



# Newsletter of the IFLA Document Delivery and Resource Sharing Section

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*This Newsletter is also available on IFLA Net [www.ifla.org](http://www.ifla.org)*

## A Note from the Chair

Dear Section members,

The 71<sup>st</sup> World Library and Information Congress in Oslo is now behind us and just a few weeks from now hopefully many of you will be travelling to Tallinn to participate in the 9<sup>th</sup> IFLA Interlending and Document Supply International Conference.

During the WLIC in Oslo the Section had a very successful programme on *Perspectives on supply of electronic documents*. The first of the three papers that were presented there you will find in this issue of our newsletter while the remaining two will be published in the following issue. In his paper on SUBITO and German developments in copyright law Dr. Uwe Rosemann puts focus on what is happening not only in Germany but in many other countries as well if publishers and associates succeed in having their own way. The German court will have to decide if – as claimed by the publishers – interlibrary loan activities not only happening between German and foreign libraries but between libraries within Germany as well are illegal.

We are here seeing the right to free access to information for all and the possibility for libraries to share resources in support of education, research and cultural exchange being attacked and it is important that libraries and library associations together with IFLA stand united in support of our end users' ability to access information held not only in their local library.

The Standing Committee has welcomed six new members and you will find a list of all SC members on the last pages of this issue. I would like to use the opportunity to thank the outgoing members for their commitment and time spent on committee work. The new SC will face a busy schedule for the coming year. As mentioned the 9<sup>th</sup> ILDS Conference is just around the corner and the planning for the 2007 conference has already begun. The Committee will meet for its Midwinter Business Meeting by the end of February in Rome and among many other things finish the planning of our programme for Seoul. Together with the Acquisition and Collection Development Section and the Reference and Information Services Section we are planning a satellite event to be hosted by the National Library of Korea. The conference called *Interlibrary Loan, Reference and Collection Development in a Digital Age – a Practical Approach* will hopefully attract many participants from the region.

Also the SC is working on developing a set of IFLA guidelines for best practice in ILL and we expect to be able to publish the guidelines in the next issue of the newsletter.

Poul Erlandsen  
Chair

## Minutes of the Mid-Winter SC Meeting in Prague

**Present:** Assunta Arte, Johnny Carlsson, Teresa Chapa, Poul Erlandsen (Chair), Teresa Rodriguez Gonzalez, Betty Lowery, Debra McKern, Jindriska Pospisilova, Torill Redse, Penelope Street (Secretary)

**Apologies:** Kim Baker, Kanigar Chollampe, Daniel Mattes Durrett, Hans Martin Fagerli, Elmelinda Lara, Lars Leon, Uwe Rosemann, Carol Smale

### 1. Introductions

Poul welcomed everyone to the Section's second mid-winter business meeting. A welcome introduction was also given by Mrs. Bohdana Stoklasova, Deputy for Library Management.

### 2. Approval of agenda

4 items were added to the agenda as numbers 4-7.

### 3. Approval of minutes of SC meetings in BA

The minutes were approved.

### 4. Report of Co-ordinating Board meeting

- a. Peter Lor has been appointed as the new Secretary General of IFLA. He will assume the position on the 15<sup>th</sup> February.
- b. The first round of Section evaluations has been completed and the March meeting of the Professional Board will consider the pilot reviews. All other Sections are to be reviewed in the coming year. There was discussion of IFLA's role: what direction is it heading in and should it have a lobbying role that was essentially professional or political.

- c. All requests for finances in Division 5 have been approved. Our Section has not asked for additional finance and will receive the usual 7-800 euros for administration purposes. From 2006 IFLA will charge Sections a fee of 200 euros if they wish to hold pre/post conference satellite meetings.
- d. The Reference Section has changed its name to Reference and Information Services Section.
- e. The paperwork for our conference programme needs to be returned to IFLA HQ by 1<sup>st</sup> March in time for the meeting of the Professional Board on the 14<sup>th</sup>.
- f. Membership revenue is down by 83,000 euros. IFLA is actively trying to attract new members.
- g. Alex Byrne (Australia) will be the next IFLA President. The new President-elect will be presented at the Oslo conference.

### 5. Financial report

Lars was unable to attend the meeting but had sent a report, which was circulated.

- Previous balance was \$821.51.
- \$770.01 had been paid to Poul's library for Section newsletter postage reimbursement. Bank had charges a wire fee of \$50.
- We will receive 815 euros from IFLA.

*Action: If this is not in the account by 28<sup>th</sup> Feb, LL will contact them.*

- \$1000 loaned to National Library of Estonia in August for ILDS conference, loan will be repaid after the conference.
- IFLA is considering changing to one bank system in The Hague to avoid transfer fees to individual Section's banks.

*Action: contact IFLA re their plans before considering a change to a European bank.*

- We may need to think about another Treasurer although Lars intimated he was willing to continue.

*Action: PE/PS to take to next Co-ordinating board meeting the fact that the nomination process is too complex for individual members and that members should be personally contacted by IFLA, at the appropriate time, to see if they are willing to seek re-election.*

#### **6. Election of SC members**

5 members of the committee will finish their term at the Oslo conference.

#### **7. Election of SC officers**

SC will need to elect Chair, Secretary, Information Co-ordinator and possibly a treasurer in Oslo.

#### **8. Programme for Oslo**

The Professional Board has approved our programme and we have a 2-hour time slot. Programme title revised to *Perspectives on the supply of electronic documents* to better reflect the content. Speakers are: Andrew Braid (BL), Lucy Molgat (Canada), Uwe Rosemann. It was decided not to include Karen Hunter (Elsevier) as she could only commit to certain days and the programme dates have yet to be decided.

#### **9. Satellite meeting - Seoul**

PE contacted Chinese member of Reference and Information Services Section but has received no response. PE also contacted Reference/Collection Development Sections re a joint programme: Reference is very positive and will discuss this at their mid-winter meeting in March,

Collection Development are eager to participate in pre/post conference programme. It was noted that there is no local contact in Seoul to assist with planning.

Discussion of content followed.

Theoretical title: *Resource sharing, reference and collection development in a digital age: a practical approach*. Our Section's input could be a presentation of our Principles/Guidelines linked to a workshop on benchmarking and best practice.

*Action: PE to send the necessary form for holding a satellite meeting to IFLA for March deadline and to try to continue trying to establish contact with Chinese SC member.*

*All - Establish Korean contacts at Oslo*

#### **10. Seoul programme**

Suggested topic – resource sharing/role of Google. Need to finalise ideas at Oslo.

*Action: PE to contact Collection Development Section to see if they are interested in a collaborative venture.*

#### **11. Strategic plan**

No action taken. New strategic plan must be submitted by October.

*Action: PE, TC, KB to prepare something for discussion at Oslo and send to the list-serv beforehand. Feedback from the SC welcome.*

#### **12. ILDS conference**

IFLA has not sent out the call for bids for the 10<sup>th</sup> ILDS conference so it might not be possible to announce the venue at Tallinn. SC reviewed all abstracts sent and made a selection.

#### **13. Questionnaire for review of Sections**

We have until 15<sup>th</sup> Nov to complete and return the questionnaire.

*Action: DMc to look at collating the factual data required for section 1. PE will email list-serv asking all SC members to send comments for questions 6-15. PE/PS will collate comments into answers for each question. PE will contact Sophie Felfoldi re an open list for Section members.*

#### **14. Section name change**

PE had sent a proposal to Chair of Co-ordinating Board to take to Professional Committee meeting on 1<sup>st</sup> March. It was agreed that the proposed name change be amended to *Information Access and Resource Sharing Section*.

*Action: PE to contact chair of Co-ordinating Board re name amendment.*

#### **15. IFLA guidelines for best practice in ILL**

PE presented the brochure produced by the Nordic countries. It was agreed that this could be adapted for the international community and something similar produced by the Section, which would include mention of the IFLA vouchers. Any new publication would need the approval of the Professional Board.

*Action: BL to check text and compare with UK version to see if anything can be added and then send it to DMc for comments.*

#### **16. IFLA voucher scheme report**

Susan Schaeppman had sent in an annual report. Total stands at – 1,204.97 euros. No complaints received re handling charge/surcharge. There should be no printing costs this year as we will be re-circulating old vouchers so the voucher scheme should start to make money. The question of what happens to the interest earned on money in the

account was discussed: a possible solution is to use it to fund the Section's projects.

*Action: BL suggested that a way of marketing the Section and encouraging the use of the guidelines would be to include the both the Guidelines for Best Practice/Section brochure with vouchers when they are sent out.*

#### **17. Cost as a barrier to access**

Deferred to Oslo conference.

#### **18. Revision of Section's brochure**

Intended primarily as a print document – all unnecessary URL's will be removed, retain the main IFLA one only. Primary purpose is to attract new members so it needs to focus on the advantages of membership. SC members can do translations required:

AA – Italian  
JP – Russian  
Teresa – Spanish  
Carol - French

*Action: DMc will reformat it as double-sides, one page document and, once the Section's name change is approved, circulate a draft to all SC members. Once agreed, translations can be done.*

#### **19. Model Handbook for ILL**

Deferred to Oslo.

*Action: DMc and EL to continue looking at it and report back at Oslo. BL to send draft outline of FIL(UK) proposed publication to SC for consideration.*

#### **20. Printed IFLA ILL request form**

BL reported number of packs being sold is decreasing. Reported that UNESCO coupons were accepted as payment for IFLA vouchers. LL's paper on IFLA/ISO response codes was deferred to Oslo.

*Action: BL to check with LL/CS re status of designing a template for email. To look at the email form to check that it includes all the information from the printed form.*

## **21. Any Other Business**

- a. DMc gave a report on recent Google project and will send out documentation describing the project to SC members. *Action: DMc to ask Carla Montori whether she would do a paper on Google for the Tallinn conference.*
- b. LL interested to know how important Ariel is to SC members. *Action: DMc to represent SC interests at Infotrieve meetings.*
- c. Discussion of Oslo conference. The first SC meeting is Saturday 13<sup>th</sup> August and the second one Friday 19<sup>th</sup> August. *Action: TR will host dinner for SC members.*

## **22. Venue for mid-winter business meeting 2006**

Assunta offered to host the meeting in Rome. Suggested date was 23<sup>rd</sup>/24<sup>th</sup> February.

## **New members' biographies**

### **Debra McKern (US)**

Debra McKern is currently director of the collections inventory program at the Library of Congress, part of the Collections, Access, Loan and Management Division. The goal of the program is to provide accurate online holdings information via the Web OPAC, beginning with the inventory of 17 million volumes in the general collections, area studies, and Law Library. The current focus is the preparation of collections for transfer to the Library's new off-site storage facility at Ft. Meade, Maryland. This includes the creation or updating of bibliographic,

holdings, and item level records, barcoding, and problem resolution when there are discrepancies between the item and the catalog records.

Debra has worked in research libraries since 1970, in interlibrary loan, acquisitions, cataloging, serials, and preservation. Since 1985 she has been in senior management positions, including Preservation Officer at Emory University Libraries and Chief of the Binding and Collections Care Division at the Library of Congress. Debra has taught graduate preservation courses as an adjunct professor at Emory University in Atlanta and Catholic University of America in Washington D.C. In 1991-92 she lived in Cairo, Egypt, as a USIA Library Fellow where she conducted a preservation needs assessment for the National Library of Egypt. Debra has been active in professional library organizations at the regional, national, and international level through lectures and committee work for groups such as ALA, RLG, ARL, ASTM, NISO/ISO, and IFLA. She is currently a member of the ALA/RUSA/STARS (Sharing and Transforming Access to Resources Section) Legislation and Licensing Committee.

### **Elisa Soares (Portugal)**

Elisa graduated in Philosophy (from the New University of Lisbon). She has a post-graduate degree in Librarianship and has written a thesis on Theories of Art (both from the University of Lisbon). Elisa was an indexer at the Biblioteca Nacional for eight years. In 1997 she became the librarian in charge of the newly created ILL Service. Three years later she co-organized the first national ILL Meeting. This was the main subject of a paper presented at the 7<sup>th</sup> ILL&DS

Conference (Ljubljana). She was involved in data gathering data for an online forum on ILL issues with the participation of 103 Portuguese libraries, the purpose of this initiative was explained at the Portuguese Library Association (BAD) National Conference (Estoril, 2004). At present, the ILL area at the BN is working on the project of a National ILL Code and best ILL practices. Elisa is very much motivated by global Resource Sharing and by the SC goals. In addition to her professional life, Elisa has three wonderful daughters and recently wrote a book on a Portuguese painter which is soon to be published.

### **Jacqueline Gillet (France)**

Jacqueline Gillet graduated from the University of Nancy-1 (France) in 1992 after studying life sciences (animal and plant physiology) and documentation informatics. In 1994 she joined the French Institute for Scientific and Technical Information (INIST-CNRS), a service unit of the French National Centre for Scientific Research (CNRS). She worked first in the A&I department of the PASCAL database in biotechnology as an information specialist, and then in 1996 joined the Information System Department as a database administrator. There she was involved in the implementation of a new information system and in the writing of technical specifications.

In 2002, Jacqueline joined the INIST library as the head of the ILL backup libraries service. She works with several French and foreign special research and academic libraries and is a member of the French ILL network, representing INIST in the documentation councils of the Nancy university libraries. She is looking forward to attending the standing committee and working with colleagues from countries all over the World.

### **Joan Ellen Stein (US)**

Joan Stein is Head of the Access Services at Carnegie Mellon University Libraries, has been involved with interlibrary loan and resource sharing issues, both as a practitioner and a researcher/writer, for two decades. She speaks on these topics at conferences, publishes articles, and consults at other university libraries. Joan was awarded the Virginia Boucher- OCLC Distinguished Interlibrary Loan Librarian Award by the American Library Association's Interlibrary Loan Committee in 2004 as recognition for her efforts to make interlibrary loan a more user-centred service.

### **Margarita Moreno (Australia)**

Manager, Document Supply Service,  
National Library of Australia

I joined the National Library of Australia in 1988 as a serials cataloguer. Two years later, I moved to the Australian Bibliographic Network (ABN) office (the Australian online union catalogue with over 1,000 members) and spent most of the next 10 years working in various positions, helping members use the network and services effectively, solving access problems, explaining services, training users etc. I also participated in a number of projects including managing the acceptance testing of the Kinetica service, the national resource sharing and delivery service which includes the union catalogue, ABN's replacement.

In 2000 I began working in the Document Supply Service of the National Library. Since then I have been involved in a number of projects including the Interlibrary loans benchmarking study which surveyed 100 Australian Libraries, the development of the ILRS code which sets out the agreed service levels and delivery timeframe for Australian libraries, participated in the planning of the 8<sup>th</sup> IFLA ILDS conference and costing of ILL services. Most recently I have written a

couple of papers with colleagues on the ISO ILL protocol and the current interlibrary loan and document delivery environment in Australia. I am also a member of the Australian Library and Information Association Interlibrary Loan Expert Advisory Group and the RLG SHARES Practitioners Council. I look forward to contributing to the broader interlibrary loan discussion.

## News from members

### Carol Smale reports from Canada

Two more Atlantic Provinces libraries (Université de Moncton and St. Francis Xavier University) have joined the East Coast Relais Consortium (ECRC) and will begin using the system in early July. In addition the Council of Atlantic Universities (CAUL-CDBUA) will be implementing their Atlantic Scholarly Information Network (ASIN) portal this Fall. The portal will integrate Sirsi products (OPAC, Resolver, Rooms), the Relais Enterprise interlibrary loan system and NCIP.

### Assunta Arte reports from Italy Open Access at the Italian University and Research Libraries: Free For All?

The Budapest Open Access Initiative<sup>1</sup> describes very clearly the goal of the Open Access Movement: to gain at no cost the scientific literature to support the research activities and their social value. In the last years with this declaration the Open Access Movement has attracted the interest of academic community and stimulate consideration of publishers, readers, and librarians. With over 30.000 peer-reviewed scientific journals in existence, no academic library can come anywhere near stocking all the titles appropriate to the needs of the research staff in its institution. Individual scholars cannot therefore get access to some of the

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<sup>1</sup> <http://www.soros.org/openaccess/index.shtml>

literature that is pertinent to their work. To exacerbate this problem, over the last two decades, the so-called serials crisis has become more and more acute. Journals prices have risen faster than both the rate of inflation and increases in library budgets, resulting in the cancellation of the subscriptions to journals.

In Italy, a country sometime reluctant to accept changes, came out important examples of Open Access Initiatives to became main services offered by academic and research libraries.

Some University, the Italian National Research Council, the principal university consortium, have all started some program in this filed.

Traditionally the “mission” of the academic and research libraries has ever been to gain permanent access to complete scientific literature to support professors, researchers, students in their work. Their agreement to open access initiative has two main reasons: the first of these is a noble reason: to advance intellectual progress in their subject; the second reason offers to the librarians the opportunity to have professional evolution in an environment that increases the value of information managers.

Researchers indeed have themselves more and more benefit from an Open Archive Initiative<sup>2</sup>:

- the entire full text referred corpus online;
- on every researcher’s desktop, anywhere;
- 24 hours a day;
- all papers citation interlinked;
- full searchable, navigable, retrievable;
- free, for all, forever.

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<sup>2</sup> Steven Harnad, For whom to gate toll? How and why to free the referred research literature online through author/institution self-archiving now, 2003, <http://cogprints.org/1639/01/resolution.htm>



A sample of the Italian activities:

- [PLEIADI](#), the Italian portal for Open Archives, in collaboration with [CASPUR](#)
- [METALIS](#), Service Provider for the Library and Information Science fields, harvesting metadata from institutions that offer full-text papers and documents.
- [Messina Conference web site](#) (where the "Messina Declaration on Open Access to Scholarly Literature" has been signed by more than 30 Italian Universities).
- [E-LIS](#), E-prints in Library and Information Science, international disciplinary open archive for LIS published and grey literature, using EPrints software.
- [DSpace@UniPr](#), Parma University Digital Library, institutional open archive, using DSpace software.
- **SCHOLAR** proposal, European Portal for Open Archives ([access reserved to partners](#)).
- [Electronic version](#) of Bollettino del CILEA, using OJS software.

### **Margarita Moreno reports from Australia**

Australia has a long history of cooperation in Resource Sharing, however over the past 30 years there have been significant changes and the Australian library community has identified areas of research and practice for development. From the Australian Institute of Librarians Code for Interlending in 1946 to the AACOBS Code in 1966 and the Australian ILRS Code in 2001 there has been a consistent process of improvement in areas such as charges, turnaround times and agreed standards. These have improved the strength of the interlending framework

between libraries. Further information on Library trends in Australia is available at <http://www.nla.gov.au/nla/staffpaper/2005/missingham2.html>

The National Library has contributed significantly to the development of interlibrary lending and document delivery policy. Over the past six years this role was facilitated through the National Resource Sharing Working Group (NRSWG) and National Resource Sharing Policy Committee (NRSPC). These groups were established by the National Library to support the development of a national resource sharing infrastructure following a series of national meetings and discussions. The *Towards Federation Summit* in 1992 and *National Interlending and Document Delivery Summit* of 1995 established discussion between all library sectors on the potential development of the interlibrary loan and document delivery system. The NRSWG was created in 1999 and the NRSPC in 2000 with a clear agenda to improve the Australian ILL/DD system. The groups received strong support from industry bodies, such as the Council of Australian State Libraries (CASL), the Council of Australian University Librarians (CAUL), the Australian Library and Information Association (ALIA) and the Australian Library Collections Task force.

Between 1999 and 2004 when the groups ceased there was there marked change in the Australian Interlending environment due primarily to the projects undertaken. The NRSWG conducting a Benchmarking Study based on Mary E. Jackson's very successful survey measuring the performance of North American Research and College Libraries which lead to the development of best practice workshops held throughout Australia; the development of the ILRS code setting standard the service level and charges giving certainty to library users and holding a number of events such as the

seminar presented by Mary E. Jackson "Improving Interlibrary Loans and Document Delivery" held at the National Library of Australia in October 1999; and also held at the National Library the National Resource Sharing Forum and Field Day in November 2002 and the 8th IFLA Interlending and Document Supply International conference in October 2003. In mid 2004 the Group held the final forum, where the achievements of the groups were acknowledged and outstanding issues in resource sharing were identified. Information on this final form is available on the National Library website at

<http://www.nla.gov.au/initiatives/nrswg/finforum.html> Australian Library and Information Association Interlibrary loans Expert Advisory Group has taken on some of the issues identified by the NRSWG. The ALIA ILLEAG will be looking at three main projects over the next 2 years:

- Revision of the Interlibrary Resource Sharing Code see <http://www.alia.org.au/interlibrary.lending/code.review.html> for additional information
- Development of an online best practice resource for document delivery/ILL
- Preparation of a paper on policy issues relating to resource sharing'

Progress on the issues identified in 2004 will be reviewed late in 2005 at an interlibrary loan summit to be held at the National Library.

### **Open Session: Oslo**

The Document Delivery and Resource Sharing Section presented a programme entitled *Perspectives on supply of electronic documents*. The programme comprised three papers:

*The use of a digital rights management system for document supply*. Andrew Braid (British Library, Boston Spa, UK)

*Transforming document delivery in the e-content environment*. Lucie Molgat (CISTI, Ottawa, Canada)

*SUBITO and German developments in copyright law*. Uwe Rosemann (German National Library of science and Technology, Hannover, Germany) Uwe Rosemann's paper is included in this newsletter along with abstracts of the papers by Lucie Molgat and Andrew Braid. Their papers will appear in full in the next newsletter, due for publication January 2006.

### **The use of a Digital Rights Management System for Document Supply (Abstract) Andrew Braid, Licensing and Copyright Compliance, The British Library, UK**

The presentation will describe the following:

- The reasons for using electronic delivery and electronic journals in a document delivery service
- A brief history of use of electronic journals in the British Library's (BL) document delivery services from Adonis in 1988 to the Electronic Storage and Retrieval system (ESTAR), which was implemented in May 1999
- A brief history of electronic document delivery (EDD), from trials with satellite transmission in the mid 1980s to the secure electronic delivery system introduced in 2002
- The integration of electronic storage with electronic delivery
- The publisher stance relating to EDD, in both copyright fee paid and statutory services and why the BL adopted a solution involving secure EDD using Adobe software is explained, with reasons for the rejection of some systems and insight into how the chosen system has been received by users.

**Transforming document delivery in the e-content environment (Abstract)**  
**Lucie Molgat, CISTI, Ottawa, Canada**

Library users expect libraries to provide seamless and barrier free access to information at the desktop 24/7. In meeting these expectations, libraries cannot use the resource sharing rules that have governed inter-lending in the print world. Rights to access and use e-content must be negotiated directly with publishers. The approaches that libraries are developing to gain the rights to do document delivery for e-content will have a significant impact on current economic models. New business models are needed that will inevitably transform the nature of inter-lending nationally and internationally. All the players - libraries, users and publishers - have needs that must be understood and met if we are to build new and lasting solutions.

This presentation will examine some of the transformative approaches developed in Canada to provide electronic delivery of e-content.

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**SUBITO and German Developments in Copyright Law**  
**Uwe Rosemann**

This paper will address the following topics:

- German copyright and its system of remuneration
- Legal action taken by international publishers against subito and other German libraries
- Negotiations between STM publishers and subito
- Application of a DRM system
- Reforms to German copyright law
- Document delivery and electronic documents

- The strategies of a document supplier (TIB)

***German Copyright and Its System of Remuneration***

To understand the German system, it is first necessary to review some important recent events.

The "Börsenverein" is a trade association that represents the interests of German publishers and booksellers. As far back as 1994, the Börsenverein took legal action against my library, the TIB. The TIB is the German National Library of Science and Technology, the largest specialist technical library in the world. This initial court case revolved around the key question as to whether a library is permitted to make a copy of a journal article on behalf of a customer and to accept money for and advertise this service.

The case took five years to resolve and went all the way up to the highest German court, the German Federal Supreme Court. This Court finally issued the following ruling based on the situation of German copyright law:

- Making a copy on the basis of a concrete order is permissible
- Sending this copy to the end user is permissible
- Sending the copy using modern technical methods is permissible (post, fax, e-mail)
- Royalties for the copies must be paid to the publisher. The responsibility for this lies with the "Verwertungsgesellschaft Wort", or "VG Wort", an association dealing with the exploitation of rights that acts as a kind of German copyright clearance centre.

Subsequently, in September 2000, an agreement was concluded between the Börsenverein and the German government stating that libraries may send copies to

end users all over the world in any form. User groups were defined (academic users, private persons, commercial users) and rates were agreed for each group (e.g. one euro for academic users, six euros for commercial users). These rates were included in subito's fees, for example. As a result, up to the year 2002, several million euros in royalties were paid out to "VG Wort", which was charged with forwarding this to the publishers and authors.

The reason for emphasising this point is that both publishers and international competitors continue to insist that subito does not pay any copyright fees.

At the end of 2002, the publishers decided not to renew the agreement and permission for any kind of electronic delivery or delivery to foreign countries was denied. As a result, since 2003, Germany only has an agreement for postal and fax deliveries within Germany. However, since the legal viewpoints of the German government and the Federal states were different to those of the "VG Wort", the ministries responsible for the libraries instituted arbitration proceedings with the aim of forcing "VG Wort" to supply an agreement for electronic delivery. This process is still ongoing.

### **Legal Action and Negotiations**

The threat of legal action against subito had already been posed by some of the big STM publishers at the end of 2002. Subsequently, in the spring of 2003, subito entered into negotiations with representatives from the STM publishers. subito went into this process with the following strategy in mind:

The negotiation is intended to tackle the issue of licenses for end customers in non-German-speaking areas (Germany, Austria, Switzerland).

What is required is continued toleration of the subito library service, which can be viewed as an inter-library loan system and which should therefore remain royalty-free.

These negotiations have not yet come to an end.

Before sketching out some of the problems in these negotiations, three further legal proceedings first need to be mentioned:

- Two actions stemming from the USA and the UK have been brought against the German National Library of Medicine (ZBMed) in Cologne with the general objective of stopping all document deliveries to foreign countries. In response, subito ceased end user deliveries to non-German-speaking foreign countries in May 2003 and now only offers the library service in those countries.
- On 18 June 2004, the Börsenverein and the International Association of Scientific, Technical and Medical Publishers took subito to court in Germany with the aim of prohibiting all electronic document deliveries and all forms of inter-library loans with domestic and foreign libraries. This case has so far led to the lawyers involved exchanging copious quantities of documents; the first court hearing is expected to take place in the summer.
- On 25 June 2004, the STM Association lodged a complaint with the European Commission against the Federal Republic of Germany under the heading "German Defective Implementation of the Directive". The "Directive" in this case refers to the EU Copyright Directive.

Taking stock of all the measures being taken, it would certainly be fair to qualify this as a worldwide, large-scale campaign on the part of the publishers against subito and its legal foundations.

The negotiations on an international level with the publishers who have taken proceedings against us on a national level have been running for approximately 2 years and are currently heading towards a successful conclusion. There were problems on many levels:

- Definitions of customer groups
- Individual prices on the article, journal, or publisher level
- Who is liable - subito or the supplying libraries?
- Should subito supplying libraries be permitted to offer other document delivery products apart from subito?
- How can the publishers monitor subito?
- Should genuine electronic documents be incorporated too?
- Should a Digital Rights Management (DRM) system be employed?

Firstly, to make a couple of comments on these last two points.

What subito and the publishers have in mind is the idea of directly incorporating the electronic products offered by the publishers in subito's services, with specific prices where applicable. That means the customer can then choose whether they wish to have immediate access to an article already available electronically or whether they wish to receive a PDF file within 72 hours. This point still remains unresolved, since the publishers imagine that subito should also take into consideration the existence of any regional consortiums for electronic journals and should incorporate these consortiums in the pricing structure. In fact, subito cannot afford to do this in this manner.

subito is, however, able to respond positively to the issue of employing a DRM system.

Based on the results of a different project, there is a recommendation in Germany to use the "FileOpen Web Publisher" software as DRM. From subito's perspective, DRM software must fulfil various criteria, including the following:

- Differentiation between reading rights and printing rights
- A way of preventing an unprotected copy from being created on a local workstation
- Ensuring that encryption is allowed
- Enabling of processes in batch operation
- High-performance capabilities
- Enabling of differentiated collection procedures (e.g. forwarding in the library service).

subito is preparing itself for the deployment of the DRM system; the corresponding installations are being carried out in my library, which is where the subito computers are operated.

### ***Reforming Copyright Law***

Finally, this paper will briefly address a further issue that is currently very much a 'hot topic' in Germany and which further intensifies the problems that exist between publishers, libraries and scientists.

Copyright law in Germany is in the process of being reformed; a draft of the new law was published by the Ministry responsible in September 2004. The draft bill changes the legal basis for electronic document delivery services: electronic document delivery is only to be permitted in cases where the corresponding publisher does not itself offer items electronically. Otherwise only postal and fax deliveries would still be permissible.

Since the draft bill would entail yet more restrictions on the electronic utilisation of scientific information, which are too numerous to elaborate here, there is currently a huge campaign being mounted by the German scientific community against this proposed law. Within the so-called "Alliance for Copyright in Education and Science" (*Aktionsbündnis Urheberrecht für Bildung und Wissenschaft*), virtually all the German scientific organisations, specialist associations and groups, and more than 3000 university lecturers have signed a declaration containing an amendment to the draft bill. It is still too early to tell what decision will eventually be made by the German legislator.

What will be the best strategy for surviving for a document supplier library like TIB? For TIB subito is one important way of distributing their services, but it is not the only one. It will, however, take over the results of the negotiations between subito and the publishers for its own order system, a DRM included. So it will run a subito certified system and this policy probably will be pursued by all German document suppliers.

To conclude, I would like to include myself among those who demand that education and science should be able to utilize the new digital forms of distribution and acquisition of knowledge and information, without hindrance, and under fair and balanced conditions. TIB and subito intend to help make this possible.

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