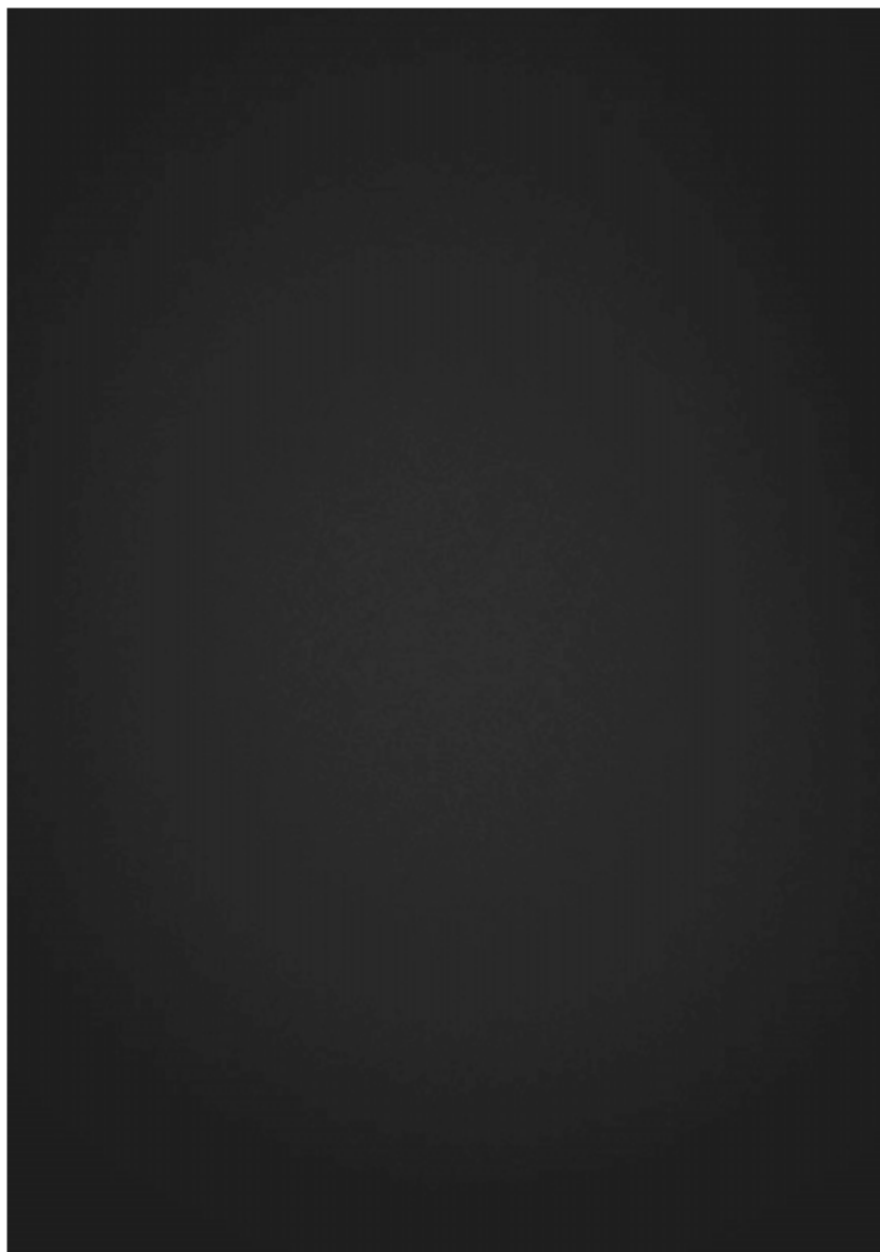
Reprinted with permission from American Association of Publishers, <http://newsroom.publishers.org/aap-statement-in-response-to-american-library-association-presidents-letter>, accessed on 10 August 2016.

10.4 Say hello to your new librarian (Sweden)

Say hello to your new librarian

There is a silent revolution going on in our libraries. Not long ago, libraries were independent. Free to choose, buy and recommend literature and factual books from amongst all the books that were in print. Then came eBooks...





What did this mean for libraries?

The same content, fantastic new format. Now reading and knowledge could be spread to many more people! Through computers, tablets and smart phones, new readers would be found, even among those who might never have made it through an entire book printed on paper.

And for major publishers?

Threats and opportunities. E-books are potential cash cows - provided that the threat of libraries' independent choices and purchases are eliminated.

The results, when the big publishers' requirements are up against the mission of libraries, have been disappointing. Today, through their monopoly distributor Elib, major publishers - not libraries - control which eBooks are available for lending, and when they will be released to the libraries. In practice, this means that anyone who wants to borrow an eBook has to wait patiently for several months until the title has dropped from the top of the best-selling charts. If the book succeeds at all in qualifying from the publishers' point of view, that is.

Your new librarian likes money more than books and owns a large publishing company. Is this how we want it to be? What do our politicians think?

The standpoint of the Swedish Library Association

For the Swedish Library Association, the eBook issue means standing up for the fundamental mission of libraries. The public library service is aimed at everyone's freedom to seek, receive and impart information and ideas through any media and regardless of national borders. It is enshrined in the UN Universal Declaration of Human Rights and further developed in the European Convention for the Protection of Human Rights and Fundamental Freedoms. The right of free access to information is essential to be able to use an individual's right of freedom of opinion and expression. Libraries have therefore ultimately a democratic mandate when they make information and knowledge available to all.

E-books and public libraries

An eBook is one of several formats that public libraries buy to supply to their borrowers. E-reading is still in its infancy in Sweden. Here one has access to around 5,000 titles while in the U.S., for example, perhaps the most advanced country in the e-reading world, has access to 1 million titles. E-books have the potential to spread reading to more people and new groups of readers that libraries would otherwise find hard to reach. Access to eBooks in libraries is thus not only a question of freedom for users to choose their preferred format, but also affects the libraries' core mission: to encourage the reading process and provide citizens free access to information.

In terms of the authors' and publishers' interests, libraries also work as storefronts and as introducers of individual authors and their works. The lending of eBooks will help libraries to both increase the availability of new and popular books, and introduce new technology to new groups. This will be useful to the publishers in the long run.

The current compensation model

Today's compensation model has passed its' sell-by date. Today, libraries pay a fee of about 20 SEK per loan. Libraries are often forced to ration their purchases and lending of eBooks. The limitations of eBook lending inhibit a library's core mission - to enhance the reading matter format and facilitate citizens' right to free access to information.

Payment per loan treats all eBooks in the same way. This is an unreasonable approach because the vast majority of eBooks are only borrowed a very limited number of times or never. Libraries have the task of building collections. These include books, regardless of format, that are not on the best-selling charts. Existing statistics show that eBooks spend a very short time on such charts. Thereafter interest drops quickly. Local examples show, however, that the interest to borrow individual titles may be affected by the activities of libraries.

A new compensation model

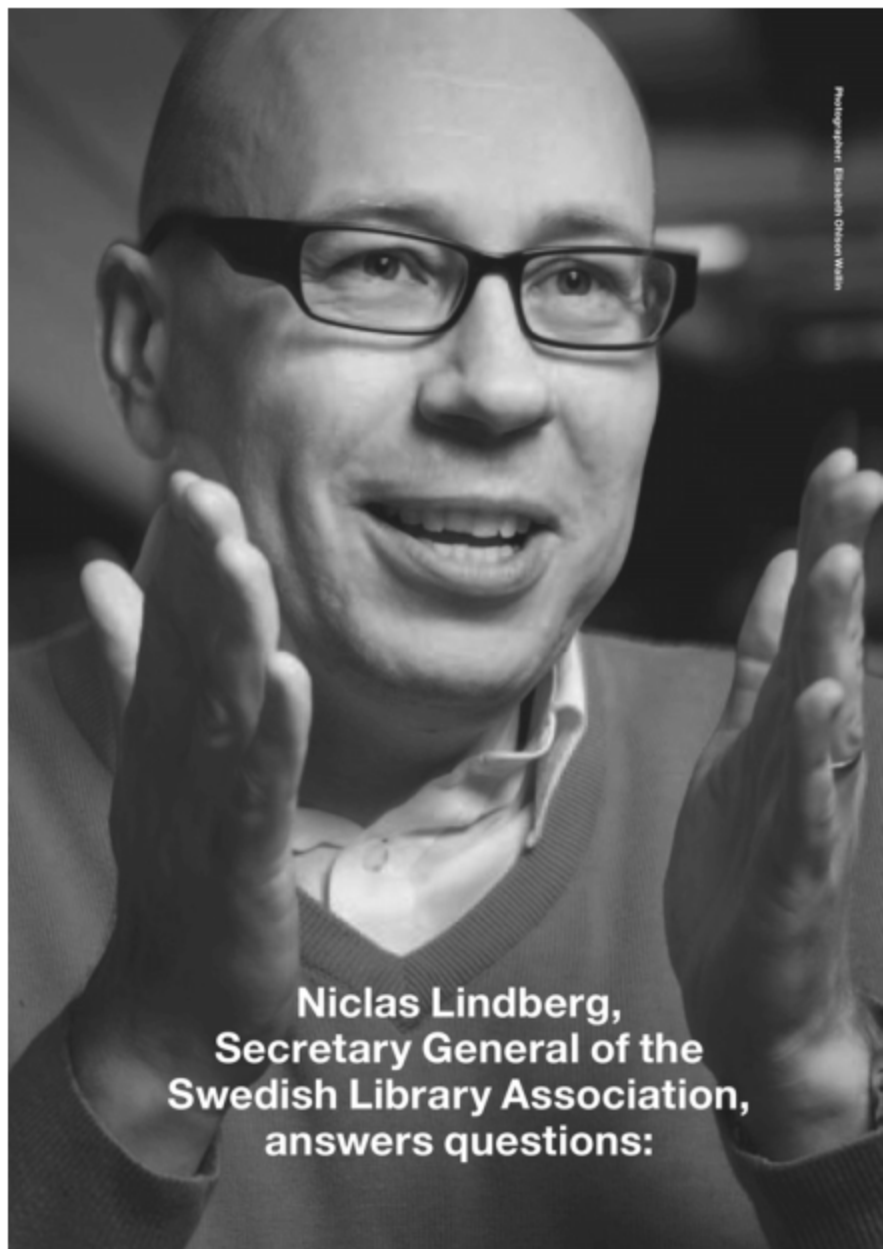
The Swedish Library Association wants a model with payments for eBooks that change over time. Higher fees during the first few weeks when a book is new, and then lower fees, the older the book is. The reason is that libraries make available all eBooks, even those that do not have a commercial market. In 2011, about 1,500 eBook titles were never loaned from public libraries, and about 100 titles accounted for half of all eBook lending. Libraries will continue to pay publishers and authors for the materials purchased. Libraries want to continue to pay their way, while giving their users access to the full potential of eBooks.

Essential Principles for libraries

The Swedish Library Association's overall mission is to ensure everyone's right to free access to information, culture and knowledge through public libraries.

Some principles are guidelines for us when we are trying to achieve a new sustainable business model for eBook lending:

- E-books should, like printed books, be made available in public libraries for libraries to fulfil their basic mission (to contribute to well-informed citizens who through free and unfettered access to knowledge, thoughts, culture and information to make independent decisions and participate in the development of democracy).
- Library users should have access to all kinds of literature in all published formats, while the authors have the right to compensation for their work.
- The eBook format's ability to be accessed and used should be embraced instead of being restricted in comparison with printed books.
- The conditions for a broader range of eBooks should be created.
- Libraries should also, when it comes to eBooks, be able to offer their borrowers current material - so-called withholding periods should not occur.
- Borrowers must be able to borrow and consume media in the media channels of their choice, including digital.
- Lending of eBooks should be covered by the government flat-compensation: Libraries compensation.
- Competition in the distribution of eBooks should be sought.



**Niclas Lindberg,
Secretary General of the
Swedish Library Association,
answers questions:**

Why has the Swedish Library Association started a campaign about eBooks?

– We will fight for everyone's right to information and knowledge!

The libraries' ability to fulfil their assignment for democracy and freedom of information becomes more difficult when commercial operators, through withholding periods and limitations of what libraries may purchase, hinder the libraries' access to eBooks. We want to show how serious and troubling this situation is for libraries' independence and freedom to acquire and lend eBooks.

What do you want to achieve?

– We want libraries to continue to be free and independent to purchase and lend the titles they want regardless of their publication format. It is basically a question of the libraries' mission for democracy and freedom of information.

Why did talks with the Swedish Publishers' Association break down?

– The Swedish Library Association's mission is to ensure everyone's right to free access to information, culture and knowledge through public libraries. We fought for a model that both ensures that library users have access to all kinds of literature in all published formats, as well as ensuring an author's right to compensation for their work. The Publishers Association locked themselves in a model that we could not support and said that they couldn't see opportunities for going along with our point of view.

The Swedish Library Association suggested that the majority of eBook titles should be subject to a form of subscription model for a fixed price. This would favour the range of titles libraries would possess, helping the libraries' mission to make available, and highlight, literature beyond the best seller charts and would give libraries clarity and control over their eBook budget. During our conversations main publishers introduced additional withholding periods which did not bring the issue forward.

Why do you think eBooks are so important?

– E-books are in libraries to stay and we think they are a great opportunity for more people to get access to information and knowledge. Libraries have always responded to changes in the medium through which information is conveyed. With all changes in technology, libraries have adapted their operations to fit new media. Libraries will guide and introduce new users and support the introduction of new technology. In practice, libraries market the library eBook titles for publishers and also pay for those efforts.

Now we are once again facing a major technology leap. University and college libraries, as well as research libraries, have come a long way in adapting to eBooks, while public libraries are still at the beginning of the trend.

What do you want to happen now?

– We want accountable politicians to take a stand on the issue and give their support to libraries. The Government has determined that Sweden will be the best in the world at using digitization opportunities. This also requires concrete initiatives from the Government and Parliament to eliminate barriers to library eBook lending.

At the same time all libraries, The National Library, The Repository Library / The Loan Centre and the Swedish Library Association must, in other ways, continue working with our public libraries to broaden libraries' access to eBooks. There are books without copyright that can be digitized and made available as eBooks. There are books where the authors themselves have rights to their eBook, but lack opportunities for digitization. And there are local materials in libraries that could become eBooks. Here there must be more initiatives and a national technical infrastructure that supports making such materials available to all.



SVENSK BIBLIOTEKS FÖRENING
SWEDISH LIBRARY ASSOCIATION

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10.5 CULC/CBUC Vision Statement for Public Library Access to Downloadable and Portable E-Content



Canadian Urban Libraries Council
Conseil des Bibliothèques Urbaines du Canada

November 2010

VISION STATEMENT FOR PUBLIC LIBRARY ACCESS TO DOWNLOADABLE AND PORTABLE E-CONTENT

Public libraries provide access to a broad range of human knowledge, information, and ideas and serve all readers, regardless of their socio-economic, educational, or literacy status. In order to continue to do this, public libraries have to be able to access information regardless of the delivery mechanism. The Canadian Urban Libraries Council (CULC) / Conseil des Bibliothèques Urbaines du Canada (CBUC) has developed a vision statement to identify public library issues around access to downloadable and portable e-content with the intent of entering into a dialogue with publishers, distributors, and producers of e-content.

The value of libraries to publishers and producers in introducing the public to the world of e-content and creating potential consumers cannot be underestimated. CULC/CBUC member libraries expended almost \$10,000,000 in 2009 on e-content. Member libraries spent nearly \$90,000,000 on materials in 2009. E-book expenditures grew by more than 40% in 2009; libraries predict a further 40% in 2010. Public libraries are a huge support to Canadian authors, publishers and producers of e-content because they purchase large quantities of materials in a variety of formats. In addition, public libraries promote those materials in library branches, through library programs, on websites, and in the local media. They offer training programs on using e-content and provide customers with technical support.

ACQUISITIONS

Libraries need...

- to be able to select and order e-content from anywhere as is done for print.
- to be able to use any type of vendors/producers of e-content. When digital rights management (DRM) is being negotiated, DRM for libraries should be included.
- fair and flexible pricing models that offer options to libraries, (e.g. one copy/one use, simultaneous use, and actual use models).
- simultaneous release of e-content to the consumer and library markets.

COLLECTIONS

Libraries need...

- to own the e-content they purchase. The future of library collections depends on the ability of libraries to collect, describe, organize, and preserve these collections. Publishers and producers of e-content cannot remove titles without libraries' consent.
- to be able to select from a broad spectrum of e-content publishers and producers.
- access to more Canadian content.

DELIVERY PLATFORMS, CIRCULATION, AND ACCESS

Libraries need...

- a shared, non-proprietary delivery platform and interface for the circulation of all e-content that is easy to use. Access to e-content should be allowed through the catalogue and/or through a consolidated site/portal, as determined by individual libraries. Having to search and borrow e-content through different vendors is inefficient and confusing.
- to be able to offer downloading of e-content without customers having to install proprietary software on their devices.
- DRM that allows loaning, customizable loan periods, and the ability to download to multiple devices. These terms should be determined, or at least negotiated, by the individual library.

DEVICE, USE ISSUES

Libraries need...

- device independence: content must be device agnostic. Having files in proprietary formats and for use on proprietary devices eliminates public library access.
- accessibility standards to be in place for all applications.
- open standards (e.g. ePub format for ebooks) for use on multiple devices. It is recognized that even then, producers may have to make adjustments to ensure device compliance.

11 Bibliography

- 3M. "3M Cloud Library and Polaris Library Systems Announce Industry's First Fully Integrated eBook Catalog." 3M. 19 December 2012. <http://news.3m.com/press-release/company/3m-cloud-library-and-polaris-library-systems-announce-industrys-first-fully-in>.
- Act Respecting the Development of Québec Firms in the Book Industry, chapter D-8.1. http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/D_8_1/D8_1_A.html
- Adobe. "Adobe Digital Editions." Adobe. Accessed on 31 July 2016. <http://www.adobe.com/ca/solutions/ebook/digital-editions.html>.
- Alter, Alexandra. "Meredith Wild, a Self-Publisher Making an Imprint." *New York Times* 30 January 2016. http://mobile.nytimes.com/2016/01/31/business/media/meredith-wild-a-self-publisher-making-an-imprint.html?_r=0.
- American Library Association (ALA). "Adobe Responds to ALA on Egregious Privacy Breach: Some Action Expected by Week of Oct. 20." American Library Association. 13 October 2014. <http://www.ala.org/news/press-releases/2014/10/adobe-responds-ala-egregious-data-breach-some-action-expected-week-oct-20>.
- . "Code of Ethics of the American Library Association." American Library Association. Accessed on 17 July 2016. <http://www.ala.org/advocacy/proethics/codeofethics/codeethics>.
- . "DCWG business model call minutes 12/17/15." *ALA Connect*. Accessed on 14 June 2016. <http://connect.ala.org/node/248086>.
- . "Library Privacy Guidelines for E-book Lending and Digital Content Vendors." American Library Association. 29 June 2015. <http://www.ala.org/advocacy/library-privacy-guidelines-e-book-lending-and-digital-content-vendors>.
- Anthony, Carolyn. "ALA's DCWG, Ebooks, and Directions." *Digital Futures*, supplement to *American Libraries* June 2015. https://americanlibrariesmagazine.org/wp-content/uploads/2015/05/0615_AL_EContentIDS.pdf.
- Australian Government Productivity Commission. "Copyright Restrictions on the Parallel Importation of Books." Productivity Commission. Accessed on 4 July 2016. <http://www.pc.gov.au/inquiries/completed/books>.
- . "Intellectual Property Arrangements: Productivity Commission Draft Report." Productivity Commission. April 2016. <http://www.pc.gov.au/inquiries/current/intellectual-property>.
- Australian Library and Information Association (ALIA). "50:50 by 2020." ALIA, November 2013. http://www.alia.org.au/sites/default/files/documents/about/ALIA-5050-by-2020_2.pdf.
- . "80:20 by 2020." ALIA, March 2015. <https://www.alia.org.au/sites/default/files/documents/ALIA-8020-by-2020.pdf>.
- . "ALIA Position Statement on eBooks and eLending, May 2013." Australian Library and Information Association, 2013. <https://www.alia.org.au/sites/default/files/ALIA%20ebooks%20and%20eLending%20position%20130522.pdf>.
- . "Ebooks and eLending Issues Paper." Australian Library and Information Association. 7 January 2013. <http://www.alia.org.au/sites/default/files/documents/advocacy/Ebooks%20and%20eLending%20Issues%20Paper%20FINAL.pdf>.
- Author Earnings. "February 2016 Author Earnings Report: Amazon's Ebook, Print, and Audio Sales." Author Earnings. Accessed on 27 May 2016. <http://authorearnings.com/report/February-2016-author-earnings-report/>.

- Baldwin, Roberto. "3M Cloud Library Lends Not Only e-Books But Also e-Reader Hardware." *Wired* 27 April 2012. <http://www.wired.com/2012/04/3m-cloud-library-lends-not-only-e-books-but-also-e-reader-hardware/>.
- Besen, Stanley M. and Sheila Nataraj Kirby. "EBooks and Libraries: An Economic Perspective." American Library Association. September 2012. <http://www.ala.org/transforminglibraries/sites/ala.org.transforminglibraries/files/content/final%20economic%20report%20sept2012.pdf>.
- Book Industry Collaborative Council (Australia). "Final Report 2013." Book Industry Collaborative Council. http://pandora.nla.gov.au/pan/144635/201403140742/www.senatorkimcarr.com/uploads/1/8/8/8/18881120/book_industry_collaborative_council_final_report_2013.pdf.
- BookNet Canada. *The State of Digital Publishing in Canada 2014*. Toronto: BookNet Canada, 2015. https://issuu.com/booknetcanada/docs/bnc_research_state_of_digital_publi.
- . *The State of Digital Publishing in Canada 2015*. Toronto: BookNet Canada, 2016. <http://www.booknetcanada.ca/state-of-digital-publishing>.
- Booksellers Association. "Manifesto For the 2014 European Elections." Booksellers Association. 5 February 2014. <http://www.booksellers.org.uk/BookSellers/media/SiteMediaLibrary/AboutTheBA/Manifesto-For-The-2014-European-Elections.pdf>.
- Börsenverein des Deutschen Buchhandels. "Das E-Book in Deutschland 2014." Börsenverein des Deutschen Buchhandels. Accessed on 3 July 2016. <http://www.boersenblatt.net/sixcms/media.php/1117/ig2014-4.png>.
- . "Das E-Book in Deutschland 2015." Börsenverein des Deutschen Buchhandels. Accessed on 3 July 2016. <http://www.boersenverein.de/sixcms/media.php/1117/ig2015-4.png>
- . "Der Buchmarkt in Deutschland: Zahlen & Fakten." Börsenverein des Deutschen Buchhandels. Accessed on 3 July 2016. <http://www.boersenverein.de/de/182716>.
- . "Verankert im Markt – Das E-Book in Deutschland 2013." Börsenverein des Deutschen Buchhandels. 3 June 2014. http://www.boersenverein.de/sixcms/media.php/976/Kurzversion_E-Book-Studie2014.pdf
- Bowker. "Library Journal Releases Patron Profiles Detailing Who Uses Libraries and Why the First Issue is Titled Library Patrons and Ebook Usage." Bowker. 17 November 2011. <http://www.bowker.com/news/2011/290243381.html>.
- Brandt, Richard L., *One Click: Jeff Bezos and the Rise of Amazon*. New York: Portfolio/Penguin, 2011.
- British Library. "PLR: Registration of Non-Print Material." PLR UK & Ireland. Accessed on 15 March 2016. <https://www.plr.uk.com/registrationservice/audioEbookFaq.htm>.
- Brown, Maggie. "The Fifty Shades Effect: Women Dominate Self-Publishing." *The Guardian* 9 November 2014. <http://www.theguardian.com/world/2014/nov/09/fifty-shades-of-grey-women-dominate-self-publishing>.
- Brown, Martyn. *Towards a New Government in British Columbia*, Kindle ed. Martyn Brown, 2012. https://www.amazon.ca/Towards-New-Government-British-Columbia-ebook/dp/B009033J10/ref=sr_1_1?s=digital-text&ie=UTF8&qid=1459003737&sr=1-1&keywords=martyn+brown.
- Bundesregierung. "Gemeinsame Erklärung zur Mehrwertsteuer auf E-Books." Pressemitteilung Nr 110/15. Bundesregierung. 19 March 2015. https://www.bundesregierung.de/Content/DE/_Anlagen/BKM/2015/2015-03-19-bkm-e-books.pdf?__blob=publicationfile&v=1
- . *Deutschlands Zukunft gestalten: Koalitionsvertrag zwischen CDU, CSU und SPD; 18. Legislaturperiode Bundesregierung*. 13 December 2013.

- https://www.bundesregierung.de/Content/DE/_Anlagen/2013/2013-12-17-koalitionsvertrag.pdf.
- , “Medienstaatsministerin Grütters: Kulturpolitische Forderungen für das Urheberrecht im digitalen Umfeld: Ungebändigter digitaler Internetkapitalismus mit sozialer Marktwirtschaft unvereinbar.” Die Bundesregierung, 10 March 2015. <https://www.bundesregierung.de/Content/DE/Pressemitteilungen/BPA/2015/03/2015-03-10-bkm-urheberrecht-digital.html>.
 - Canadian Library Association (CLA). “CLA Statement about the Adobe Transmission Issue.” Canadian Library Association, 10 October 2014. <http://pwp.vpl.ca/culc/2014/10/14/cla-statement-about-the-adobe-data-transmission-issue/>.
 - , “Key Library Priorities for e-Content.” Canadian Library Association, 3 February 2015. http://cla.ca/wpcontent/uploads/2_2014_11_24_Key_Library_Priorities_for_eContent_approved_apr2015.pdf.
 - Canadian Urban Libraries Council. “CULC/CBUC Work on eBooks and Public Libraries.” Canadian Urban Libraries Council. Accessed on 26 June 2016. <http://www.culc.ca/knowledge/ebooks/>.
 - , “Public Library eBook Lending Initiative: RFP Ends Without a Pilot.” Canadian Urban Libraries Council, 27 November 2013. http://www.culc.ca/cms_lib/eBook%20RFP%20ends%20without%20Pilot.pdf.
 - , “Vision Statement for Public Library Access to Downloadable and Portable E-content.” Canadian Urban Libraries Council, November 2010. http://www.culc.ca/cms_lib/Statement%20Access%20Downloads.pdf
- Capitol Records LLC v. ReDigi Inc., 934 F. Supp. 2d. 640, 30 March 2013. https://scholar.google.ca/scholar_case?case=11987243262728384575&q=Capitol+Records,+LLC+v.+Redigi+Inc.&hl=en&as_sdt=2006&as_vis=1.
- CBC Radio Canada. “41 livres à découvrir en attendant l’autobus à Montréal et Québec.” CBC Radio Canada, 9 October 2014. http://ici.radio-canada.ca/nouvelles/arts_et_spectacles/2014/10/09/004-livres-numeriques-transport-en-commun-de-montreal-et-quebec.shtml
- Celaya, Javier. “Claves del éxito del préstamo digital en bibliotecas públicas.” Dosdoce.com, 22 February 2015. <http://www.dosdoce.com/articulo/opinion/3949/claves-del-exito-del-prestamo-digital-en-bibliotecas-publicas/>
- Chung, Emily. “E-book Prices Marked Up Too High, Libraries Protest.” CBC News, 23 June 2015. <http://www.cbc.ca/news/technology/e-book-prices-marked-up-too-high-libraries-protest-1.3123465>.
- CIPFA Information Services. *CIPFA Public Library Statistics 2014-15*. London: Chartered Institute of Public Finance and Accountancy, 2015.
- Civic Agenda. “The Thinkpiece ‘Libraries, eLending, and the Future of Public Access to Digital Content’.” International Federation of Library Associations and Institutions. Accessed on 13 August 2016. <http://www.ifa.org/files/assets/hq/topics/e-lending/thinkpiece-on-libraries-elending.pdf>.
- Comiskey, Barrett, J. D. Albert, Hidekazu Yoshizawa and Joseph Jacobson. “An electrophoretic ink for all-printed reflective electronic displays.” *Nature* 394 (16 July 1998): 253–255. <http://www.nature.com/nature/journal/v394/n6690/abs/394253a0.html>.
- Copyright Act of 9 September 1965 (Federal Law Gazette Part I, p.1273, as last amended by Article 8 of the Act of 1 October 2013 (Federal Law Gazette Part I, p.3714) (Germany). Accessed on 3 July 2016. https://www.gesetze-im-internet.de/englisch_urhg/englisch_urhg.html.

- Copyright Law of the United States of America and Related Laws Contained in Title 17 of the United States Code*. Circular 92. Washington, DC: United States Copyright Office, 2011. <http://www.copyright.gov/title17/circ92.pdf>.
- DAISY Consortium. "Making publications accessible for all." DAISY.org. Accessed on 27 July 2016. <http://www.daisy.org/daisypedia/making-publications-accessible-all>.
- Department of Commerce Internet Policy Task Force. *White Paper on Remixes, First Sale, and Statutory Damages: Copyright Policy, Creativity, and Innovation in the Digital Economy*. [Washington, DC]: United States Patent and Trademark Office, 2016. <http://www.uspto.gov/sites/default/files/documents/copyrightwhitepaper.pdf>.
- Deutsche Bibliotheksstatistik. "German Library Statistics, Kerndaten, engl. Ab 1999." Deutsche Bibliotheksstatistik. Accessed on 27 July 2016. <https://wiki1.hbz-nrw.de/display/DBS/02.+German+Library+Statistics%2C+Kerndaten%2C+engl.+ab+1999>
- Deutscher Bibliotheksverband. "E-Medien in der Bibliothek – mein gutes Recht!," Deutscher Bibliotheksverband. Accessed on 3 July 2016. <http://www.bibliotheksverband.de/dbv/kampagnen/e-medien-in-der-bibliothek.html>
- . "Positionspapier des Deutschen Bibliotheksverbandes e.V.: Gleichstellung von gedruckten Büchern und E-Books." Deutscher Bibliotheksverband. 19 October 2012. http://www.bibliotheksverband.de/fileadmin/user_upload/DBV/positionen/dbv-Positionspapier_E-Books_Ausleihe_kurz_2014_02.pdf.
- Deutscher Bundestag. "Verleihbarkeit digitaler Medien entsprechend analoger Werke in Öffentlichen Bibliotheken sicherstellen, BT-Dr. 18/5405." Deutscher Bundestag. 1 July 2015. <http://dip21.bundestag.de/dip21/btd/18/054/1805405.pdf>.
- Digital Economy Act, 2010, c. 24 (UK). <http://www.legislation.gov.uk/ukpga/2010/24>.
- Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the Harmonisation of Certain Aspects of Copyright and Related Rights in the Information Society. <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32001L0029>.
- Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on Rental Right and Lending Right and on Certain Rights Related to Copyright in the Field of Intellectual Property. <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32006L0115&from=E>.
- "Michael Hart." *The Economist* 24 September 2011, 109. <http://www.economist.com/node/21530075>.
- ELIB. *About e-book Library Models Worldwide*. Stockholm: ELIB, 2016. <http://www2.elib.se/wp-content/uploads/2016/02/Libraries2015.pdf>.
- Enis, Matt. "Hachette to Sell Frontlist Ebook Titles to Libraries." *The Digital Shift* 1 May 2013. <http://www.thedigitalshift.com/2013/05/ebooks/hachette-to-sell-frontlist-ebook-titles-to-libraries/>.
- . "OverDrive's Big Library Read Boosts Checkouts, Sales," *The Digital Shift* 28 May 2013. <http://www.thedigitalshift.com/2013/05/ebooks/overdrives-big-library-read-boosts-checkouts-sales/>.
- Entertainment Software Association v. Society of Composers, Authors and Music Publishers of Canada, 2012 SCC 34, [2012] 2 S.C.R. 231, 12 July 2012. <http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/9994/index.do>.
- European Bureau of Library, Information and Documentation Associations (EBLIDA). "EBLIDA Calls on MEPs to Vote Yes to the JURI Report on InfoSoc." EBLIDA. 7 July 2015. <http://www.eblida.org/News/2015/infosoc-report-eblida-press%20release.pdf>
- . "EBLIDA Key Principles on the Acquisition of and Access to E-books by Libraries." EBLIDA.

- 22 October 2012, http://www.eblida.org/Special%20Events/Key-principles-acquisition-eBooks-November2012/GB_English%20Version%20Key%20Principles.pdf
- . "EBLIDA Response to the Public Consultation on the Review of the EU Copyright Rules." EBLIDA. 5 March 2014. http://www.eblida.org/News/2014/EBLIDA_response_to_Public_Consultation_on_EU_Copyright_rules.pdf.
 - . "Press Release Licences 4 Europe Plenary on 13 November." EBLIDA. 13 November 2013. <http://www.eblida.org/news/press-release-licences-4-europe-plenary-on-13-november.html>.
 - . "Re-defining Intellectual Property Rights – Exceptions, Limitations, 'Fair Use'." EBLIDA. 20 June 2012. <http://www.eblida.org/news/re-defining-intellectual-property-rights%E2%80%93exceptions,-limitations,-%E2%80%9Cfair-use%E2%80%9D.html>.
 - . "The Right to E-read Position Paper and Statement (archived)." European Bureau of Library, Information and Documentation Associations. May 2014. <http://www.eblida.org/e-read/the-right-to-e%E2%80%90read-position-paper-and-statement.html>.
- European Commission. "Digital Single Market." European Commission. Accessed on 27 June 2016. http://ec.europa.eu/priorities/digital-single-market/docs/dsm-communication_en.pdf.
- European Parliament. P8_TA(2015)0273. "Harmonisation of Certain Aspects of Copyright and Related Rights." European Parliament. 9 July 2015. <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0273+0+DOC+XML+V0//EN>.
- . A8-0209/2015. "Report on the Implementation of Directive 2001/29/EC of the European Parliament and the Council of 22 May 2001 on the Harmonisation of Certain Aspects of Copyright and related Rights in the Information Society (2014/2256(INI))." European Parliament. 24 June 2015. <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A8-2015-0209+0+DOC+XML+V0//EN>.
- European Parliament, Committee on Legal Affairs. "Draft Report on the Implementation of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the Harmonisation of Certain Aspects of Copyright and Related Rights in the Information Society (2014/2256(INI))." 15 January 2015. http://www.europarl.europa.eu/meetdocs/2014_2019/documents/juri/pr/1046/1046248/1046248en.pdf.
- "Fair E-Book Prices for Libraries are Long Overdue." Accessed on 14 August 2016. <http://fairpricingforlibraries.org>.
- Flood, Alison. "Authors Guild Denied Appeal to Stop Google Scanning Books." *The Guardian* 19 April 2016. <https://www.theguardian.com/books/2016/apr/19/authors-guild-google-scanning-denied>.
- . "Kobo's Top 10 Authors of 2015 Are All Women," *The Guardian* 7 December 2015, <http://www.theguardian.com/books/2015/dec/07/kobos-top-10-authors-of-2015-are-all-women>.
- Gardiner, Ellen and Richard G. Musto. "The Electronic Book." In *The Oxford Companion to the Book*. Vol. 1, essay 19. Oxford: Oxford University Press, 2010. <http://www.oxfordreference.com/view/10.1093/acref/9780198606536.001.0001/acref-9780198606536-e-0019>.
- Genco, Barbara. "Understanding the Behaviors and Preferences of U.S. Public Library Users." Presentation, Patron Profiles Conference, Library Journal, 2012. <http://slideplayer.com/slide/172579/>.
- Hadro, Josh. "HarperCollins Puts 26 Loan Cap on Ebook Circulations." *Library Journal* 25 February 2011. <http://lj.libraryjournal.com/2011/02/technology/ebooks/harpercollins-puts-26-loan-cap-on-ebook-circulations/>

- Hoffelder, Nate. "Adobe is Spying on Users, Collecting Data on Their eBook Libraries." *Digital Reader* 6 October 2014. <http://the-digital-reader.com/2014/10/06/adobe-spying-users-collecting-data-ebook-libraries/>.
- Hofferton, Barbara. "Materials Breakout/Materials Survey 2015." *Library Journal* 2 March 2015. <http://reviews.libraryjournal.com/2015/03/lj-in-print/materials-breakout-materials-survey-2015/>.
- Ingram, Matthew. "No, e-book Sales are Not Falling, Despite What Publishers Say." *Fortune*. 24 September 2015. <http://fortune.com/2015/09/24/ebook-sales/>
- . "Print Book Sales Are Up, But Don't Start Celebrating Just Yet." *Fortune*. 22 December 2016. <http://fortune.com/2015/12/22/print-book-sales/>
- International Federation of Library Associations and Institutions (IFLA). "Cape Town Declaration." IFLA. 14 August 2015. <http://www.ifla.org/node/9767>
- . "eLending for Libraries: IFLA, ebooks, and Access to Digital Content." IFLA. Accessed on 31 July 2016. <http://www.ifla.org/e-lending>.
- . "IFLA 2014 eLending Background Paper." IFLA. Accessed on 27 June 2016. <http://www.ifla.org/publications/node/8852?og=7351>.
- . "IFLA Code of Ethics for Librarians and Other Information Workers." IFLA. 12 August 2012. <http://www.ifla.org/news/ifla-code-of-ethics-for-librarians-and-other-information-workers-full-version>.
- . "IFLA Licensing Principles 2001." IFLA. Last updated 14 May 2014. <http://www.ifla.org/publications/ifla-licensing-principles-2001>.
- . "IFLA Principles for Library eLending." IFLA. Last updated 16 September 2014. <http://www.ifla.org/node/7418>.
- . "IFLA Publishes a Statement on Privacy in the Library Environment." IFLA. 20 August 2015. <http://www.ifla.org/node/9803>.
- . "Libraries as Publishers: Building a Global Community, IFLA 2016 Satellite Meeting, Ann Arbor, Michigan, August 10-12, 2016." IFLA. Accessed 27 July 2016. <https://iflallibpub.org/>.
- . "Principles on Public Access in Libraries." IFLA. Accessed on 10 June 2016. <http://www.ifla.org/publications/node/10328>.
- International Publishers Association. "Library e-Lending: We're at a Fork in the Road, but with a Dead End." International Publishers Association. 26 January 2015. <http://www.internationalpublishers.org/policy-issues/publishers-librarians/knowledge-bank-literacy-and-reading/277-library-e-lending-we-re-at-a-fork-in-the-road-but-with-one-dead-end>.
- Jenkins, Simon. "Books are back: Only the Technodazzled Thought they would Go Away." *The Guardian* 13 May 2016. <http://www.theguardian.com/commentisfree/2016/may/13/books-ebook-publishers-paper>.
- Jones, Philip. "Nourry warns on Google, EC copyright 'attack'." *The Bookseller* 11 April 2016. <http://www.thebookseller.com/news/nourry-warns-google-ec-copyright-attack-326118>
- Kelley, Michael. "Freeding, the Ebook Sibling of Freegal, Shows Signs of Rapid Growth." *The Digital Shift* 2 April 2012. <http://www.thedigitalshift.com/2012/04/ebooks/freeding-the-ebook-sibling-of-freegal-shows-signs-of-rapid-growth/>.
- Kelley, Michael. "With Axis 360 Baker and Taylor Establishes a Foothold in the Ebook Distribution Market." *The Digital Shift* 7 March 2012. <http://www.thedigitalshift.com/2012/03/ebooks/with-axis-360-baker-taylor-establishes-a-foothold-in-the-ebook-distribution-market/>.
- Kellogg, Carolyn. "Amazon and Hachette: The Dispute in 13 Easy Steps." *LA Times* 3 June 2014.

- <http://www.latimes.com/books/jacketcopy/la-et-jc-amazon-and-hachette-explained-20140602-story.html>.
- Kirkpatrick, David. "Forecasts of an E-Book Era Were, It Seems, Premature." *New York Times*. 28 August 2001. <http://www.nytimes.com/2001/08/28/business/forecasts-of-an-e-book-era-were-it-seems-premature.html>.
- Koerber, Jennifer. "The Public Library as Publisher." *Library Journal* 26 March 2014. <http://lj.libraryjournal.com/2014/03/publishing/the-public-library-as-publisher/>.
- Laberge, Clément. "Au sujet de PRENUMERIQUE.CA." *Jeux de Mots et d'Images: Le Blogue Personnel de Clément Laberge*. 3 December 2011. <http://remolino.qc.ca/2011/12/03/au-sujet-de-prenumerique-ca/>
- Library Copyright Alliance. "Google Books Litigation Family Tree." Library Copyright Alliance. 11 October 2012. <http://www.arl.org/storage/documents/publications/googlebookslitigation-familytree-10oct12.pdf>.
- Library Journal/School Library Journal. *Ebook Usage in U.S. Public Libraries, Fifth Annual Survey, 2014*. Library Journal, 2014. https://s3.amazonaws.com/WebVault/ebooks/LJSLJ_EbookUsage_PublicLibraries_2014.pdf.
- Library Journal/School Library Journal. *Survey of E-book Penetration and Use in U.S. Public Libraries*. Library Journal, 2010. http://c0003264.cdn2.cloudfiles.rackspacecloud.com/Public%20Library%20Ebook%20Report_2.pdf.
- "Licence Paralysis – Protect Copyright." IFLA; LIBER; EIFL; EBLIDA. 18 June 2015. http://www.ifla.org/files/assets/clm/position_papers/sccr-licence_paralysis.pdf.
- "Lire vous transporte à l'aéroport Trudeau." *Le Devoir* 3 April 2015. <http://www.ledevoir.com/culture/livres/436346/lire-vous-transporte-a-l-aeroport-trudeau>.
- Losinski, Pat. "Ebook Strategy and Public Libraries: Slow Just Won't Work Anymore." *Library Journal*. 9 July 2012. <http://www.thedigitalshift.com/2012/07/ebooks/ebook-strategy-and-public-libraries-slow-just-wont-work-anymore/>.
- Maepa, Maisela Eddy. "The State of the e-Book Market in Africa: Challenges and Prospects." Presentation, CILIP London, 21 February 2013. <http://www.cilip.org.uk/sites/default/files/6.%20D%20Maisela%20Eddy%20Maepa.pdf>.
- Mason, Gary. "Former Liberal Insider Critiques Christy Clark in New Book." *Globe and Mail* 24 August 2012. <http://www.theglobeandmail.com/news/british-columbia/former-liberal-insider-critiques-christy-clark-in-new-book/article4498917/>.
- Milliot, Jim. "Industry Sales Fell 2.6% in 2015." *Publishers Weekly* 26 April 2016. <http://www.publishersweekly.com/pw/by-topic/industry-news/financial-reporting/article/70079-industry-sales-fell-2-6-in-2015.html>.
- Ministère de la Culture et de la Communication (France). "L'offre de prêt de livres numériques en bibliothèque a accéléré son développement en 2015." Le site du Ministère de la Culture et de la Communication. 16 March 2016. <http://www.culturecommunication.gouv.fr/Presse/Communiqués-de-presse/L-offre-de-prêt-de-livres-numériques-en-bibliothèque>.
- Ministerio de Educación, Cultura y Deporte (Spain). "Panorámica de la Edición Española de Libros 2014." Gobierno de España, Ministerio de Educación, Cultura y Deporte. Accessed on 31 July 2016. <http://www.mecd.gob.es/cultura-mecd/areas-cultura/libro/mc/pee/contenedora/presentacion.html>.
- Ministerio de Educación, Cultura y Deporte (Spain). *Plan estratégico general 2012–2015. Secretaría de Estado de Cultura*. Madrid: Ministerio de Educación, Cultura y Deporte, 2012. <http://www.lamoncloa.gob.es/espana/eh15/culturaydeporte/Documents/PlanEstrategicoGeneral2012-2015.pdf>.

- Mount, Dan. *A Review of Public Library E-Lending Models*. Taal:unie; Bibnet;de Bibliotheek: December 2014. <http://www.lmba.lt/sites/default/files/Rapporten-Public-Library-e-Lending-Models.pdf>
- . *E-Lending Landscape Report 2014*. Canberra: Australian Library and Information Association, 2014. <https://www.alia.org.au/sites/default/files/publishing/ALIA-E-Lending-Landscape-Report-2014.pdf>
- National and State Libraries Australasia. *Australian Public Libraries Statistical Report 2013-2014*. [Melbourne]: National and State Libraries Australasia, 2015. http://www.nsla.org.au/sites/www.nsla.org.au/files/publications/NSLA.Aust-Pub-Lib-Stats-2013-14_0.pdf
- Nielsen, Paul. "Right We've Got Them, What the Hell Do We Do Now?" Presentation, LIANZA Conference, Palmerston North, New Zealand, 23-26 September 2012. <http://www.lianza.org.nz/sites/default/files/Paul%20Nielsen%20-%20Ebooks%20-%20Right%20weve%20got%20them%20what%20the%20hell%20do%20we%20do%20now.pdf>
- OCLC. *The Big Shift: Public Library Strategies for Access to Information in Any Format*. OCLC, [2012]. http://www.oclc.org/content/dam/campaign-landing-pages/en/214936_the-big-shift.pdf
- Oberlandesgericht Hamburg, Beschluss v. 24.03.2015, Az. 10 U 5/11. <https://www.telemedicus.info/urteile/Rundfunkrecht/Urheberrecht/1551-OLG-Hamburg-Az-10-U-511-Weiterveraeusserungsverbot-in-AGB-fuer-digitale-Gueter-ist-wirksam.html>
- Onleihe. "Für Verlage." Onleihe. Accessed on 17 July 2016. <http://www.onleihe.net/fuer-verlage.html>
- OverDrive. "OverDrive and Amazon Launch Kindle Compatibility With Library eBooks." OverDrive. 21 September 2011. <http://company.overdrive.com/news/overdrive-and-amazon-launch-kindle-compatibility-with-library-ebooks/>
- . "OverDrive to Announce Solutions for Libraries to Meet Explosive Demand for eBooks." OverDrive. 15 June 2011. <http://company.overdrive.com/news/overdrive-to-announce-solutions-for-libraries-to-meet-explosive-demand-for-ebooks/>
- . "The OverDrive app is compatible with native screen readers for Android, iOS, and Windows 8." OverDrive. Accessed on 31 July 2016. <http://help.overdrive.com/customer/en/portal/articles/1481241-the-overdrive-app-is-compatible-with-native-screen-readers-for-android-ios-and-windows-8>
- Oxford English Dictionary Online*, s.v. "e-book". Accessed on 17 July 2016. <http://www.oed.com/view/Entry/254154>
- OysterBooks. "Dispatches from Oyster HQ." Oysterbooks.com. Accessed on 30 July 2016. <http://blog.oysterbooks.com/>
- Pearson, Jennifer. "The Big Shift: E-book availability in public libraries." *OCLC Next Space* 16 December 2013. <https://www.oclc.org/publications/nextspace/articles/issue22/thebigshift.en.html>
- Phillips, Angus. *Turning the Page: The Evolution of the Book*. New York: Routledge, 2014.
- Project Gutenberg. "Project Gutenberg Mission Statement." Project Gutenberg. 25 December 2007. http://www.gutenberg.org/wiki/Gutenberg:Project_Gutenberg_Mission_Statement_by_Michael_Hart
- Publishers Association. "Pilot Study on Remote E-Lending." Publishers Association. 5 June 2015. <http://www.publishers.org.uk/policy-and-news/news-releases/2015/pilot-study-on-remote-e-lending/>
- Purcell, Kristen. "E-reader Ownership Doubles in Six Months." Pew Research Center. 27 June 2011. <http://www.pewinternet.org/2011/06/27/e-reader-ownership-doubles-in-six-months/>

- PwC. "Impact of e-books on South African market remains limited for next five years, according to PwC study." PwC.co.za. Accessed on 10 June 2016. <http://www.pwc.co.za/en/press-room/book-media.html>.
- ReadersFirst. "ReadersFirst Group convenes exploratory meeting with e-Content vendors." ReadersFirst. 14 February 2013. <http://www.readersfirst.org/news/2015/2/12/readersfirst-group-convenes-exploratory-meeting-with-e-content-vendors-vendors-libraries-agree-on-next-steps-to-facilitate-better-e-book-experiences-for-library-users>.
- . *ReadersFirst Guide to Library eBook Vendors: Giving Librarians the Knowledge to be more Effective e-Book Providers*. ReadersFirst, 2014. <http://static1.squarespace.com/static/53765f6fe4b060b2a3d3586b/t/54c6a4f2e4b08921548f21d9/1422304498084/ReadersFirst-Guide-Library-E-Book-Vendors.pdf>
- Readium. "Readium LCP (Licensed Content Protection)." Readium. Accessed on 3 July 2016. <http://readium.org/projects/readium-lcp>.
- "RosettaBooks to Publish 'Time Limit' E-book." *Publishers Weekly* 248, no. 3 (2001): 157.
- Rubenstein, William M. "Report to the General Assembly's General Law Committee pursuant to Special Act 13-10, 'An Act Concerning a Study Regarding the Availability of Electronic Books to Users of Public Libraries'." Connecticut Department of Consumer Protection. 30 January 2014. <http://www.scribd.com/doc/207144112/Connecticut-Report-to-the-General-Assembly-s-General-Law-Committee-pursuant-to-Special-Act-13-10-An-Act-Concerning-a-Study-Regarding-the-Availabi>.
- Shatzkin, Mike. "The Shatzkin Files; Now Kings of ebook Subscription, What Will Impede the ebook Share Growth for Amazon?" *Idealog.com*. 17 February 2016. <http://www.idealogue.com/blog/now-kings-ebook-subscription-will-impede-ebook-share-growth-amazon/>.
- Sieghart, William. "An Independent Review of e-Lending in Public Libraries in England." Department for Culture Media and Sport (UK). March 2013. <https://www.gov.uk/government/publications/an-independent-review-of-e-lending-in-public-libraries-in-england>.
- Sim, Grace, Ai Cheng Tay, Ida Priyanto and John Hickok. "Usage and Challenges of E-Books & E-Readers in Southeast Asia: A Current Snapshot of the Issue." Presentation, American Library Association, 28 June 2014. <http://ala14.ala.org/files/ala14/ALA2014-SEA-Ebooks-paper.pdf>.
- Smith, Aaron. "Americans and Their Gadgets." Pew Research Center. 14 October 2010. <http://www.pewinternet.org/2010/10/14/americans-and-their-gadgets/>.
- Smith, Russell. "Read between the Lines of the e-Book Debate." *The Globe and Mail* 23 May 2016. <http://www.theglobeandmail.com/arts/books-and-media/russell-smith-read-between-the-lines-of-the-e-book-debate/article30110302/>.
- Statistics Canada. "Canada's population estimates: Age and Sex, 2014." Statistics Canada. Last updated 26 September 2014, <http://www.statcan.gc.ca/daily-quotidien/140926/dq140926b-eng.htm>.
- Stone, Brad. *The Everything Store; Jeff Bezos and the Age of Amazon*. New York: Little Brown and Company, 2013.
- Swedish Library Association. *Say Hello to your New Librarian*. Stockholm: Swedish Library Association [2012].
- TeleRead Contributor. "OverDrive Announces Second Book of Big Library Read Program After Successful First Promotion." TeleRead. 23 August 2013, <http://www.teleread.com/overdrive-announces-second-book-of-big-library-read-program-after-successful-first-promotion/>.

- Urban Libraries Council. "E-Books." Urban Libraries Council. Accessed on 10 July 2016. <http://www.urbanlibraries.org/e-books-pages-140.php>.
- . "Ereader Lending Program: Sacramento Public Library." Urban Libraries Council. Accessed on 13 March 2016. http://www.urbanlibraries.org/ereader-lending-program-innovation-127.php?page_id=47.
- U.S. v. Apple, Inc., et al., 12 Civ. 2826 (DLC). United States Department of Justice. July 2013. <https://www.justice.gov/atr/case-document/opinion-order>.
- UsedSoft GmbH v. Oracle International Corp., Case 128/11, 3 July 2012. <http://curia.europa.eu/juris/liste.jsf?num=C-128/11>.
- Vereniging Openbare Bibliotheken v. Stichting Leenrecht, C174-15, Opinion of Advocate-General Szpunar delivered on 16 June 2016. <http://curia.europa.eu/juris/liste.jsf?num=C-174/15>.
- Vinjamuri, David. "Why Public Libraries Matter: And How They Can Do More." *Forbes* 16 January 2013. <http://www.forbes.com/sites/davidvinjamuri/2013/01/16/why-public-libraries-matter-and-how-they-can-do-more/#16d830d57704>.
- Whitney, Paul. "EBooks and Public Lending Right in Canada." PLR Commission. June 2011. <http://www.plr.ca/PLR/documents/FinalreportinEnglish.pdf>.
- Wikipedia*, s.v. "e-reader." Accessed on 3 March 2016. <https://en.wikipedia.org/wiki/E-reader>.
- Wikipedia*, s.v. "Riding the Bullet." Accessed on 8 February 2016. https://en.wikipedia.org/wiki/Riding_the_Bullet.
- World Blind Union. "WBU Priorities and Goals." World Blind Union. Accessed on 24 July 2016. <http://www.worldblindunion.org/English/our-work/our-priorities/Pages/default.aspx>
- Worldreader. "What we do." Worldreader, Accessed on 15 August 2016. <http://www.worldreader.org/what-we-do/>.
- Writers' Union of Canada. "Writer's Bill of Rights for the Digital Age 2.0." Writers' Union of Canada. Accessed on 27 June 2016. <http://www.writersunion.ca/writers-bill-rights-digital-age-20>.
- Zickuhr, Kathryn, Lee Rainie, Kristen Purcell, Mary Madden and Joanna Brenner. "Libraries, Patrons, and eBooks." Pew Research Center. 22 June 2012. <http://libraries.pewinternet.org/2012/06/22/part-6-a-closer-look-at-e-book-borrowing/>.

