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Implementing legal deposit of electronic publications in Africa: progress report from South Africa and Namibia

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Abstract:

This paper gives a progress report from Africa, specifically concentrating on two countries whose legal deposit laws have already been updated to cover electronic publications, namely South Africa and Namibia. Since the necessary legal framework is in place, the paper concentrates on what has been achieved so far, problems and challenges encountered in implementing the law, plans designed to overcome these obstacles, action taken and possible assistance from colleagues who have successfully implemented such legislation.

1. INTRODUCTION

The emergence of the Internet and consequently the tremendous growth in publishing electronically worldwide since the late nineties constitutes a challenge to national libraries as far as their mandate of being national depositories for all published sources is concerned. Prior this development their mandate was straightforward, namely the collection of all printed works published in their countries. Electronic publishing changed all this and as a result, in 1996 a working group of the Conference of Directors for National libraries (CDNL) prepared a document entitled "The legal Deposit of Electronic Publications"

which provided guidelines for handling of the challenges of electronic publishing. It addressed issues such as defining electronic publications, framing legal deposit laws to cover this medium and handling deposited material. Notwithstanding the tremendous work done by this group, many countries especially in Africa are still grappling with the challenges of first updating their legal deposit acts to cover this media and secondly to implement the provisions of the acts.

2. Electronic publishing

According to Zell, reliable statistical information about Africa's book publishing output is difficult to obtain (Zell 2002:141). The situation is even more difficult to determine with regard to electronic publishing. In an e-mail communication concerning the amount of electronic publishing in Africa, Zell maintained that with the possible exception of South Africa, the volume of electronic publishing in Africa was not significant and was difficult to monitor. Part of the problem concerning statistics for electronic publishing was the fact that what is understood to constitute electronic publishing varies considerably. It is not the intention of this paper to enter into an elaborate discussion on the definition of electronic publishing. For purposes of this work, the definition provided by the CDNL is sufficient. Although there is no agreement on what constitutes an electronic publication, it is important to acknowledge that indeed there is a growing trend with regard to electronic publishing in Africa. Hence African countries need more comprehensive legal deposit acts which will cover current and future developments in publishing.

3. South African and Namibian Legal Deposit Acts

In Namibia, the legal deposit legislation is part of the Namibian Library and Information Services act which was passed in 1996. This was necessary because after independence no authority was made responsible for library services. Because there was no existing legal deposit legislation, Namibia had an opportunity to enact a modern legal deposit act as recommended by UNESCO. In a nutshell, the legal deposit provisions of the Namibian act have been written to cover all existing and to be created media. The legislation borrowed heavily from the Norwegian act, which is considered to be one of the most modern and comprehensive from the developed world.

In South African legal deposit legislation has been in existence in one form or another since 1842 (Lor & Geustyn 2001). In 1997 the legislation was thoroughly revised, building on the new Namibian Legislation, and the Legal Deposit Act (no. 54 of 1997) was passed. One of its aims was to extend the legal deposit to audiovisual, broadcast and electronic media. This was achieved by avoiding the definition or enumeration of various media in the act. Instead, generic terms such as "document" and "medium" were used and provision was made for issuing regulations to deal with the details relating to specific media. Regulations can be amended relatively easily to accommodate new media. They can also be used to phase in the implementation of the act over a period of time.

4. What has been achieved and what are the challenges

The enacting of an act does not necessarily imply partial or complete implementation, as evidenced by both the South African and Namibian experiences. In South Africa a number of reasons can be advanced for the partial implementation of the act. While the act was being updated it became quite obvious that the National Library of South Africa (NLSA) would not be in a position to implement all the stipulations of the act at once. As a result, a conscious decision was taken to phase in the implementation. Initially regulations were promulgated for printed materials, certain audiovisual material and static electronic documents such as CD-ROMs. These are handled in a similar manner as books, i.e. in instances where we are aware of a publisher working in this market they would receive a letter of reminder from us. Other publishers who are aware of the new act voluntarily send in copies. Currently we receive about 22 electronic journals on CD-ROM. As far as books are concerned, in 2001 we received 14 titles on CD-

ROM. These are all accessible on a standalone computer. Although the figures provided seem insignificant, they do indicate willingness and an attempt towards collecting in other media. In line with phased in approach in implementing the law, regulations are still to be promulgated for broadcast media and dynamic electronic documents (such as online electronic documents and web sites).

In Namibia lack of resources has delayed preparation for the implementation of legal deposit of electronic publications. The phased approach is necessitated by factors which face both South Africa and Namibia. These include, but are not limited to, lack of technological, financial and staffing capacity. Both the South African and Namibian National Libraries do not presently have the technological capacity to fully implement their new legal deposit acts. Acquisition of the technology needed to capture, store and make accessible online electronic documents would make serious inroads upon the budgets of the two libraries. More significant is lack of human resources, not only to do the necessary research and development work, but also to operate systems once they have been installed. Lack of properly trained staff to work in the new environment is not unique to developing countries. Some of the developed countries also lack personnel with the necessary skills. This is new technology and standards are still being developed. Developments happen fast and as a result, staff do not have the time to learn the necessary skills. The South African and Namibian national libraries face similar challenges.

Besides lack of capacity there are also issues around consultation with the relevant industry before implementation can take place. Consultation is necessary for instance to look at copyright/licensing issues. These consultations should clarify how access is to be provided and under what conditions, who will be responsible for long-term preservation, etc. Such consultation takes time and can be complicated.

5. What are we doing?

The previous paragraphs seem to present an all doom and gloom picture of progress in implementing the new legislation. This is far from the truth. Although we recognize these challenges, various innovative ideas are being tried to ensure that indeed both institutions collect in all formats. First, both institutions are lobbying intensively for more funds to be allocated by government. The lobbying process is supported by well thought out strategic and business plans. The underlying theme in this lobbying exercise is that, unless resources are made available, each institution will present to its nation a skewed picture of itself. If electronic documents are omitted, a true picture of the publishing heritage cannot be captured. Second, the national libraries are seeking partnerships with countries from the developed world, for example in areas such as training of staff and making available some of the infrastructure (hardware and software). The NLSA has been in discussions with the Dutch, Swedish and Norwegian National Libraries to explore partnership possibilities. The third approach is that of fundraising. The NLSA recently received a planning grant from the Andrew W. Mellon Foundation for an investigation into the IT infrastructure required for the efficient operation of South Africa's legal deposit libraries. One of the aspects to be investigated is the technology required for the legal deposit of electronic media. This is just one example of fundraising initiatives the NLSA is engaged in; more will be undertaken as and when its newly-established development and marketing department is fully functional.

6. Conclusion

The enacting of a modern legal deposit act is in itself not enough to ensure that national libraries fulfill their mandate to collect in all formats. Various challenges have to be overcome before implementation can be achieved. But these challenges should not stop the process of updating or writing in new laws in countries in which they do not exist already, and they should not be allowed to prevent their full implementation once enacted. Notwithstanding the fact that electronic publishing in Africa is still in its infancy, the need for African countries to have laws that cover this medium is without question. It would

be a tragedy if these countries were not to collect and preserve their full heritage because of lack of resources.

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