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

- 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- No distinction analogue/digital material or published/unpublished works;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.

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.
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