

QUESTIONNAIRE / Reply by Finland, June 15, 2010

A. COPYRIGHT REGISTRATION AND RECORDATION

1. What is the name and legal status of the copyright registering/recording body in your country?

There is no requirement for registration of copyright in Finland.

2. Please provide full contact details of the copyright registering/recording body, including location of its offices, with indication of the hours they open to public.
3. Does the copyright registering/recording body have a webpage and e-mail address? If so, please list them.
4. Is the copyright registry interconnected to any other copyright data system?
5. Please list relevant national legislation, including regulations, regarding copyright recordation/registration.
6. What kind of copyright works can be registered/recorded? Is the registration/recordation process different for each type of copyrighted work? Please describe the differences, if any.
7. Can the subject matter of related rights (e.g., performances, broadcasts, sound recordings) also be registered/recorded? If yes, is there a different registration/recordation process than for works protected by copyright?

No.

8. Is there a possibility to record the transfer or licensing of copyright/related rights?

There is no system for recording transfers of rights or licenses available in Finland. Any possible arrangements between the licensor and licensee, e.g. the use of notary public services, would be binding only between the parties, not in relation to the third party.

9. Is there a possibility to record a security interest in the copyright or related right? If so, what are the legal requirements and effects of such recordation?

What is just said above with regard to question 8, applies also to these cases.

10. What is the legal effect of registration?
11. Is copyright registration/recordation mandatory or voluntary in the following circumstances?
  - (a) Recognition of creation?

- (b) Transfer of rights?
- (c) Initiation of judicial proceedings?
- (d) Other changes in title/ownership (such as leasing)?

If your country has a mandatory registration/recordation system, please describe any legal consequences for non-compliance.

12. Do courts in your country recognize copyright registrations affected by public authorities in other countries? If yes, is recognition automatic or is a local procedure required to validate or otherwise give effect to the foreign registration?

The registrations made in other countries have no immediate relevance in Finland. There is no automatic recognition or any other specific process in place for these cases.

13. What are the requirements for registration?
- (a) What are the mandatory elements of the request for registration/recordation?
  - (b) Does the request need to be submitted in a specific form? Can the request be submitted by the post? Can the request be submitted electronically?
  - (c) Is there a deposit requirement, that is, must a copy of the work be submitted with the registration request? If so, can it be submitted in digital form?
  - (d) Is there a registration/recordation fee? If so, how much is the registration/recordation fee?
  - (e) What is the average time taken to complete the registration/recordation process?
14. Are foreigners allowed to register/record their creations? Are people without legal residence in your country allowed to register/record their creations? Is there a different registration/recordation process for domestic as opposed to foreign works or objects of related rights?
15. Are the files stored in digital form?
16. What criteria are followed for classification of the registrations/recordations (including chronology/name of right owner/name of work or related right/type of work or subject matter of related rights, etc)? Is it possible to correct or update relevant information?
17. Does the system have a search facility?
18. Is it accessible by the public? Is the search facility available online?
19. Is access granted to the work registered or its copies?
20. Does the general public have access to other documents submitted or to any information regarding the work registered/recorded?
21. Does your country have legislation dealing specifically with “orphan works”, i.e. works in respect of which the right owner can not be identified and/or located (e.g., a compulsory license or a limitation on liability)? Please briefly describe the main elements of that legislation.

The use of works based on provisions on extended collective licence extends to works of all rightholders in a certain category, covering also non-represented and unknown rightholders. The Ministry of Education and Culture approves the collective management organisations which are entitled to agree on the use of works on the basis of the provisions on collective licence.

22. Independently of whether your country has legislation on the subject, are there industry practices in your country aimed at identifying and/or locating the copyright owner of “orphan works”?

This requirement is inherent for those organizations which have been approved to perform certain tasks according to the Copyright Act.

Furthermore, all collective management organizations are, as part of their everyday activities, trying to locate unknown or unattainable rightholders in the field they represent.

23. Does the registering/recording body play a relevant role in the legislation or practice dealing with “orphan works”?
24. Is there a system to identify and list recorded/registered works or objects of related rights in the public domain? Is that system automated? Is that information made available to the public?

No, there is no such system.

25. If your country has a public registration/recording system, do private institutions or initiatives exist that provide additional mechanisms to access registered/recorded information from the public system?
26. Please provide statistics on following registrations/recordations:
- (a) Number per statistical period (last five years)
  - (b) Number per nationality (last five years)
  - (c) Number of inquiries/requests for information filed per statistical period (last five years).
  - (d) Number of recordation/registrations whose subject matter has entered the public domain. Global figure/Figure per statistical period (last five years)

## B. LEGAL DEPOSIT

27. Does your country have a legal deposit system/s in place?

Yes, it has.

28. Please list relevant national legislation regulating the legal deposit.

Act on the legal deposit and preservation of cultural materials (1433/2007)

29. Is the legal deposit mandatory or voluntary in your Country? If mandatory, what are the legal consequences in case of non compliance?

The legal deposit is mandatory.

According to section 23(3) of the Act on the legal deposit and preservation of cultural materials, a State Provincial Office may, upon application by the National Library or the National Audiovisual Archive, obligate the legal depositor to fulfill its obligation or rectify its violation under penalty of a fine.

According to section 29 anyone who deliberately or out of gross negligence fails to fulfill his obligation to deposit material shall be liable to a fine for breach of legal deposit of cultural materials. The punishment may be waived if the conditional fine imposed under Section 27(3) is ordered to be paid.

30. What are the functions performed by your National legal deposit system (e.g. preservation of cultural heritage; collection of statistical information, etc)?

According to section 1, the purpose of the Act is to preserve materials of national culture communicated to the public in Finland for future generations and to make them accessible to researchers and others who need them.

31. Is there any connection or interaction among legal deposit and copyright protection?

Provisions on the use of deposited material which is copyright-protected are laid down in the Copyright Act:

- Section 16b (Use of works in libraries preserving cultural material)
- Section 16c (Use of works in the National Audiovisual Archive)
- Section 16d (Use of works by virtue of extended collective license)

32. Does your national legislation have any provision in regard to making copies or adapting formats of deposited works for preservation purposes? If so, please clarify under which terms and conditions.

According to section 16b of the Copyright Act, a library entitled to a legal deposit of a copy of a work under the Act on Deposit and Preservation of Cultural Material may use

the copy it has in its collections in the manner referred to in sections 16 and 16a and subject to the terms laid down in these sections.

According to section 16, the deposit library may make copies of a work in its own collections:

1. for the purpose of preserving material and safeguarding its preservation;
2. for the purpose of technically restoring and repairing material;
3. for the purpose of administering and organizing collections and for other internal purposes required by the maintenance of the collection;
4. for the purpose of supplementing a deficient item or completing a work published in several parts if the necessary complement is not available through commercial distribution or communication.

33. What is the object of legal deposit? Please list all types or categories of material subject to legal deposit (e.g. Print Material, such as books, serials, government publication; Non-Print Material, such as music and audiovisual works, broadcast material).

Print material: books, ephemera<sup>1</sup>, newspapers etc.

Non-print material: music, films and other material on CDs and DVDs, broadcast materials, online materials, electronic books, original film materials

34. Does legal deposit apply upon production/printing of content or after its distribution? Does legal deposit apply to material printed in your country but distributed abroad?

Legal deposit applies upon production/printing. Legal deposit applies generally to all material printed in Finland.

Furthermore, legal deposit applies to materials and electronic documents in tangible format produced abroad which are intended for distribution to the public in Finland or which have been specially adapted for distribution to the public in Finland.

35. Is there any type or category of material exempted from legal deposit for policy reasons?

The following materials are exempted from legal deposit:

- (1) ephemera or electronic documents in tangible format, whose informational, pictorial or audio content is particularly insignificant;
- (2) unaltered new editions of printed material or electronic documents
- (3) printed materials or electronic documents in tangible format published only abroad;
- (4) products in Braille; and
- (5) original prints of graphical art.

What is said above shall correspondingly apply to printed material or electronic documents in tangible format produced abroad.

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<sup>1</sup> *Ephemera* means an advertisement, a brochure or a pricelist or other corresponding printed material.

36. Is there any specific regulation in regard to material published in electronic format? If so, does the regulation distinguish between on-line and off-line material? Please clarify relevant differences.

Legal deposit applies also to electronic documents in a tangible format (CDs, DVDs): electronic documents containing film in two copies, other electronic documents in one copy.

As to the online material, it shall be the duty of the National Library to retrieve and store, by using an automatic retrieval system, material available to the public in information networks.

An online publisher shall enable online material to be retrieved and stored or deposit the material to the National Library if the software used does not permit the retrieval and storage. If the online publisher cannot enable the retrieval or storage of online materials, it shall deposit the material.

37. How many copies does the depositor have to deposit? Are there special conditions for limited or *de luxe* editions?

- Printed material other than ephemera and newspapers in six copies.
- Ephemera in two copies.
- Newspapers in one copy.
- Electronic documents containing film in two copies.
- Other electronic documents in one copy.

If the printed materials or electronic documents are published as one entity because they are intended to be used together, an additional copy shall be deposited of such an entity.

38. Who is/are the subject/subjects responsible for delivering the legal deposit?

Print materials and electronic documents in tangible format: manufacturer.

Electronic documents in tangible format containing film: distributor.

Printed materials or electronic documents published as one entity because they are intended to be used together: publisher.

Printed materials and electronic documents produced abroad: importer.

Online materials the retrieval or storage of which the online publisher cannot enable: online publisher.

39. What are the time requirements for legal deposit?

The printed materials or electronic documents in tangible format produced during each quarter shall be deposited within 30 days of the end of the quarter.

Printed materials and electronic documents produced abroad shall be deposited within 30 days of their importation into Finland.

The online publisher shall enable the material to be retrieved and stored within 60 days of the date on which the National Library has notified the publisher of the obligation referred to in this Section and requested the material to be supplied. If the request concerns online material, which has not yet been made available to the public, the 60 day period shall be counted from the date on which the material is made available to the public. The Library must retrieve and store the material within 14 days of the day on which the online publisher has enabled the material to be retrieved and stored, unless otherwise agreed by the Library and the online publisher.

The owner of the original material of a film made by a Finnish producer, except for films made solely for television, shall deposit the original material or material technically corresponding to it, within five years of the completion of the film, with the National Audiovisual Archive or in another storage facility which is approved by the Archive for the purpose.

40. Is there a payment or compensation involved in legal deposit? If so, Please indicate its amount.

No. According to section 18 of the legal deposit act, the costs incurring from depositing the material, and from enabling retrieval of the material and from the conversion thereof into a format suitable for deposit shall be borne by the party obligated under this Act to take the measures referred to above.

41. What is/are the entity/entities responsible for acting as legal depository?

For print material, the National Library and five university libraries.  
For online material, the national Library.  
For audiovisual material and films, the National Audiovisual Archive.

42. Does the general public have access to legally deposited materials? If so, please explain under which terms and conditions.

Materials concerning which the supply of information is restricted under law or otherwise, cannot be accessed by the general public. All other materials can, in principle, be accessed by the general public within the premises of the deposit libraries.

Materials in digital form:

A deposit library may communicate a work made public that it has in its collections to a member of the public for purposes of research or private study on a device reserved for communication to the public, if the digital reproduction of the work other than reproduction required for use referred to in this paragraph is prevented and if the further communication of the work is prevented, on the premises of a library in whose collections the material is deposited under the Act, and in the Library of Parliament and in the National Audiovisual Archive.

Correspondingly, the National Audiovisual Archive may communicate a work in its collections to a member of the public for purposes of research or private study by means

of a device reserved for communication to the public on devices located on the premises of a library referred to in section 16b, in the Library of Parliament, and in the Department of Journalism and Mass Communication of the University of Tampere, if the digital reproduction of the work other than reproduction required for the use is prevented and if the further communication of the work is prevented.

43. Do/does the depository/depositories provide publicly available search facilities? If so, are they accessible on-line?

Yes, search facilities are accessible on-line.

44. Is legal deposit linked to any number or code? Is there any relation with the International Standard Books Number (ISBN) with the International Standard Serial Number (ISSN) and other such codes?

The use of the codes is not a requirement for legal deposit.

45. Please provide statistics on the number of deposits per year for the following items (last five years); a) print material; b) musical works; (c) audiovisual works.

#### **The National Library**

Year	Print material total*	Ephemera	Sheet music	AV**	Total
2009	157404	63488	300	3405	160809
2008	158360	62975	285	3565	161925
2007	176406	67866	533	3182	179588
2006	175195	68082	380	3520	178715
2005	167251	60475	288	3150	170401
Total	834616	322886	1786	16822	851438

\* Print material total includes ephemera and sheet music

\*\* AV includes music and speech recorded on CDs and cassettes

#### **The National Audiovisual Archive**

Year	DVDs*	Original film materials**	Others***	Total
2009	2491	307	4	2802
2008	3472	289	9	3770
2007	1836	890	95	2821
2006	4080	424	19	4523
2005	2881	322	35	3238
Total	14760	2232	162	17154

\* Includes an average of two copies of each deposited DVD

\*\* Includes both original film materials and screening copies

\*\*\* Includes video originals