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PLR – an update on the international situation

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PLR INTERNATIONAL



Overview

I am very grateful to the CLM programme within IFLA, and Marianne Scott in particular, for this opportunity to update delegates on international developments in the field of authors' lending rights, more commonly known as PLR – Public Lending Right.

As well as having responsibility for the PLR system in the UK, I act as Co-ordinator of the International PLR Network, an informal network that brings together the countries that recognise lending rights and provides advice and expertise to those nations looking to set up their own PLR systems.

My paper today will necessarily be a summary of the international situation and I won't have time to go into the detail of individual national PLR systems. But much more information is available through the International PLR Network website, details of which are provided in the handouts that I have brought along.

For those of you unfamiliar with the lending right concept, some background details:

1. What is Public Lending Right (PLR)?

Public Lending Right is the right if authors to receive payment for free public use of their works in libraries.

2. How long has it existed?

PLR has been around since the 1940s. The first country to establish a PLR system was Denmark in 1946, followed by Norway in 1947 and Sweden in 1954. The UK system, for which I have responsibility, was set up by the PLR Act of 1979.

3. How many countries recognise PLR?

Currently around 30 countries have legislation recognising authors' lending rights; but of these, only 15 have taken the next step of setting up a system to enable authors to receive payment for the use of their works by the public in libraries. Most of the working

systems are in Europe, specifically in northern Europe, but PLR can also be found in Australia, Canada, New Zealand and Israel.

4. How are payments calculated?

Each country goes about this in a different way; but the main systems in use involve making payments in line with how often an author's work is borrowed (ie payment per loan), or payments for the number of copies held in libraries. Some PLR systems also make grants to writers to support travel or other projects, and in some cases to provide pension funds.

5. What is the legal basis for PLR?

The 15 national PLR systems fall into 2 broad categories:

- (1) countries where PLR is seen as right akin to copyright and payments are in some way related to the availability or use of an author's works in a library setting – indeed in some countries lending rights are part of copyright legislation; and
- (2) where payments under PLR are seen as part of the State's support for culture and where the emphasis is on supporting a country's own authors.

Why should librarians be interested in PLR developments?

Those of you from countries recognising lending rights will be aware of the involvement that librarians may have in helping to make PLR systems work. This may be in supplying data about book loans or stock holdings to the PLR administrators to enable payments to be calculated; it may also, for example, in the Netherlands where a copyright licensing system operates, involve negotiations with rightsholders to determine how much the libraries must pay in licence fees to enable lending to take place.

For those of you from countries currently looking to set up PLR you will be taking an interest in the sort of arrangements being looked at by your governments, and will no doubt be contributing to the debates that are going on.

In the UK we are working with the public library community to find uses for the unique database of information on book borrowing that we have developed as a spin-off from the PLR operation. This data throws light on the book-borrowing trends nationwide and can be used by librarians in areas such as stock management.

EU Directive on Rental and Lending Right (1992)

1. What is the Directive?

A key development in relation to PLR's legal status in Europe has been the 1992 EU Directive on Lending and Rental Right. This established a copyright framework for the recognition of authors' lending rights by Member States, and gave authors and other rightsholders an exclusive right to license or prohibit the lending out of their works by libraries; but it also allowed Member States a number of derogations and other flexibilities when it came to implementing the Directive; these include the option not to recognise an exclusive right as long as authors were remunerated for the loan of their work; it also allowed states to exclude certain categories of library from PLR, and to give priority to their own cultural objectives in setting PLR systems.

It is progress in Europe in implementing the Lending Right Directive that I would like to concentrate on today. Here we are not only talking about the existing Member States, but also those countries – mainly in eastern and central Europe – which are applying to join the Union from 2004.

They too must implement EU copyright and intellectual property right directives in their national legislation to meet the EU's entry criteria.

2. How has the Directive been implemented by EU States?

Nearly all Member States have adopted (or are in the process of adopting) the Directive in their own copyright legislation. However, this has not resulted in many new PLR systems being set up as most countries that did not previously have PLR have taken advantage of the Directive's derogations and flexibilities to avoid having to make PLR payments to authors.

So, countries like the United Kingdom, Germany, Austria, the Netherlands, Sweden, Finland and Denmark – all of which already recognised PLR – have modified, and in some cases extended, their existing PLR systems to meet the Directive's criteria. The Scandinavian countries have been permitted by the European Commission to restrict PLR payments to books written in their own languages. This is allowed by the Directive's provision giving priority to a country's cultural objectives, and prevents large amounts of payments going to English language and other foreign writers.

But most other Member States – such as Ireland, Portugal, Spain and Italy – have chosen to take advantage of the flexibilities provided by the Directive. In effect, what they have done is to recognise the PLR principle (thus meeting the requirement of the Directive), but have excluded public libraries from PLR obligations. As public libraries form the backbone of most countries' PLR systems, this means that PLR has not got off the ground.

But it is not all bad news for authors:

1. The countries with existing PLR systems have been expanding their scope and
2. including electronic non-book materials in their coverage eg the Netherlands PLR system now makes payments for loans of CDs, audio-visual media and works of art.
3. The British PLR system has been extended to authors living in all EU countries, as well as in Norway, Liechtenstein and Iceland, whose books are lent out by public libraries in the UK. The first payments were made to European writers in February this year. The UK system has also had 40% increase in funding this year.
4. Draft legislation to establish a French PLR system is going through parliament this year. To be funded jointly by local communities paying a certain amount for each registered library user, combined with a charge made on the purchase of each new book by libraries.

The money will go into a PLR fund, and authors' payments will be distributed by SOFIA, a new authors' organisation. Publishers will receive 50% of the payment due on each book. Money will also be put into a pension fund for authors. Payments are expected to be made to foreign authors where reciprocal PLR arrangements exist.

Of the other EU Member States, Belgium has made least progress and has now been threatened with legal action by the European Commission for not implementing the lending right provisions of the 1992 Directive. Belgium has had problems in deciding whether lending right should be covered by federal legislation, or whether it is a cultural issue to be dealt with separately by the French and Flemish speaking communities.

3. What is the PLR situation in States seeking membership of the EU?

The following countries have all implemented the Lending Right Directive in their copyright legislation: Estonia, Latvia, Lithuania, Poland, Slovakia, and Romania; Slovenia and the Czech Republic have also recognised the principle of lending right but only in relation to the lending out of music.

Leading the way are the three Baltic countries. All three are currently looking at different models for working PLR systems and through the International PLR Network we have been offering help and advice on the options best suited to their particular needs.

1. Estonia: copyright legislation does not allow authors to prohibit the lending out of their books by libraries, but it does entitle them to equitable remuneration. Government working party of authors' representatives, librarians etc currently discussing how this should work.
2. Latvia: PLR to be introduced by early 2003; currently discussions between writers' organisations and government.
3. Lithuania: covered by copyright and money earmarked for PLR; discussions continue on modalities of scheme.

Of the other EU applicants, the Hungarian Ministry of Culture is working on draft PLR legislation. In Slovakia, copyright law gives authors a right to remuneration for the lending out of their works, but no payments have been made so far pending negotiations with the library community over where the money will come from.

There is a lot of interest in PLR among authors and rightsholders in these countries in PLR. This has been shown by the numbers of people coming to PLR training seminars, eg an Introduction to the Principles and Practices of PLR held in Denmark last year attracted delegates from 15 countries.

Where does PLR stand in 2002?

Inevitably there is disappointment among authors that several EU states have not taken advantage of the Lending Right Directive to set up remuneration systems for authors. But the European Commission's challenge to Belgium for failure to implement the Directive shows that the issue has not been forgotten. And of course developments in France, and in east Europe, are very encouraging. The extension in some countries of PLR into new areas also has significance for the future: in Australia a new educational lending right (ELR) covering the use of authors' books in school libraries is in its second successful year; and in a number of European countries non-book media are now included in PLR.

For the future we must begin to think about the possible role of PLR in the digital age. Will there be a role for lending right systems in an age of increasing electronic exchange of information? I suspect that this will be a major theme at our next International PLR conference in Norway next year.

(Information and advice for countries interested in setting up their own PLR systems and in interpreting the provisions of the EU Lending Right Directive is available from the International PLR Network. This is an informal network which brings together the 15 national PLR offices and other interested organisations. It is co-ordinated by the UK's PLR office. More information about the Network and its activities can be found on its web-site at www.plrinternational.com or direct from the UK PLR office (jim.parker@plr.uk.com).

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