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FOBID
netherlands
library
forum

federatie organisaties bibliotheek-,
informatie-, dokumentatiewezenen

DG Information Society and Media
DG Internal market

Ons kenmerk: FOBID JC 09.2695

Utrecht, 5 januari 2010

Subject: submission to consultation 'Creative Content in a European Digital Single Market'

Dear Madam, Sir,

FOBID Netherlands Library Forum (www.fobid.nl) welcomes the opportunity to reflect and comment on the Reflection Document of DG INFSO and DG MARKT regarding the challenges of the online distribution of creative content in a European digital single market.

FOBID Netherlands Library Forum is the national umbrella organisation and forum for co-operation between the national library organisations:

- the [Netherlands Public Library Association](#)
- [NVB](#), the Netherlands Association for Library, Information and Knowledge Professionals
- [KB](#), National Library of the Netherlands, and
- [UKB](#), the co-operative Association of University Libraries.

FOBID Netherlands Library Forum strongly endorses and supports the submission by EBLIDA (European Bureau of Library, Information and Documentation Associations).

In addition to EBLIDA's comments FOBID especially welcomes a possible action of extended collective licensing in respect of tackling the issues of orphan works and out-of-prints works. This is a solution FOBID has been exploring on a voluntary basis with the umbrella organisation of Dutch CMOs during the last year. Notwithstanding working closely with CMOs on this topic does not imply that FOBID would not support the introduction of an exception for orphan works. However, because of the fact that establishing whether a work is orphaned or not is problematic, FOBID thinks that a more general approach regarding out of print works, that would necessarily include all orphaned works, is desirable. Furthermore since these works usually do not represent substantial (if any) commercial value, there should be safeguards to prevent CMOs from erecting too high financial barriers for cultural heritage institutions. Additionally setting different tariffs for different collections and the form of exploitation should not be excluded and should remain a possibility.

Finally there should be provisions for the making available digitised works in the whole European (if not worldwide) 'Cultural Space'. This is especially important because collecting societies work on a national rather than an international scale.

FOBID has been involved in rights clearance issues in mass digitisation projects and based on this experience, FOBID would like to emphasise that a freely accessible database on ownership and licence information on world repertoire would indeed increase transparency. It would help libraries with projects to digitise their collections because it would save time and money to find the rights holders of the works libraries wish to digitise for the benefit of access for citizens, students and researchers.

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To finish FOBID agrees with the observation of the Commission that the introduction of an extended or mandatory collective management system for the administration of the 'making available rights' of authors and performers and a provision of an additional unwaivable right to equitable remuneration should not lead to an additional layer of complexity. An increasingly complicated system could subsequently have as a consequence that making content available online by libraries will be hampered or will not take place at all, excluding therefore all citizens of Europe and worldwide of having access to these sources digitally for personal interests, knowledge and research.

Kind regards
Drs. A.J.H.A. Verhagen
Chair FOBID legal committee