



Country Report for the Netherlands

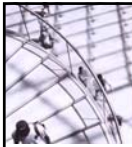
International Study on the Impact of Copyright Law on Digital Preservation



Dutch Copyright Act

- 2 characteristics;
 - no legal deposit;
 - deposit done on voluntary basis based on agreements;
 - reproduction for preservation permitted;
 - restoration of specimen of work;
 - specimen of work is threatening to fall into disrepair;
 - keep work in condition to consult if no technology available to render accessibility;

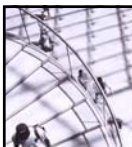
1 Geneva 15 July 2008



Exception for preservation

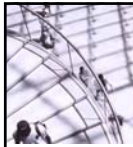
- Introduced during implementation InfoSoc Directive in 2004;
- Justified by fact that archiving and preservation is core task libraries, museums & archives;
- Legal certainty needed regarding preservation cultural heritage;

- Addresses literary, artistic and scientific works;
- No distinction analogue/digital material or published/unpublished works;
- Access to preserved work on site.



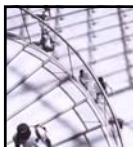
Impact Copyright Act

- Only preservation works in poor condition: otherwise permission rights owner needed;
- Exception does not encompass making available: preserved works only accessible on premisses.



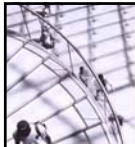
Effects

- Might deter cultural & educational institutions to digitise large amounts of works;
 - finding right owner/getting permission on title-by-title basis problematic;
 - large part of collections probably orphan works;
- Much material locked up because of long term protection;
- Most items protected by copyright where protection would not be needed:
 - no longer economically relevant:
 - works out of print;
 - orphan works.



How to go forward

- Letter of intent FOBID and VOICE
 - single helpdesk for library digitisation projects;
- Ability libraries to digitise collection on condition of concluding agreement for each project with relevant copyright holder's organisations;
- Agreement should balance each others interest but must prevent unnecessary expensive workflows;
 - right owners can prohibit digitisation certain works if they are still commercially relevant.

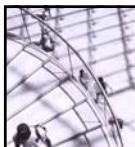


Agreement

- Starting points:
 - Building blocks FOBID legal committee;
 - Policy plan VOICE with regard to digital opening up of cultural heritage;
- Agreements on:
 - works eligible to digitisation;
 - procedure to make digitally available for education, research or private use;
 - possible fee;
- Establishment Committee assessing requests institutions & promoting concluding agreements.

6

Geneva 15 July 2008



Recommendations

- Soft law approach good solution but should be backed by legislation;
- Preservation of analogue/digital material which forms part of collection institution should always be permitted;
 - restrictions preservation exception should be eliminated;
- Cultural institutions should be allowed to make available digital material which forms part of their collection on secure network of institution which digitised material;
- Provision concerning orphan works should be inserted.

7

Geneva 15 July 2008

Wilma Mossink
mossink@surf.nl
www.surffoundation.nl