



**EBLIDA**

European Bureau of Library, Information  
and Documentation Associations

# Handbook of Comparative E-Lending Policies in European Public Libraries

**EBLIDA EGIL**  
(Expert Group on Information Law)

April 2023



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The *Handbook of Comparative E-Lending Policies in European Public Libraries* gathers multiple writings and reflections elaborated by EBLIDA experts and members in the years 2021-2022, mainly within the framework of EBLIDA EGIL (Expert Group on Information Law).

When we started investigating about e-lending, we soon found out that there was a gap between, on the one hand, the debate on copyright being elaborated by national and international associations and, on the other hand, the practice of e-lending. The debate on copyright was hegemonized by academic libraries and oriented towards open access solutions and overt confrontation with publishers. We are fully aware of their difficult situation, with the budgets of the academic libraries feeding the dividends of the shares of scholarly communication actors in the stock exchange market.

We wished to see whether the picture in the book trade was equally discouraging and therefore started investigating e-lending practices in several European states. We must be frank: relations between librarians and publishers are not this tense, but the number of e-loans remains “anomalously” low. There are lights and shadows in the European arena and some countries manage to perform well both in the provision of e-books and e-audiobooks and in their relations with publishers at national level. When and where there are lights, this is the result of the hard work undertaken by librarians, some enlightened publishers and long-sighted public policies. This *Handbook* describes, as objectively as possible, the result of these efforts.

The *Handbook* collects several writings which were drafted at different times by different people. This explains some redundancies, repetitions and reiterated bibliographies. The first in order of time is Chapter Two, which was elaborated by Zélia Parreira, Director of the National and Public Library of Evora and member of the EBLIDA Executive Committee, and Giuseppe Vitiello, Director EBLIDA. Unpublished until now, this document has had an internal circulation to EBLIDA and aims to underline the disparities between scholarly communication and academic libraries on the one hand, and the book trade and public libraries on the other. Copyright is indivisible and applies in the same way in the fields of university and public libraries; nevertheless, related policies are and should be different.

The EGIL Group, which I have had the honour of chairing in the last two years, has written the rest. EGIL elaborated the EBLIDA *First Overview of e-lending in Europe*, which was presented at the EBLIDA Conference in Athens, June 2022. This *Handbook* updates and enhances the *Overview*, but also enriches the reflection on e-lending practices with a set of EBLIDA-EGIL Recommendations on a sustainable e-lending policy in Europe, a background paper written by the EBLIDA Director, and a list of country profiles.

As EGIL Chair, I am proud of the work being undertaken and would like to express my gratitude to each of the authors of the country profiles not only for their input, but also for the rich and fruitful conversation we have engaged during a good number of meetings. Our opinions have not always been in line but largely converged towards the common objective of doing something useful for European public libraries. I would like to thank them all for having responded to the questionnaire and provided data that have proved to be very useful for the current synthesis as well as for any other future work on e-lending. I also wish to express my personal thanks to the EBLIDA Secretariat for having collected, processed and formatted data.

It has been an extraordinary time of passion, intense work and professional gratification and my sincere thanks go to EBLIDA and its Executive Committee, who supported our work in all possible ways.

**PART I: EBLIDA-EGIL  
RECOMMENDATIONS ON A  
SUSTAINABLE E-LENDING POLICY IN  
EUROPE**



## **INTRODUCTION**

Libraries encounter many difficulties in implementing e-lending. Those difficulties are of a variable nature - legal, technical, and financial. For some expert librarians, e-lending can be considered mainly under a legal perspective – the recognition of the derogatory status of digital library transactions in relation to copyright laws and the legitimisation of open access practices through customary fair use.

A valuable approach, this methodology nevertheless has some limits, since it does not take into account the perspective of the e-book chain and the respective roles played by each of the actors. The e-lending process is dependent on many variables of economic, legal and institutional nature (number of users, percentage of publications available in a digital format, purchasing power of libraries, the role of intermediate layers negotiating with publishers on behalf of libraries). Moreover, the part played by public authorities in promoting an (e-)book policy is determinant. All these factors should lead to what we call: sustainable copyright in e-lending transactions.

A digital book ecosystem is not a static enterprise, but should be represented as an expanding and attractive space where the public greatly benefits from the use of cultural products and services. The main and overall result of the EBLIDA Handbook confirms that e-lending is underdeveloped in all European countries and that several factors curtail further parallel growth of both e-lending and the e-book trade. A reduced commitment slows down the rise of a digitized society where technologies are diffused among all layers of population.

Why is digital publishing still fumbling in a society where digital companies are touted as stars of the stock market? What should be done to reverse this trend and make the use of educational and cultural publications in digital form a well diffused and widespread practice? At the moment, even books in printed form do not fully exploit social media and other spaces where they have a life beyond their commercial life-cycle. They do not appeal to young generations and other layers of population. To promote e-lending is a possible means to fill the gap between producers and distributors and promote e-reading, thus raising digital literacy in all European countries. The following recommendations are addressed to all actors of the book chain.

## **RECOMMENDATIONS FOR THE EUROPEAN COMMISSION AND OTHER INTERNATIONAL ORGANISATIONS**

At European level, lending in libraries is regulated by the Directive 2006/115/EC on rental right and lending right. E-lending has been the object of two decisions of the Court of Justice of the European Union. The first is the case opposing the Technische Universität Darmstadt (TUD) to Eugen Ulmer, a German publisher.<sup>1</sup> The second decision concerns the already mentioned case opposing VOB, the Association of Public Libraries of the Netherlands, against Stichting Leenrecht, the Foundation administering Public Lending Right in the Netherlands. In both cases the CJEU clearly spelled out the prevalent role of public interest in promoting research and private study and the need for striking a fair balance between the rights and interests of rights holders on the one hand and, on the other hand, users of protected works.

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<sup>1</sup> TUD had made available to the public a book published by Ulmer (and stored in its own collections) by terminals installed within the library. The book so digitised could be printed out on paper and/or stored on a USB stick. In this case CJEU used the three-step test regulating exceptions and limitations under Article 9(2) of the Berne Convention and Article 5(5) of Directive 2001/29/EC (InfoSoc) to make it clear that TUD practice did not prejudice the normal exploitation of the work and did not cause harm to the legitimate interests of the rights holder.



The EBLIDA Second Overview demonstrates that the number of e-lending transactions in Europe is ludicrously low; its level does not meet the priority included in the European Commission Work programme of “a Europe which is fit for the digital age”. More, much more can be done.

**Within its programmes and activities having a cultural and educational scope, the European Commission should:**

- set up as a priority the overall objective to increase the volume of e-lending transactions in Europe, so that they reach at least the current level of lending transactions (which are on average, ten times higher than e-lending transactions);
- reduce regional disparities in e-lending matters and implement programmes aiming to set up e-lending schemes in countries where they do not exist;
- give preference to projects which aim to create a digital ecosystem for e-books where libraries collaborate with those publishers (for instance, small and medium publishers) who cannot afford creating costly platforms for the conversion of their printed products into e-products;
- establish a European award for those e-lending schemes where public access to information is maximised and creators / honest brokers are fairly remunerated and there is no room for the “expensive distributor”, the actor which uses its strategic position to further commodify information.

## **RECOMMENDATIONS FOR NATIONAL AND LOCAL AUTHORITIES AND E-BOOK POLICY-MAKERS**

Books are both commercial and cultural products, and so are e-books. The e-book trade is exempted from strict conformity to market laws thanks to a cultural policy where the production and spread of the written word guarantees the diversity of opinions and expressions as well as wide access of the public to cultural products and services. This policy machinery is built upon a mix of measures which are legal (respect of the rights relating to intellectual property), economic (reduced VAT rate, for example) and social (the existence of the non-commercial network of libraries guaranteed by public legislation and resources).

If legal, economic and social measures coalesce to enhance access to culture and information, a more holistic policy might envision whether a reduced VAT in the book trade should be conferred to commercial actors on the condition that they also stimulate access to libraries. Two principles should be enacted.

The first is that existing practices in libraries related to analogue formats should also be valid in the digital environment, with the principle of public access being safeguarded and not limited by the exclusive right given to authors and producers. The second is that the application of copyright provisions in libraries (and possibly also in educational and cultural institutions) should be regulated and not left to free negotiations between the public and the private sector.

E-reading and digital literacy are hardly a business for commercial actors and library activities are a way to repair what is a typical market failure. Therefore, it would be important not only for libraries, but for all actors to assess how libraries contribute to the sustainability of the book and information chains through the creation, maintenance and enrichment of reading skills. Monitoring the spread of digital literacy in libraries would also show the economic and cultural implications of critically assessing networked information.



PLR is another issue whose effects should carefully be analysed. In strict economic terms PLR only seems a transfer of remuneration from libraries to authors. In cultural terms, it is thanks to (e-)lending schemes that authors may depart from short publishing life-cycles and enjoy long tail mechanisms which support the longevity of their works. They should also realise that the internet is challenging traditional certified authorship with innovative examples of user-generated content and the emergence of “prosumers” (consumers becoming producers of content themselves).

**National and regional authorities and e-book policy makers should:**

- constantly promote the production and spread of the written word through e-books where the diversity of opinions and expressions is guaranteed as well as a broad access of the public to cultural products and services;
- harmonise a policy machinery built upon a mix of measures which are legal, economic and social, ensuring that e-lending in public libraries is guaranteed by public legislation and resources;
- ensure that practices in libraries related to analogue formats are also valid in the digital environment, with the principle of public access being safeguarded and not limited by the exclusive right given to authors and producers;
- provide a concrete follow up to the application of copyright provisions in public libraries through regulatory measures and no free negotiations between the public and the private sector;
- be aware that e-reading and digital literacy are hardly a business for commercial actors and library activities are a way to repair what is a typical market failure;
- promote digital literacy in libraries so as to consolidate individual abilities to contrast misinformation and disinformation.
- stimulate (e-)lending schemes which help authors depart from short publishing life-cycles and enjoy long tail mechanisms supporting the longevity of their works;
- fund and stimulate creativity rooms and other initiatives facilitating meetings between authors and their e-users and other forms of interaction between authors and their e-readers.

## **RECOMMENDATIONS FOR AUTHORS**

Authors are the main link in the book and e-book value chain. Without their creative effort, no artistic and cultural work would be produced and therefore no chain would exist. Nevertheless, they are also the least influential agent and enjoy very little, or no consideration at all, in e-lending mechanisms. In very few countries – Denmark, The Netherlands – royalties are collected from e-lending transactions and authors are remunerated, also in cooperation with collecting agencies. In all other countries, instead, remuneration for authors is linked to the contract they pass with the publisher. Normally, e-lending is funded through public money; nevertheless, there is very little transparency in the allocation of financial resources and how they are redistributed.

Authors should recognise the vital role libraries play in supporting consolidated literary models and “quality” publishing. They should also realise that interaction with readers is now taking place through social media in renewed forms of creativity. Through virtual labs, creativity rooms, and other cutting-edge endeavours, libraries promote the appropriation of e-books and consolidate practices around them. The “open text” is not only a semiotic concept developed by Umberto Eco. It is a practice very much rooted in the philosophy of sharing and in the act to create in a cumulative way, where readers are not passive interpreters of the text but active and talented diffusers.

The German Library Association conducted a campaign on e-books aiming to align e-book procedures to those enacted for analogue books. The legal problem concerns especially the issue of “library royalties”

(Bibliothekstantieme) that are paid to authors for the lending of e-books as appropriate remuneration for e-lending. The German Library Association requests that e-books are given full legal equality with the printed book, in line with measures facilitating the development of the e-book trade, such as fixed book price and reduced VAT. Through this campaign e-lending is brought back under the umbrella of traditional copyright laws.

**Authors and authors' associations should:**

- Request that royalties are collected from e-lending transactions;
- Require full transparency in all steps of the e-lending process, and in particular the last mile, where royalties are redistributed to authors;
- Request libraries to diffuse their works in social media and create opportunities for “meet the author” webinars and other forms of dissemination;
- Be aware that (e-)lending schemes create opportunities for longer publishing life-cycles and long tail mechanisms which support the longevity of their works;
- Ally with libraries in creating innovative rooms, where contacts with e-readers are established and new life is given to literature through creative forms of assimilation and diffusion of their works.

## **RECOMMENDATIONS FOR PUBLISHERS**

The e-book system is far from being a communication vessel where e-books lent immediately translate into loss of sales. For their own advantage, publishers (and in particular, small and medium publishers) should mobilise to remove embargos, windowing exercises, multiple licensing schemes and mechanisms which expose the e-lending system to “frictions”. Decreasing turnover in the book system is generated by broad cultural practices such as the emergence of alternative forms of entertainment, competition from literary subscription services (such as Amazon’s Kindle Unlimited) and increasing sales in other formats, such as audiobooks.<sup>2</sup> During the Covid crisis, theories about e-lending were put to the test: e-book sales and e-lending simultaneously increased and this is undisputable evidence that links between the commercial (book trade) and the non-commercial (e-lending) networks are tenuous; growth may simultaneously be expected on both sides.<sup>3</sup>

Publishers should creatively get out of the totem (stick to the copyright as a totem) / taboo (the philosophy of content sharing) dilemma. They should not see libraries as their counterparts, but – as is the case in the analogue book trade – their allies in increasing the general level of digital literacy. The construction of platforms where innovative experiences are carried out with users / consumers is an exercise which can be afforded only by big publishers having extended distribution networks, and certainly not by small and medium publishers, the most talented and risk-taking category of publishers. Digital literacy is considered an extended concept of reading consisting of the ability to locate, evaluate and critically and effectively use the needed information

**For their own advantage, publishers, and in particular small and medium publishers, should:**

- Ally with libraries to find best ways of promoting e-books through social media and platforms;
- Remove barriers now creating frictions to wider dissemination of their works;
- In collaboration with libraries, find creative ways of disseminating “closed” works and allow for the organisation of cumulative creativity.

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<sup>2</sup> Twenge-Martin-Spitzberg (2019).

<sup>3</sup> Albanese (2020); Guren-Sieck (2021).

## RECOMMENDATIONS FOR LIBRARIES

Libraries and publishers are seen on opposite sides in the digital environment. In order to incentivise the impossible mission of transforming publishers into fans of e-lending, libraries should be able to demonstrate that they are able to provide services not only to users, but also to authors and publishers. Libraries promote titles in the e-book trade, as the Panorama project has clearly demonstrated. They can also organise “meet the author” webinars and other occasions where readers and creators get into a productive dialogue. It also means setting up experimental services in collaboration with authors, where library patrons are agents of diffusion and stimulate new forms of creativity among other users.

To achieve this objective, the position of libraries in the book and information chains should be reinforced as well as their relevance in the distribution segment. This is easier said than done. The current architecture of e-lending is based on the decentralisation of activities and centralisation of data. Aggregators sometimes retain data concerning users and usage data and unintentionally exclude libraries from monitoring and governing the process of inter-relation with users. Another problem in libraries is that data and catalogues recording analogue and digital e-books and e-audiobooks are not interlinked. So far, libraries have failed to create a unified environment for digital and printed products and services.

Paradoxical though it may seem, libraries do their best to attract and retain users in the e-lending environment; once they have succeeded, however, they do not know anything about them. Libraries are starting to lose contact with the communities they serve.

Finally, libraries should advocate for a general revision of the constraints now put by publishers on their operations. E-Books should be made available for e-lending through simplified and streamlined mechanisms; user’s privacy should be preserved; remote online services should be permanently allowed in standardized formats and licenses.

Another aspect concerns the nature of the advocacy libraries should carry out. To convince publishers to mobilise for e-lending is no obvious objective unless public libraries develop a specific copyright strategy which is different from that of university libraries and is linked to book policies carried out by decision-makers.

### **Public libraries, and library associations, should:**

- be able to provide services not only to users, but also to authors and publishers;
- organise “meet the author” webinars and other occasions where readers and creators get into a productive dialogue through experimental services and creativity rooms;
- retain valuable metadata that are now centralised – they are usefully implemented in enriching contacts with the communities they serve;
- advocate for a general reduction of windowing practices and for simplification and streamlining of the business models now permeating e-lending models;
- develop specific copyright strategies which serve their own interests and are complementary to those of university libraries;
- closely link public library copyright strategies to book and e-book policy-making;
- Promote digital literacy so as to consolidate individual abilities to contrast misinformation and disinformation.

## RECOMMENDATIONS FOR AGGREGATORS

Aggregators are essential links in the e-book chain. Some of them negotiate with publishers on behalf of libraries; others confine themselves into the role of agents providing data cumulation and information retrieval. As distributors of information, aggregators centralise records and process an incredible amount of data concerning both the publishing and library sectors. In many cases, they subcontract the technological parts to specific companies.

Their role is determinant in creating avenues where e-lending information is channelled and disseminated. They also facilitate access to information. In many cases, they contribute to normalising e-lending business models and licensing schemes. They act as honest brokers between libraries and publishers, although the mechanisms of their functioning are not always transparent. Agreements with publishers do not always follow explicit patterns. Since the turnover of aggregators is originated through public funding, often after public tenders, the legal arrangements they set, as well as their institutional profiles and policies should be open and clearly identified by their customers.

Data and metadata processed by aggregators are of fundamental importance for libraries, especially branch libraries which nurture intense relations with the communities they serve. Aggregators should analyse, in collaboration with public libraries, what kind of metadata are needed to engage users, enhance public access to information and reinforce the social action of libraries.

### **Aggregators should:**

- Set up transparent e-lending schemes, with business models and services clearly identifiable;
- Together with public libraries, study and analyse the sets of metadata that should be transferred to libraries in order to facilitate their interaction with local communities;
- Provide regular and complete statistics of the transactions taking place within their platforms with direct input into local, national and European statistical reports.

# **PART II: BACKGROUND PAPERS TO THE EBLIDA-EGIL RECOMMENDATIONS ON A SUSTAINABLE E-LENDING POLICY IN EUROPE**



# CHAPTER ONE: YEAR ZERO FOR A EUROPEAN POLICY IN E-LENDING IN PUBLIC LIBRARIES

BY GIUSEPPE VITIELLO

## 1. HOVERING BETWEEN A TOTEM AND A TABOO: INTRODUCTORY NOTES

The library sector is growing increasingly frustrated with the conditions through which digital copyright-protected material is circulating in libraries (e-lending). Outside the book sector, information and content providers are firmly and convincingly providing momentum to the digital transformation. Digital content is being created – very often in open access – and circulated; for many youths, access to culture and education is exclusively made through smartphones. Inside the traditional book trade chain, the digital transformation is still underway and there are no clear plans for the future. The first e-books came to light in the last decade of the 20<sup>th</sup> century; thirty years have elapsed, but questions about e-books and e-lending do not seem to have made great strides.

From a library perspective, publishers seem to be bogged down in their usual patterns of sticking to the totem (copyright) while driving away from a taboo (the Internet culture and its philosophy of sharing). The Directive on Copyright in the Digital Single Market has strengthened the protection of intellectual property against free handling of content by information and content service providers. Nevertheless, reinforced protection has not facilitated access to information. Restricted access comes together with complicated and specific systems of controlled access. Library users complain about the many constraints put to the circulation of digital content; as a result, they are encouraged to move away from the copyright-protected culture and resort to the material that is freely available on the Internet. Nowadays, free of charge digital content is published and aggregated in huge quantities on the Web and plenty of resources of educational and cultural nature are but 1 click away.

A double Kronos syndrome seems to affect a good number of publishers. Publishers fear that the digital book trade is cannibalising the printed book and that the e-lending in libraries is cannibalising the digital book trade. Cannibalisation is felt as a threat within publishing companies themselves, where marketing policies towards printed books and e-books are not always clearly defined. Meanwhile, publishing genres and traditional literary categories are starting to fall into desuetude; some of them have disappeared. For instance, reference works and geographic maps are no longer printed and have been replaced by, respectively, Wiki and Google products. Parents take their children to the round dome-ceilinged reading room in Great Russel Street – once, the reference room of the British Library – or to the map collection of the [SZÉCHÉNYI LIBRARY IN BUDAPEST](#) to show them bibliophilia embodied in printed encyclopaedias and geographical maps. If publishers do not act, other publishing genres may soon turn into historical heritage.

Posters and videos everywhere inform us that education will eventually tumble into the metaverse and students of history and language will learn from animated videos, represented life stories and avatars. Libraries have to adapt to it and complain about restricted access to digital publications and their high price, often three to four times bigger than that of printed publications. Libraries also complain about extensive windowing practices and embargoes that publishers set in place. As a consequence, they dream of free exchange of information based on open access.

University libraries have embarked upon this path since long. Librarians working in public libraries may be tempted to resort massively to the open access philosophy without really considering that the book trade is different from scholarly communication in its structure, nature and actors. Content aggregations based on wiki

practices clash with the very fact that the business of selecting, formatting and marketing cultural content is an art in itself - normally dubbed as the creative role of publishers.

Publishing functions require skills and competences which are beyond the reach of librarians. So much effort is put on the making of (e-)books that both libraries and authors can only regret that several hundred thousand titles, published every year and available exclusively in printed form, cannot be read on mobile devices or are accessible under many restrictions. A much more simplified environment would be beneficial to talented authors, who could benefit from the digital transformation and enjoy wider popularity.

All actors in the book trade are in the midst of a psychological conundrum. Publishers are constantly assertive about their own identity and are afraid of losing it, under the pressure of the societal changes and aggressive marketing strategies pursued by information and content service providers. As a result, they are reluctant to change practices and pattern schemes. Libraries do not know exactly what they are, but they fear that the many constraints they are facing in the acquisition of e-materials will not enable them to reach the status they dream of: information crossroads and local instruments of social cohesion through easy access to the content they acquire.

National and regional authorities are genuinely willing to adapt their public policies. They are confronted, however, with conflicting requests and confrontations internal to the e-book chain that do not help shed light on future scenarios. De Gaulle said that it is difficult to rule a country where there are four hundred varieties of cheese; similarly, the plethora of e-lending models and practices hammered out by content owners leads to confusion and discourages technical solutions promoting e-lending in libraries as a steady and popular practice in the digital environment. It is in the interest of authors, publishers and libraries to create a sustainable framework for the digital book ecosystem, where authors are rewarded for their creativity, publishers are fairly remunerated for their work, libraries have wide access to cultural and educational content at reasonable prices and users have unlimited and free access to quality content.

## 2. QUANTITATIVE DATA

The main quantitative result standing out from this *EBLIDA Handbook of Comparative E-Lending Policies in European Public Libraries* confirms what was stated in the *EBLIDA First Overview of e-lending in Europe*:<sup>4</sup> the level of e-lending transactions in libraries is extremely, and anomalously, low. Data included in Table n. 1 below leads to the conclusion that e-lending is a budding business in practically all European countries, including those that boast a relatively high number of e-lending transactions. In spite of all efforts being made, we are still at the zero stage for e-lending in European countries and a lot has to be done before it becomes routine in public libraries.

This assumption is clearly inferred on the basis of two factors: a) the number of e-lending transactions in absolute terms and their percentage over the number of traditional lending transactions / per inhabitant; b) the percentage of digitally literate people in a country.

Table 1 below lists the number of e-lending transactions both in absolute and relative terms, in relation to the number of inhabitants. These figures are compared with similar figures resulting from traditional book loans in libraries. It can easily be inferred that e-loan transactions are from 10 to 100 times lower than the number of book loans.

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<sup>4</sup> EBLIDA (2022).



The last column in Table 1 includes the percentage of digital literates within a country. We have used Eurostat data, where digital literates are “those people who are able to carry out online transactions, pay a bill or use the digital services offered by the public administration” and, of course, read e-books.<sup>5</sup>

**Table 1: E-lending per inhabitant and levels of technological literacy (Eurostat data, 2020)**

Country	(1) E-lending Transactions	Population	E-lending/inhabitant	Book loans (2019) (2)	Lending / Inhabitant	Technological literacy (% of population) (3)
Belgium (Flem, 2021)	378 000	6 653 062	0.05	3 726 663	0.5	54
Denmark (2021)	7 422 102	5 828 022	1.2	24,4 MI	4.2	70
Finland (2021)	1 509 599	5 560 384	0.27	76070,066	13.68	79
France (2020)	1 MI	65 526 762	0.01	280 MI	4.2	57
Germany (2020)	30,2 MI	84 254 408	0.35	274 MI	3.2	70
Greece (2020)	23 919	10 353 203	0.002	?	?	51
Ireland (2021)	2 184 087	5 123 536	0.42	10,753,548	2.1	70
Italy (2021)	1 474 013	60 461 826	0.02	45,4 MI	0.7	42
Latvia (2021)	39 346	1 866 934	0.02	11 MI	5.8	43
Netherlands (2021)	7,5 MI	17 754 400	0.42	63,2 MI	3.5	79
Norway (2021)	1 645 735	5 495 680	0.29	12,2 MI	2.2	83
Romania (2021)	NA	19 012 351	NA	34,2 MI	1.7	31
Spain (2020)	3 746 853	46 786 580	0.08	51 MI	1.1	57
Canada (2017) (4)	9,8 MI	38 353 949	0.2	523 MI	13.6	84 (5)
US (2017) (4)	218,3 MI	331 449 281	0.65	2 053 MI	6.1	84 (6)

(1) Statistics on e-lending refer to 2021 or 2020; they take into account the unintended effect of the pandemic on e-lending, which has grown spectacularly since 2020.

(2) Statistics about book lending in public libraries (5<sup>th</sup> column) are taken from the investigation carried out by PL2030, available on the PL2030 website (<https://publiclibraries2030.eu/what-we-do/eu-library-factsheets/>). They refer to 2019; even when available, updated information on book loan data in public libraries in 2020 and 2021 has not been used because of the restricted circulation of physical products during the Covid crisis, when public libraries were closed to the public or open under severe restrictions.

<sup>5</sup> Eurostat.

(3) Individuals who have basic or above basic overall digital skills, Annual, All Individuals, Percentage of individuals ([https://ec.europa.eu/eurostat/databrowser/view/ISOC\\_SK\\_DSKL\\_I21/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/ISOC_SK_DSKL_I21/default/table?lang=en)).

Eurostat Glossary definition: Digital literacy refers to the skills required to achieve digital competence, the confident and critical use of information and communication technology (ICT) for work, leisure, learning and communication ([https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Digital\\_literacy](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Digital_literacy)).

(4) Source: IFLA Library Map of the World, <https://librarymap.ifla.org/>

(5) Referring to special age groups. Source: ABC, Life Literacy Canada, 2017, <https://abclifeliteracy.ca/digital-literacy/>

(6) Referring to special age groups. Source: US Dpt Education. Stats in Brief (May 2018), <https://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2018161>

Underdeveloped e-lending transactions are apparent even in countries where e-lending is relatively successful, like Denmark and Ireland. Take Denmark, for instance, which is number two in Europe in e-lending absolute figures (7,4 Ml transactions in 2021) and number one in relative terms. In Denmark, statistics show that there are 1.2 e-lending transaction per inhabitant. This represents only 28 percent of traditional lending transactions, which are as high as 4.2 per inhabitant. In another Nordic country, Norway, digital literacy is also quite advanced with 83 percent of the population having basic or advanced technological skills. When we come to e-lending transactions, the proportion of e-lending transactions over traditional lending transactions is remarkably low: only 0.2 e-lending transactions per inhabitant against 2.2 book loans / inhabitant. The same applies in the Netherlands.

With its +30 million transactions per year, Germany seems to be in a relatively advanced stage. When we look at percentages, it is clear that the number of e-lending transactions is ten times less than that of lending transactions - a small percentage if calculated in relation to the number of inhabitants in Germany (0.35 per inhabitant for e-lending; 3.2 per inhabitant for the lending of physical products).

Other countries do not perform any better. Spain and Italy, for instance, do not have a high level of lending transactions: respectively, 1.1 and 0.7 per inhabitant. This number is exceedingly low when we come to e-lending: only 0.07 and 0.02 respectively for Spain and Italy. In Spain only half the population is technologically literate; in Italy it is less than half. Latvia and Greece have marginal levels of e-lending, and Romania has none.

Data included in the current *Handbook* raise other fundamental questions which should be addressed not only in the library world, but also in the world of authorship and publishing. These questions are: the sustainability of quality reading in the digital environment, the soundness of the e-lending market in Europe, the role of libraries in the digital environment, their ability to promote e-reading, and the requirements enabling the increased participation of Europeans in the infosphere.

If the traditional role of libraries is to encourage reading in whatever form, the crucial question is: if e-lending transactions remain so low, how can the general rate of digital literacy at national and European level increase? Through which resources can a Europe that is smarter, more connected, more social and closer to its citizens enhance its penetration among an alerted citizenship? Europe is rightly proud of its almost inexistant number of illiterates; but how to deal with the missing quarter, or half of the population that is now technologically illiterate?

These trends also challenge publishers' claims that e-content diffused in libraries may cannibalise the sales of e-books (see paragraph 9 below). If e-books, and the quality content they convey, are to be promoted with a wider audience, if published content is an alternative to the content diffused through social media, e-lending transactions should increase in quantity and reach levels that are at least comparable to those of traditional lending transactions in analogue format.

This increase would not be only beneficial to libraries. It is an extraordinary opportunity for authors, who would get a better diffusion and increase their reputation, and for publishers, as they would promote quality content in an infosphere which is currently hegemonized by information and content providers.

### 3. COMPARATIVE E-LENDING: GENERAL REMARKS

The *EBLIDA First Overview on e-Lending in Europe* reviewed e-lending in nine countries: Denmark, France, Germany, Greece, Italy, Latvia, Norway, Romania, Spain.<sup>6</sup> The current *Handbook* increases the number of country profiles, with the addition of Belgium (Flemish community), Finland, Ireland and the Netherlands; it also consolidates data collected in the *Overview*.

It is fair to say that e-lending is running in a smooth way in some European countries; it is under development or taking off with many impediments in some others; and it is not developed at all in other countries.

**National situations can differentiate from one to the other in accordance with several criteria, such as:**

- Countries where there is a substantial offer of resources available for e-lending vs. countries where this offer is small (Greece, Latvia) or practically non-existent (Romania);
- Countries where e-lending resources are aggregated and offered through an intermediate layer - normally, an aggregator who negotiates with publishers on behalf of libraries - vs. countries where negotiations are carried out between libraries and publishers directly;
- Countries where mediators also aggregate resources, vs. countries where they only negotiate on behalf of libraries and do not aggregate resources;
- Countries where aggregators are directly controlled by local governmental agencies (Denmark, Finland, The Netherlands and, to a certain extent, Norway), or by entities linked with publishers and booksellers organisations (France and, to a certain extent, Norway), vs. where the aggregator is independent (eg: Germany, Italy, Ireland, Belgium);
- Countries where national libraries play a distinctive role (The Netherlands, Latvia, Greece and, to a certain extent, Norway), vs. countries where they do not play any role;
- Countries where the role of governmental agencies at national level (Belgium, Finland, France, Latvia, Netherlands) or at regional level (Norway, Denmark) is significant, vs. countries where this role is minimal (Italy).

Whatever the distinction, it is hard to find a common model of national e-lending agency throughout Europe. In a good number of countries e-lending solutions are still being worked out, new models are experimented, or a model has to be set up from scratch.

For the same reason, it is also hard to define what is best practice in setting up a national e-lending agency. Geographic areas which are considered homogeneous - as for instance, the Scandinavian region – offer a range of models that are not easily comparable. Too many variables and distinctive features shape the e-lending market and determine national scenarios and/or specific solutions. They are: the existence of an e-book / e-audio offer, the nature of the publishing market, the size and effectiveness of the library system, the quality and effectiveness of aggregators, the setting up of smooth business models and, last but not least, the investment made by national and regional library agencies for digital resources.

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<sup>6</sup> EBLIDA (2022).

It can be said, however, that the presence of aggregators - in particular when they also negotiate with publishers - has a normalising effect on e-lending models, as practices tend to standardise and the number of contractual solutions is reduced. Aggregators such as e-Roelen, Onleihe, MLOL or the Royal library of the Netherlands play a crucial role in the e-lending ecosystem, as they negotiate licences with publishers and deliver titles to libraries through their unique online platforms. Typically, multiple aggregators may compete within each jurisdiction or national e-lending market. Since aggregators charge fees for libraries to access their platforms, libraries may be using more than one aggregator, although finite budgets for e-lending do not allow for much freedom and encourage libraries to be selective about which aggregators they engage with.

In theory, aggregators only negotiate access to a content whose ownership lies with publishers and authors. Therefore, they are neutral and liaise between vendors and customers. In practice, their ability to monitor e-book transactions and to detect circulation trends enable them to play a significant role in shaping the e-lending processes and the successful use of e-books among users. In addition, they control circulation data, which is a powerful levy to identify users' behaviour and practices and orient them. It is the reason why, whatever the nature of the aggregator and its relative clout in the e-lending trade, libraries should always have a statutory position in the governance of the aggregating entity. They should guarantee that users' needs are precisely conveyed to publishers and that public money is spent well to the benefit of their customers.

#### **4. E-LENDING MODELS COUNTRY BY COUNTRY**

A naïve approach would look at the e-lending issue as a complicated mechanism where the more actors are involved, the more expensive is the cost of e-lending transactions.

**The European e-lending overview shows instead that:**

- a) the number of involved actors in the e-lending process may be variable but in most cases exceeds the bilateral relation publishers-libraries,
- b) a direct publishers-libraries relation is almost never a guarantee that the value chain has enabled the cheapest and most effective solution;
- c) the existence of a national aggregator is often an incentive to simplify business models and to standardise access procedures.

In Denmark, two main actors play a major role in addition to publishers and libraries. The first is the Digital Public Library, an association that operates and manages digital services for all public libraries in the country's 98 municipalities, as well as Greenland, The Faroe Islands, and South Schleswig. The Digital Public Library is maintaining the platform through which all public libraries offer their products and services. Among the services provided by The Digital Public Library, eReolen, the national e-lending service, is negotiating prices and framework contracts with publishers. A third party platform, Publizon, is the operator serving as the backend for both the public library and commercial vendors and streaming services.

This model is replicated in Finland, Belgium (Flemish Community) and Norway.

In 2017, in Finland, the Finnish Consortium of Public Libraries launched a tender for Finnish and Swedish (domestic) literature (Swedish is the second official language in Finland) and lending platform. The result was two service providers with different license models and slightly different content offerings. Libraries/municipalities were able to independently choose from these; some chose both due to the content. Therefore, CPL deals with three agencies operating in the e-book field, and not just one: Ellibs for Finnish e-books, Biblio (an Axiell app) for Swedish e-books, and Overdrive for English e-books. Since 2020,

Finland has been heading towards a permanent solution of e-lending platform where the content only is tendered. This work is done by the e-library project and aims to a one-platform only solution for all public libraries.

In the Flemish community of Belgium, Cultuurconnect, a regional agency, launched a public tender in 2020 requesting an aggregator and an IT-platform. As a result of the Call, an agreement was concluded with Standaard Boekhandel, one of the largest bookstores in Flanders, who took on the role of aggregator, and Bibliothecca, who provided the cloudLibrary platform as a technical partner.

In Norway, e-lending is implemented through the interaction of different layers: at the two ends of the chain, there are publishers and libraries, both at county and municipal levels. The key link of the chain is represented by two national aggregators: Bokbasen, owned by the largest Norwegian publishers and the two largest bookstore chains, and Biblioteksentralen, a non-profit cooperative owned by the municipalities. An important role is also played by the National Library of Norway, that recommends the combination of two e-lending models: licenses and pay per loan. County libraries, operating at regional level, normally use the model recommended by the National Library for e-media. The "one copy/one user" model (limited to five years) is implemented for book acquisitions facilitated by the Norwegian Arts Council. Time-unlimited one copy - one user model – i.e. digital lending put on equal footing as physical lending - is on the wish-list of some public libraries.

In a series of countries e-lending is controlled by private actors, whether as an emanation of publishers' and booksellers' association (France), or as an independent third party, which acts as liaison between publishers and libraries (Germany, Ireland, Italy and also, partly, in Norway).

In France, the e-lending value chain has been elaborated by library, publishing and authors' entities in collaboration with the French Ministry of Culture. The resulting model - PNB ("Prêt numérique en bibliothèque") – is based on the assumption that no actor operating in the printed book chain should jeopardise the opportunity of being present in the digital value chain.<sup>7</sup> The French e-lending business model is triangular. At the one end of the PNB chain, publishers negotiate the marketing rights of digital books with the authors or their beneficiaries and then set the price and conditions of use for public libraries. At the other end of the chain there are libraries, which acquire tokens enabling them to access e-publications at the conditions set by publishers, and booksellers, with whom libraries place their acquisitions. In addition to publishers, libraries and booksellers, two more actors are present in the PNB process. The first is Réseau Carel, an association grouping both French and the Wallon community in Belgium public libraries. Réseau Carel contributes to the improvement of the editorial offers, the information systems, the pricing methods, ergonomics and accessibility. The second is Cercle de la Librairie, an emanation of the Syndicat National de l'Édition, representing authors, publishers and booksellers. Cercle de la Librairie controls Dilicom, a platform set in place since 2012 to operate PNB, which circulates information, deals with e-book records and loan requests as well as the metadata of titles. The system is open to booksellers, traditional suppliers to libraries, at least those who have set up an interface that allows a library to buy digital books. Not all booksellers have joined the PNB system since this represents a significant investment.

Interestingly enough, PNB only generates half of the e-lending offer in France. French public libraries often resort to the e-lending offer made available by e-content suppliers on their own platforms. E-lending mechanisms – libraries claim - are more straightforward and content is very often more relevant.

Since 2007, over 3,500 German libraries rely on Divibib, a subsidiary company of the ekz.bibliotheksservice, and on Overdrive Inc., active in all German-speaking countries and in Goethe-Institute sites all over the world. Licenses are negotiated by these two intermediate actors, which also act as aggregators. The Onleihe offer

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<sup>7</sup> DILICOM.

includes E-Books und E-Paper, E-Audio und E-Music, E-Video and E-Learning. OverDrive provides ebook services for Germany since 2014 through a partnership with Libreka, one of the largest distributors in Germany representing over 40,000 publishers and more than 1,000 domestic and international trading partners. The OverDrive network uses a one-tap reading app, Libby.

The same triangular approach – publishers, aggregator, libraries - is replicated in Italy, where MLOL, the e-lending aggregator, applies a variety of models. MLOL negotiations are done in particular with two of the main distributors of e-books in Italy, namely Edigita (60% of the e-lending offer) and Mondadori (30% of the offer) - the residual 10% of the offer is ensured by Giunti. Edigita's e-lending model is one copy - one (or two in many cases) user model and the licence is acquired to buy 40 downloads (twenty in the local system, twenty for digital ILL). This model has advantages and disadvantages: it is costly because it imposes an ILL quota to the detriment of the consumption in the local library; it is advantageous because it has no 14-day ceiling and therefore is good for long-selling books (and not for the loan of best-sellers). Mondadori offers both models: one copy - one (or two) user model and pay per loan.

Bolinda, a private company with a platform of both e-audiobooks and e-books, is the central agency for e-lending in Ireland. The Irish book trade is strongly dominated by the Big Five British-American publishers - HarperCollins, Random House / Penguin, Hachette, Simon & Schuster, and Macmillan – which distribute their resources. Each of the Big Five has its own strategy: Hachette, for instance, does not distribute e-books in Ireland. The Irish system is quite fragile, with contracts that are renewed every one or two years, and unsteady prices (normally three times more than the unitary price of a e-book). Moreover, as the management of the collections is externalised, libraries do not engage with their own users.

In only one country, The Netherlands, a public institution has the role of both negotiator with publishers and aggregator of the e-content. CB is the technical partner of the Royal National Library (Koninklijke Bibliotheek) and runs the e-lending platform; it is however the Royal Library which makes individual arrangements with Dutch publishers on a one-copy-multiple-users basis and maintains control on e-lending-related operations.

Do e-lending platforms in private hands perform better than those that are controlled by public institutions? The EBLIDA investigation does not prove at all this statement and there is evidence perhaps for the opposite. Denmark, Finland, The Netherlands, and, to a certain extent, Norway, have chosen to aggregate resources through a platform where public institutions (respectively, the Digital Public Library controlling eRoelen, the Consortium of Public Libraries in Finland, The Royal Library and the Biblioteksentralen) offer successful examples of the implementation of e-lending. Divibib in Germany and MLOL in Italy are entirely into private hands (although dbv, the German Library Association, is represented in the Divibib board) and are equally successful. In France PNB only manages 50% of the circulation of digital material – a sign that the Cercle de la Librairie, a private enterprise, does not play a pivotal role in e-lending.

## **5. LICENCING MECHANISMS, WINDOWING PRACTICES AND EMBARGOES**

The *EBLIDA Handbook* seems to confirm the conclusions of a report delivered to the European Parliament almost a decade ago.<sup>8</sup> There is no standard model in Europe: licensing terms, conditions, loan durations and pricing are far from being standardised and differ from country to country, even when the e-book is the same. Restricting procedures concern either users or files, or both users and files. In other words, an e-publication is never dealt

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<sup>8</sup> Mount (2016).

with as a classical acquisition, but as a publication available for limited purchase (in time and/or number of uses). Practices are heterogeneous; nevertheless, two broad categories of licensing models can be detected.

The first category includes single-user licensing models, where there is an attempt to replicate physical book lending in the digital environment and one copy of the book is provided at any given time for the duration of its loan period. Different arrangements correspond to this basic pattern, including the one copy – one user or one copy – multiple user models, with a series of requirements and remuneration schemes that are hard to synthesise and vary according to national situations. It must be borne in mind, however, that these contracts are almost never of perennial nature and have to be renewed on an annual or pluriannual basis.

The second category consists of pay-per-loan / simultaneous-use model, where libraries pay publishers a fixed fee for each digital loan with no specified cap on the number of loans or simultaneous users. This model proves to be more negotiable and advantageous for both publishers and libraries if the loaned e-book is a best-seller.

Between the first and the second category of e-lending, there is a wide array of specific arrangements and adaptations which are hard to track down and do not change the overall description of e-lending practices. However, the single- or multiple-user licensing and the pay-per-loan models remain the main categories, and the German and Italian examples clearly illustrate this trend.

In Germany, the basic model is the one copy - one user loan model - a digital library can pay for multiple copies of a title when it pays accordingly, but only one user can borrow a copy at a specific time. When it comes to multiple copies, there are different licensing models offered by Divibib GmbH and Overdrive Inc., the two aggregators in Germany.

Two models are applied by MLOL, the Italian e-lending aggregator:

- a) one copy - one user (and most generally, one copy - two users), with a cap limit of loans or windowing practice beyond which the copy has to be re-purchased; under this model, an additional archive copy is provided for local, and not remote, consultation;
- b) pay per loan, where the publisher applies a fixed price for each loan with no limitation; this model is particularly suitable for books with a short life-cycle, for which e-lending costs are minimised. The pay per loan system is much appreciated by publishers because it guarantees a good balance between publishers' revenues and library usage.

The one copy – one user model has received legal legitimacy after the decision made by the Court of Justice of the European Union in a case opposing VOB, the Association of Public Libraries of the Netherlands, against Stichting Leenrecht, the Foundation administering Public Lending Right in the Netherlands (case C-174/15). On that occasion, the CJEU ruled that e-lending should be included in the EU Rental and Lending Rights Directive's scope and found similarities between e-lending and the regular lending of physical books.<sup>9</sup> The CJEU decision prescribes the application of Article 6(1) of the EU Rental and Lending Rights Directive on the conditions that: a) the author is remunerated; and b) the e-lending occurs on the basis of the one-copy-one-user model.

This CJEU decision has had two consequences in the debate on copyright: first, copyright exhaustion after sale to library or PLR cannot be excluded in the case of e-lending of works in libraries; second, e-lending can be included within the scope of the Directive 2006/115 of 12 December 2006 on rental right and lending right, provided that authors at least obtain an equitable remuneration.

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<sup>9</sup> Poort, 2018, p. 299 and 305. See also Vitiello (2022).



In spite of such authoritative endorsement, the CJEU decision has had no impact on national legislation, not even in the Netherlands which was the country where the lawsuit was filed. In this country, a Covenant, and not a formal provision, guarantees the regular development of e-lending operations. The Covenant was agreed between the Dutch publishers, libraries, KB (the Royal Library), the government, the Dutch Authors' Association and the Collective Management Organizations (i.e. the organisations collecting royalties for authors).

The involvement of copyright collective management organisations is capital in making e-lending equivalent to lending. Contrary to the book, where a public lending right would normally be offered to authors and royalties be paid, in the e-lending chain authors do not normally receive royalties from the transactions and are normally excluded from the decision-making process. The e-lending value chain is therefore an opaque environment: the amount of royalties given by publishers to authors is not known and not all mechanisms receive appropriate monitoring.

Publishers make the point that e-lending is different from analogue lending. In order to borrow a printed book, users have to step physically into a library; if the book is on loan, they have to wait until the book is returned. This kind of "friction" is by no way replicated in the e-environment; therefore, price discrimination, embargos, licenses aim to replicate frictions also in the infosphere and make the circulation of e-books less easy.

Among the five biggest publishers active in the British-American book trade, HarperCollins sets a limit of 26 loan transactions, after which the e-book is no longer available.<sup>10</sup> In July 2019, Hachette— a company still standardly selling e-books to libraries on perpetual licenses—changed to a two-year license with lower e-book prices. They were followed by Simon & Schuster, which also implemented a two-year license – it used to be a one-year license.

Another example of windowing practices is Germany, where e-lending only concerns 7% of publications of recent release; the bulk of the e-book catalogue concerns e-books published in the years 2014-2017 or older than 2010, with the result that the current offer of 500,000 e-book titles are not available to library users. Moreover, big publishing houses are used to set an embargo of up to 12 months.

Shortcomings of e-lending licensing have been singled out by an investigation carried out several years ago. Since then, it does not seem that these major impediments to free circulation of e-books in libraries have been eliminated or have dwindled in their effects. "Frictions" of this kind were categorised by Dussolier as follows:

- **A LIMITED DURATION** of e-lending;
- **THE LIMITATION OF ONE USER PER TITLE**: the model of one book / one user that prevails on current e-lending services;
- **EMULATION OF DETERIORATION**: licenses are renewed after a certain number of loans to replicate the deterioration of a paper book;
- **RECOURSE TO TECHNICAL PROTECTION MEASURES**: e-books products developed and marketed with embedded DRM;
- **APPLICATION OF AN EMBARGO OR WINDOWS RELEASE PERIOD** before a work can be available for e-lending, based on the principle that 75% of the revenues yielded by a book are generated in the first six months after its publication.<sup>11</sup>

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<sup>10</sup> After 26 loans, the book normally falls into natural deterioration.

<sup>11</sup> Dussolier (2014).

With embargoes and windowing practices widely applied, the e-lending market seems to have shrunk considerably. An independent study carried out in Norway<sup>12</sup> came to several conclusions which may have a general application.

**E-lending models are considered to be:**

- a) complex, with librarians spending too much time in understanding the best model in relation to the publications they are acquiring;
- b) selective, with a demand for e-books or e-audiobooks that is much greater than the supply;
- c) expensive, offering therefore too little value for money.

Windowing practices and embargoes are also a stumbling block to a wider diffusion of e-books in society. This sort of “friction” is implemented on the basis of the assumption that a successful e-lending environment would overlap and eventually greatly undermine the free economic development of the e-book trade. In the next chapter, we are going to demonstrate how faulty this argument is.

## **6. IS E-LENDING AN IMPEDIMENT TO A SOUND E-BOOK TRADE? MYTH-BUSTING STUDIES AND SOME FRESH REALITY**

Traditionally, the argument put forward by publishers to justify some kind of “friction” in the e-lending environment is that library loans impact on consumers’ acquisitions: when an e-book is lent, it is not purchased; for publishers, this translates into an unsold item and therefore, profit loss.

This argument is not new. It was raised with respect to the circulation of printed matters in libraries, but was also falsified by a series of studies, where it was clearly demonstrated that library lending and book trade are not intertwined for at least two reasons: because there are qualitative asymmetries between book borrowers and book buyers and because acquisitions and loans are not made synchronically.<sup>13</sup>

The argument is proposed anew in the e-book field and is presented not as a thesis to be proved, but as self-explanatory evidence. A good example of this kind of prejudice is provided in the two surveys produced by the Federation of European Publishers (FEP), the first about the Swedish, French and Italian market, and the second conducted in Germany.

Since they remain unpublished, both surveys are known only through a secondary source.<sup>14</sup> From this source it can easily be inferred that the focus of the FEP investigation is less about the negative impact of e-lending on the purchasing of books, as the title promises, and more about the level of education of e-lending users. According to the survey, e-lending users in the reviewed countries have the same average income and education

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<sup>12</sup> Nasjonalbiblioteket (2022).

<sup>13</sup> Rouet (1995) demonstrated that acquisition and loans were not made at the same time, and 73% of book borrowers were also acquiring them, but only 37% of books buyers were borrowing books.

<sup>14</sup> Cafasso (2022).

as those of e-book purchasers. This conclusion would clash with the common idea that “libraries are mainly for encouraging reading among groups of the population that would otherwise not have access to books.”<sup>15</sup>

Information of this kind only reflects publishers’ fears about e-lending. When users of Norwegian public libraries and of the National Library of Norway were explicitly asked about their usage of public and private digital networks, respectively 17% and 21% stated that they refrained from buying an e-book because they can access it through public services. The same investigation confirmed that some 35% believe that e-books are usually cheaper than paper books and therefore they are willing to purchase them.<sup>16</sup>

Prejudice about e-lending is entrenched among publishers to such an extent that studies bearing evidence of the opposite - e-lending practices promote reading and therefore supports the e-book trade - are not even taken into consideration. In fact, a wide array of investigations released in publishers’ professional magazines prove that not only do e-lending transactions not have a negative impact on consumers’ behaviours, but are in fact boosting e-book sales.<sup>17</sup> Setting limitations to the access to e-books may actually discourage current e-book buyers from buying more e-books, as they do not see a longer life for e-books through lending and resale. As a conclusion, the public library, “does not only incubate and support literacy, as is well understood in our culture, but it is an active partner with the publishing industry in building the book market, not to mention the burgeoning e-book market.”<sup>18</sup>

An evaluation carried out by an independent think tank (and requested by eReolen, very likely among the most advanced e-lending suppliers in Europe) is adamant in its conclusions: “e-Reolen is a valuable complement to the commercial services [provided by publishers], with its diverse catalogue of genres and titles. For Danish publishers, eReolen plays an important role by being a window to titles and genres with less commercial opportunities. E-Reolen is there to inspire more people to immerse themselves in literature. The battle for the attention of Danes has never been more fierce, and the market for digital literature is full of commercial and free services, who continue to struggle to get Danes to stream their favourite books.”<sup>[1]</sup>

But perhaps the most striking example of how library loans improve (e-)book sales is the case study explored by the Panorama Project - a data driven research project focused on understanding the impact of public libraries on book and author discovery, brand development, and retail sales. Based on the promotion of a single, specific title, the project investigated all possible impacts of title promotion in public libraries in an OverDrive environment, from printed book to e-book sales, number of check outs and related comments. Results are short of sensational: when promoted by libraries, an individual title may see a 818% growth in e-book sales and 201% growth in print sales (March to April 2018).<sup>19</sup>

## **7. E-LENDING IN THE BRITISH-AMERICAN PUBLISHING WORLD: IS IT A MODEL OR AN EXCEPTION?**

The British-American book trade was the first to release e-books to libraries through price models and business practices that differ from the patterns in use in the analogue trade. Some twenty years ago, models started to

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<sup>15</sup> Ibidem.

<sup>16</sup> BI Centre for Creative Industries (2019), p. 38 and 47.

<sup>17</sup> Albanese (2011); Vassallo (2016); Albanese (2020); Sisto (2022).

<sup>18</sup> Rebecca Miller, quoted by Albanese (2011).

<sup>[1]</sup> Seismonaut (2023), p. 11.

<sup>19</sup> Panorama Project (2018).

stabilise, although not all strategies set up by the “Big Five” publishers - HarperCollins, Random House / Penguin, Hachette, Simon & Schuster, and Macmillan – were in sync. HarperCollins and Random House pioneered for change, Hachette and Simon & Schuster followed the trend and MacMillan resisted, reluctantly embarking upon e-lending.<sup>20</sup>

In the decade preceding the pandemic, the e-lending business adopted market-driven licensing models through the eradication of the ownership model, a partial elimination of perpetual terms – i.e. unlimited license – and terms of access restricted in time (one or two years, after which the license must be extended). Harper Collins first introduced the term of 26 loans, after which libraries can choose to repurchase a license at a discounted price. Random House started discriminatory prices no longer based on the unitary price of the book, but on prices which were two or three times bigger. Penguin started implementing a six-month embargo period on its licenses, but it dropped this practice after its fusion with Random House in 2013.<sup>21</sup>

Some twenty years ago, prominent vendors started to offer e-lending services to libraries. The most successful of them is OverDrive, a U.S. based company, dubbed as the largest digital content provider - 81,000 libraries and schools in 106 countries.<sup>22</sup> Ranked n. 1 in the ReadersFirst Guide to Library E-book Vendors, OverDrive provides for a variety of library functions (search, availability, circulation, account) and opportunities to interface with most current library systems.<sup>23</sup> Overdrive is also notable for providing titles in Kindle format by directing users away from Overdrive’s site to Amazon. Lending options to libraries are the following:

Simultaneous Use – Titles can be borrowed simultaneously by an unlimited number of users. Titles will typically never expire.

One Copy / One User – A digital library can only have one copy of a title, and only one user can borrow it at a specific time: titles never expire.

Metered Access – Similar to one One Copy / One User, but titles will expire after a determined period of time (typically 12 months).

Cost Per Circ (CPC) – Add a publisher’s entire catalog to library’s collection and pay when users borrow titles from that catalog.<sup>24</sup>

In 2018 Overdrive global operations included 185 million e-book loans.<sup>25</sup> Usage of digital books increased in public and academic libraries during the Covid 19 pandemic: by 50% in the first three months.<sup>26</sup> Similar and even higher figures are reported for European public libraries in terms of digital circulation.<sup>27</sup>

In spite of this broad offer, not all available publications in digital form are accessible. A group of researchers investigated this issue on a sample of 546 titles and, in a second investigation, at a large scale, over a sample of 100,000 titles made available to libraries on e-lending in five countries: the UK, US, Canada, New Zealand and Australia. Of these, 76% is available from at least one e-lending platform and 51% is available from all the platforms that were scrutinised (of which, 74% from Overdrive). Oldest titles are available at higher rates than the newest, with a concentration on titles published in the late 1980s and 1990s. 85% of the e-publications

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<sup>20</sup> Sisto (2022).

<sup>21</sup> Ibidem.

<sup>22</sup> <https://company.overdrive.com/company-profile/who-we-are/>.

<sup>23</sup> ReadersFirst (2014).

<sup>24</sup> yz2236 (2016).

<sup>25</sup> Rebecca Giblin et alia (2016).

<sup>26</sup> Ibidem.

<sup>27</sup> EBLIDA (2022).

released by the **BIG FIVE** publishers are available on at least one platform; 68% are available in all e-lending platforms.<sup>28</sup>

Of the 90,450 titles available in at least two countries, licence terms are identical for 74,922 (82.8%), and different for the remaining 15,528. Normally, licence differences are attributable to the decisions made by the five largest publishing houses. In the five countries, availability pairings do exist between Australia and New Zealand, and between the United States and Canada. If a title is unavailable in Australia, it will very likely be unavailable in New Zealand too and available instead in both the US and Canada. Overall, the UK has the least attractive licence terms, the highest prices, and the lowest availability.

This shows that the Anglo-Saxon market is not a model likely to be extended to other countries. It should be understood – in terms of practices, accessibility requirements and price policies - as an exception.

## **8. CONTROLLED DIGITAL LENDING: IS IT A SOLUTION?**

Controlled Digital Lending (CDL) is the practice whereby the digital copy of a work legitimately acquired in printed form and owned by the library is made available to a patron in the same form as physical copies – i.e. if a copy is on loan, it is unavailable for consultation.

Controlled Digital Lending is very much encouraged by the Internet Archive, a non-profit digital library of millions of free books, movies, software, music, websites, and more founded in 1996.<sup>29</sup> In the framework of the Internet Archive, e-publications are made available for one hour, or a longer 14-day loan, after which the encrypted file using Adobe Digital Editions is no longer made available. Circulation in any format is **CONTROLLED** so that only **ONE USER** can **USE** any given **COPY** at **A** time, for **A** limited time. As an explanatory video produced by The Internet Archive concisely states, “Controlled Digital Lending is a common sense evolution of what libraries have been doing for centuries”.<sup>30</sup>

This practice has been running for more than ten years. In 2020, however, the Internet Archive was at the centre of a controversy which ended up in a lawsuit filed by a group of publishing companies. During the early days of the pandemic, the Internet Archive had suspended waitlists created by CDL practices for the 1.4 million book collection. The creation of a National Emergency Library allowed e-book borrowing seamlessly and, opposite to the CDL philosophy, multiple people were able to simultaneously check out the same digital copy of a book. The suspension of the waitlists was expected to run until June 30, 2020; it terminated two weeks earlier with a copyright lawsuit, where publishing companies were seeking for financial damages.<sup>31</sup> CDL is therefore a practice which has to be kept within the limits provided by copyright rules.

In Europe, an important step towards the implementation of CDL was undertaken by the Court of Justice of the European Union in the case opposing VOB to Stichting Leenrecht (case C-174/15) (see paragraph 5 “Licensing

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<sup>28</sup> Rebecca Giblin et alia (2016).

<sup>29</sup> The Internet Archive currently holds over 20 million books and texts, 3 million movies and videos, 400,000 software programs, 7 million audio files, and 483 billion web pages in the Wayback Machine.

<sup>30</sup> The Internet Archive.

<sup>31</sup> Publishers vs the Internet Archive: why the world’s biggest online library is in court over digital book lending, The Conversation, Published: July 20, 2022 6.14am BST, <https://theconversation.com/publishers-vs-the-internet-archive-why-the-worlds-biggest-online-library-is-in-court-over-digital-book-lending-187166>

models”). On the basis of the CJEU decision, any legal reflection around e-lending should revolve around two principles: on the one hand, the principle of free access to information which is essential for the functioning of libraries, and, on the other hand, the principle of appropriate remuneration to authors. In legal terms, a balance should be found between citizens’ right to use culture and content in a way that facilitates their individual educational and cultural development and the requests made by right holders.<sup>32</sup> This balance is what EBLIDA calls: sustainable copyright.

The country profiles explored in this *Handbook* provide evidence that CDL is no real alternative to current e-lending schemes, for a series of reasons. First, it isn’t at no cost – a library has to digitise a book in printed form and this requires manpower for the production of a digital copy which may be available in the digital offer of aggregators. Second, the one-copy one-user model generated from CDL may be considered complementary, and not alternative, to the one-copy multi-user models generated from licensing schemes – it lacks the benefits flexibility of multi-user and it is good to remember that licensing is the natural expression of copyright in the digital world. Third, CDL is a decentralised model which is hard to apply at national level without the infringement of copyright law. Fourth, decentralisation in e-lending offsets the likely benefits from, and extension of, the use of data in a centralised system – for instance, the application of artificial intelligence tools.

CDL is a basic solution which should open up other possibilities and a clear demonstration has been the boost of the digital library from 2020 to 2022, during the pandemic. In Latvia, the National Library of Latvia came to an agreement with AKKA/LAA (Copyright and Communication Consulting Agency/Latvian Authors’ Association) through which a collection of digitised books was made available to users through a paid license. All authors in the collection are determinant for the Latvian culture. The National Library of Latvia issued a statement in relation to works not included in the AKKA/LAA-NL Agreement and asked their authors whether they wished to be excluded from the portal. One month after, no notification was received for works to be removed from the portal. This experience shows that multiple solutions can be found to boost e-lending, case by case and under several conditions, provided that there is a clear policy undertaken by public powers.

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## ANNEX 1: SUMMARY TABLES

Table 1: E-lending Quantitative data (countries with aggregating agencies)

Satisfactory		Critical		Unsatisfactory	
Country	Number Transactions	Expenditure	Coverage	Users	
Belgium 2021 (Flemish community)	331.000 (e-books) 441.000 (digital magazines & newspapers) 47.000 (interactive children books)	€600.000 every year	Unknown		
Denmark (2021)	2 826 785 e-books 4 595 317 e-audiobooks 7 422 102 (both e-books and e-audiobooks) 20% of lending; Children: 1.3 m	12MI for e-lending + 1.2MI for platform maintenance	80 000 titles (99% publishing output) 40% transactions are fiction titles	715 000 users (over 5.8m inhabitants)	
Finland (2021)	Coordinator: CPL (Consortium of Public Libraries) and Aggregators. As from 2024, e-kirjasto / Finnish e-library	content 1,5 MI, platform 0,155MI	Coverage: 45000 titles (about 85% of commercial e- and audiobooks) 50/50 fiction and non-fiction	389914 active users in 2021 (ca 15% of the population)	
France (2020)	+ 1MI (625 005 in 2019, +79%) (in 2019, 9.1 e-resources on average per Public Library)	2019: € 9 182 per library (average)	240 190 titles (Dilicom) 59% fiction	Unknown	
Germany (2020)	30,2MI – 13,54% of total lending (223m)  35,8m copies sold	€ 14,9m	Divibib: 500,000 e-book titles (7,200 publishers) 7% recent e-books 40% e-books 2014-2017, more than 10% less than 2010  Overdrive, not known	1/3 of the users are unhappy (no new releases)	
Ireland (2021)	900,441 e-books ; 1,283,646 e-audiobooks	1.7 mil euro	High level of coverage	Embargoes and all kinds of limitations	
Italy (2021)	1 474 013	€428 000 (only Emilia-Romagna region)	95% of the Italian publishing output  An offer also for students including 70,000 titles	Unknown	
Netherlands (2021)	5.4 million e-books; 2.1 million audiobooks	€7 018 230 (1.03/title)	High level of coverage	435 000; (satisfaction rate: 7,5 / 10)	
Norway (2021)	1 008 674 (8,5% of total lending); 637 601 e-audiobooks 1 420 745 (both e-books and e-audiobooks in 2019: 603 535 e-book loans (3,9% of total lending)	Unknown	Unknown	0.18 per inhabitant (in 2019: 0,11 per inhabitant)	

Table 2: E-lending Quantitative data (countries with no aggregating agencies)

<div style="display: flex; justify-content: space-around; align-items: center; margin-bottom: 10px;"> <div style="border: 1px solid black; background-color: #90EE90; padding: 5px; text-align: center;">Satisfactory</div> <div style="border: 1px solid black; background-color: #FFFF00; padding: 5px; text-align: center;">Critical</div> <div style="border: 1px solid black; background-color: #FF0000; padding: 5px; text-align: center;">Unsatisfactory</div> </div>				
Country	Number Transactions	Expenditure	Coverage	Users
Greece	23 919 (1,34% of total lending)	Unknown	120 (out of 950) publishers offer ebooks; Only 15 publishers (1.6%) allow for e-lending	Unknown
Latvia	39 346 e-books loans (0.007 of total lending) 5 394 208 book loans	Unknown	Some publishers	Unknown
Romania	No digital offer	No digital offer	No digital offer	No digital offer
Spain	3 746 853	€1,5 MI	33 265 items (31 326 ebooks, 1 628 audiobooks. 83 journals, 52 newspapers + 176 other)	257 315

Table 3: E-lending business models (countries with aggregating agencies)

<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="background-color: #90EE90; padding: 5px; border: 1px solid black;">Satisfactory</div> <div style="background-color: #FFFF00; padding: 5px; border: 1px solid black;">Critical</div> <div style="background-color: #FF0000; padding: 5px; border: 1px solid black;">Unsatisfactory</div> </div>				
Country	Actors	Models	Windowing practices	PLR
Belgium (Flemish)	On the basis of a tender, Standaard Boekhandel negotiates with publishers and Bibliotheca is the aggregator. Cultuurconnect funds operations; royalties for the e-book licenses are paid by the participating public libraries.	Single use model; licenses for 16-26 loans (2-4 years).	4 times more expensive than individual purchase.	
Denmark	A) Publishers supply titles; agreements with The Digital Public Library; B) Aggregator: The Digital Public Library (98 municipalities): negotiates prices and terms & conditions; C) eReolen, national e-lending service (belongs to The Digital Public Library; D) Publizon; 3 <sup>rd</sup> party platform; backend public library and vendors.	Pay-per-loan (one copy-multiple user) fees are vary; One copy – one user (only the big seven publishers)	Only the « big seven » publishers have windowing practices	Active both for lending and e-lending
Finland	Coordinator: Consortium of Public Libraries negotiates; Aggregators are: Ellips (for Finnish), Biblio (for Swedish) and OverDrive (for English) e-books	1 copy – 1 user, one copy-multiple user, pool model, Pay per loan	Windowing practices: embargos by some publishers, no advance information on e- and audiobooks available for library sale	PLR to be introduced in 2023
France	A) Publishers supply titles, B) PNB is the digital lending platform, C) A professional association, Réseau Carel negotiates rates and services (for 50% French libraries), D) Dilicom gathers e-book distributors and makes available metadata	License and related tokens (to be spent by each library)	Long-term license (for long-selling) Short-term license (for bestsellers and quick turnover)	
Germany	A) Publishers supply titles, B) Divibib GmbH through Onleihe, and Overdrive Inc. in partnership with Libreka are the aggregators	Basic: 1 copy – 1 user Advanced: Licenses	(12-month embargos by some big publishers)	
Greece	A) Only 15 Publishers, B) National Library of Greece	No clear model	Embargos by some publishers	
Ireland	Contract between IRL LGMA negotiating on behalf of libraries and BOLINDA, the aggregator having been awarded the contract for e-lending transactions through the BorrowBox platform.	Publishers decide licenses and windowing policies	Only for 59% of the e-collection there is no limit on loan or term.	
Italy (2021)	A) Publishers provide content through two main distributors: Edigita (60% of the e-publishing offer) and Mondadori (30%), B) MLOL, negotiator on behalf of libraries and aggregator	1 copy – 2 user Pay per loan e-ILL for several titles	Windowing practices or overpricing are only marginal	
Latvia (2021)	A) Publishers provide content; B) <u>National Library platform</u> <a href="https://www.3td.lv/">https://www.3td.lv/</a> based on direct relations with publishers	Conditions vary according to publisher	No windowing practices when agreements are set in place	
Netherlands	Actors are: KB, (individual arrangements with Dutch publishers); CB, runs the platform; Odilo, delivers the platform to KB; Lira and Pictoright, CMOs, collect royalties. Data on e-loans delivered by CB via KB.	One-copy-multiple-users basis applies to 50% of Dutch publishers.	A Covenant signed by all involved parties guarantees transparency	Active both for lending and e-lending
Norway (2020)	A) Publishers provide content; B) Two negotiators and aggregators: Bokbasen (Norwegian big publishers and 2 largest bookstore chains); and Biblioteksentralen (owned by municipalities, non-profit cooperative); - National Library of Norway tries to combine e-lending models	Bokbasen uses license models Biblioteksentralen uses pay-per loan models	Unknown	

Table 4: E-lending business models (countries with no aggregating agencies)

<div style="display: flex; justify-content: space-around; align-items: center; margin-bottom: 10px;"> <div style="background-color: #90EE90; padding: 5px; border: 1px solid black; text-align: center;"><b>Satisfactory</b></div> <div style="background-color: #FFFF00; padding: 5px; border: 1px solid black; text-align: center;"><b>Critical</b></div> <div style="background-color: #FF0000; padding: 5px; border: 1px solid black; text-align: center;"><b>Unsatisfactory</b></div> </div>				
Country	Number Transactions	Expenditure	Coverage	Users
<b>Greece</b>	A) Only 15 Publishers, B) National Library of Greece	No clear model	Embargos by some publishers	
<b>Latvia</b>	A) Publishers provide content; B) <u>National Library platform</u> <a href="https://www.3td.lv/">https://www.3td.lv/</a> based on direct relations with publishers	Conditions vary according to publisher	No windowing practices when agreements are set in place	
<b>Romania</b>	No digital offer	No digital offer	No digital offer	
<b>Spain</b>	Actors: A) Publishers supply titles; B) eBiblio as the digital lending platform; acquisitions through support provided by the Region (Comunidad autonoma)	Licences for simultaneous use, depends on publisher	Publisher's DRM also on eBiblio	

Table 6: E-lending national agencies

Country	Public (national)	Public (regional) or hybrid	Private	National Library
Belgium (Flemish Community)	Cultuurconnect (aggregators are: Standard Boekhandel and Overdrive)			
Denmark		Digital Public Library (aggregator is eRoelen controlled by the Digital Public Library)		
Finland	Consortium of Public Libraries (3 aggregators: Ellibs, Finnish e-books, Biblio Swedish e-books, and Overdrive, e-books in English)			
France	Carel (only negotiates rights with publishers)		PNB (Joint venture of SNE, pub' ass, and SLF, booksellers' ass)''	
Germany			Onleihe (DvD) and Overdrive	
Greece (NA)				
Ireland			Bolinda	
Italy			Horizons (MLOL platform)	
Latvia				NLL (some arrangements with LT RRO)
Netherlands				The Royal Library is both negotiator and aggregator
Norway			Bokbasen (major publisher + 2 bookstores)	X
Romania				
Spain				



## ANNEX 2: DEFINITION OF E-BOOK AND E-LENDING

When dealing with e-lending, the very first problem concerns definitions. Quite often, e-lending and e-books are terms used to designate a variety of services and products with no clear distinction between them. Three documents may help define e-lending and related products: the EBLIDA working paper on the “Key Principles on the acquisition of and access to e-books”, issued in 2021;<sup>33</sup> the 2014 IFLA document on e-lending in the Anglo-Saxon e-book trade;<sup>34</sup> and the recent paper by Library Futures (2022), which deals with digital library policies and advocacy.<sup>35</sup>

Definitions change over time. E-books are defined in the same terms in the 2012 EBLIDA document and in the 2022 Library Futures policy paper: a “book” or a “text document” “composed or converted into digital format for display on a computer screen or handheld (portable) device”.<sup>36</sup>

### **IFLA categorizes the different manifestations of e-books, whether it is:**

- owned by an individual or a library or more commonly licensed from the publisher/vendor;
- contained in a collection or bundle of eBooks marketed as one entity;
- augmented or supplemented by audio visual or other elements such as Global Positioning System (GPS) data as part of one file or through links to separate file(s);
- coexisting with a print on paper book of the same text or has no physical equivalent;
- downloaded to a device or streamed, which requires an Internet connection whenever the work is read;
- produced by a trade publisher or self-published for the general reader (the most common understanding) but may also be a scholarly or professional monograph published by entities such as university presses or professional organizations.<sup>37</sup>

For the purpose of this Handbook, digital versions of journals and newspapers are not considered eBooks.

The Library Future policy document also defines a “digital audiobook” as “a sound recording of a reading of any literary production that has been converted into or published in a digital audio file that may be listened to on a computer or portable electronic device.”<sup>38</sup> A definition of digital audiobook was strongly needed, since in current library reports, the lending of digital audio-books by far outnumbers e-books in e-lending transactions.

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<sup>33</sup> EBLIDA (2012).

<sup>34</sup> IFLA (2014).

<sup>35</sup> Library Futures (2022).

<sup>36</sup> EBLIDA (2012) and Library Futures (2022).

<sup>37</sup> IFLA (2014).

<sup>38</sup> Library Futures (2022).

“Handheld” or “portable” devices are “any self-contained electronic device for personal use for communicating, reading, viewing, listening, playing video games, or computing, including a mobile telephone, tablet computer, electronic book reader, and other similar devices.”<sup>39</sup> In addition, the EBLIDA document makes a crucial difference between a “user” - any person using library services – and a “registered user” - a user who has registered with the library and whose identity is known to the library.<sup>40</sup>

According to the EBLIDA document, e-lending is “making a digital object available for use for a limited period of time and not for direct or indirect economic or commercial advantage”, either by giving the user access to the work for a period of time, after which the access is denied, or by letting the user download a self-destructive version of the work to a computer or reading device, so that the file is destroyed after a pre-determined period of time.<sup>41</sup> The IFLA document considers that e-lending is “the temporary provision of an eBook by a library to a registered user for use away from the library premises and in the library should the user wish” in terms which can “be dictated by purchase agreement, license or by the library itself [...] or by a reader’s device from a vendor, publisher or library server.”<sup>42</sup> In the Library Futures terminology, loan means “to create and transmit to a library user a copy of an electronic book or digital audiobook and to delete such copy upon the expiration the loan period.”<sup>43</sup>

On the side of the offer, a “publisher” is “any person in the business of the manufacture, promulgation or sale of books, journals or other literary productions, including those in digital form, consisting of text, imagery or both, and digital audiobooks.” This definition may also be extended to aggregators who enter into contracts with libraries for the purposes of providing materials for purchase or license from the publishers.”<sup>44</sup>

It can be inferred from all these definitions that “an unconditional ‘lending right’ might undoubtedly lead to the situation [...] that there is no need for anyone else to buy a work which is bought and made available to the public via internet. So obviously, there is a need to restrict the use of works made available as digital files in a way that prevents this scenario.”<sup>45</sup>

Restricting the use of works while improving access to information for all may be performed under the terms of what we would call as “sustainable copyright” - a compromise set between publisher’s business models, library need to provide widespread access to e-content, and the efficient use of public expenditure in financing library services.

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<sup>39</sup> Ibidem.

<sup>40</sup> EBLIDA (2012).

<sup>41</sup> Ibidem.

<sup>42</sup> IFLA (2014).

<sup>43</sup> Library Futures (2022).

<sup>44</sup> Ibidem.

<sup>45</sup> EBLIDA (2012).

#### **E-lending within the book economy framework**

##### **A survey essentially oriented towards public libraries**

Why are there so many different models of e-lending in Europe? Is it possible to envisage a uniformity of practices and solutions in this disparate landscape? And what are the respective roles of public authorities and of public libraries in this field?

Despite the progressive development of the e-book offer, libraries still encounter many difficulties in implementing e-lending. Those difficulties are of a variable nature - legal, technical, and financial. For some expert librarians, e-lending is mainly considered under a legal perspective, where the recognition of the derogatory status of digital library transactions in relation to copyright laws legitimises open access practices through customary fair use.

A valuable approach, this methodology has nevertheless some limits: in the European copyright system judges do not have the same latitude in interpreting the law as in the Anglo-Saxon system, where the right of access to digital publications is based on fair use. On the other hand, the judgement of the Court of Justice of the European Union (in the case opposing the Dutch Library Association to the Leenrecht Foundation, case C-174/15) made an important step towards the development of e-lending in libraries. The CJEU ruled that library lending of e-books is analogue to the lending of printed books, as long as books are lent in the “one copy-one user” model (as soon as one reader returns an e-book, a second reader checks it out, and so on, with no expiration date). They may therefore be included in the scope of the Directive 2006/115 of 12 December 2006 on rental right and lending right, provided that authors at least obtain an equitable remuneration.

Any legal reflection around e-lending should therefore revolve about two principles: on the one hand, the principle of free access to information which is essential for the functioning of libraries, and on the other hand the principle of appropriate remuneration to authors. In legal terms, a balance should be found between citizens’ right to use culture and content in a way that facilitates their individual educational and cultural development and the requests made by right holders. This balance is what EBLIDA calls: sustainable copyright.

Merely legal considerations, however, are analytically limited and do not help find appropriate solutions to the problem raised in libraries. The institutional background and the economic environment surrounding e-lending include the number of transactions of e-books in libraries, the content of the policy of public powers, the nature of the e-book trade (e.g. the popularity of e-books among young people), the practices linked to e-book acquisitions in libraries and the quality of publishers-libraries interrelation. All these factors are determinant in the structure of an e-book economy which, in the book trade, is mainly shaped by the national language(s) spoken in different countries and by their cultural development in terms of reading skills and access to knowledge.

In other terms, the linguistic and the cultural scope of the e-book diffusion weighs highly in setting up the objectives and the essence of the library advocacy to be developed at European level, since this advocacy has to be tailored in compliance with the structure of both the e-book trade and the national library system – and it is not taken for granted that measures implemented in one country can also be useful in other countries.

This holistic approach – legal, economic, institutional – has often been neglected in professional library circles as well as in sectorial studies. Apart from providing a more solid foundation to the understanding of e-lending policies, this methodology would also allow networked libraries to play a greater role in the digital distribution

of electronic publications and better serve the interests of citizens – even more so that *tous les jeux ne sont pas faits* in the e-book life cycle.

This EBLIDA survey on e-lending in the context of the book economy, whose results will be known in Spring 2022, has the general objective to lay the foundation of a "sustainable copyright" in public libraries through the examination of three particular aspects:

- The dependence of the e-book library trade and library acquisitions on national economic factors, legal constraints and institutional requirements (number of users, percentage of publications available in a digital format, purchasing power of libraries, the role of intermediate layers negotiating with publishers on behalf of libraries);
- The role played by national public authorities in the choice of an e-lending model;
- The potential strength of a networked system where the library demand is aggregated, with an active e-book cultural policy carried out by libraries, alongside and beyond solutions focused on open access practices.

### **Elements for a survey on e-lending within the book economy framework**

#### **General data and the legal framework**

- What is the number of e-lending transactions in your countries?
- In percentage, what does e-lending represent in relation to the overall number of lending transactions?
- Could you break down e-lending transactions by library category (academic, public, school)?
- Could you break down e-lending transactions on a regional basis?
- Could you break down e-lending transactions by subject category?
- What are the main difficulties / assets in collecting data about e-lending in your country?
- Which legal act / contractual agreement regulates e-lending in your country?
- How is e-lending implemented (through intermediate actors negotiating on behalf of libraries, a national agency, individual arrangements made by individual library or library system)?
- Which is the institutional or private entity in charge of collecting e-lending royalties on behalf of libraries? Do libraries play a role in its governance?
- Are local practices consistent with the law case 174-15 of the Court of Justice of the EU?
- What are the main difficulties / assets in setting up a legal framework on e-lending in your country?

#### **Interaction between authors/publishers/libraries**

- What is the business model underlying e-lending practices in your country?
- What is the percentage of publishers distributing digital publications for e-lending purposes?

- What are the requirements set by publishers (e.g. embargos)?
- Do publishers apply discriminatory prices to libraries in relation to individual buyers?
- How are DRM devices implemented and who is dealing with them?
- What are the main critical points in such interaction?
- How is the level of piracy assessed and through which criteria has this level been assessed?
- Would you consider that e-lending is a way to control (or to increase) piracy in the info-sphere?
- Is piracy (or fear of potential piracy practices) a major impediment for authors and publishers to go digital?

### **The role of libraries and public powers**

- How are e-books purchased (individual e-books, purchase of collections' bouquets, etc.)?
- What kind of limitations are set to e-book usage in libraries?
- Do public libraries aggregate themselves in consortia when they negotiate with authors / publishers / collecting societies?
- How would you describe, and compare, e-lending mechanisms implemented in academic libraries and in public libraries?
- Are there mediators assisting libraries in their negotiations with publishers (such as Onleihe in Germany, PNB in France, or MLOL in Italy)?
- Are libraries aware that networking is a crucial asset for negotiations with publishers? Why?
- Are libraries aware that, if the content is king, the role of distributors of e-books is that of king-makers?
- Is e-lending a well-recognised measure supporting the book field?
- What other accompanying measures are taken by public powers to support the e-book diffusion and reading policies? Could you categorise them?
- To what extent are professional organisations and involved actors happy about e-lending mechanisms?
- What is the annual amount of money / year levied for e-lending services in libraries?
- How is this money re-distributed among right holders?
- In percentage, what is the percentage of e-lending services in relation to the annual publishing turnover?
- Is it possible to quantify e-lending royalties as a percentage to the average remuneration of authors?
- What is equal / unequal about redistributive mechanisms?

### **Users' practices**

- Are library users happy about e-lending services?

- Are they consulting traditional books and e-books regardless of their formats ?
- Are official statistics about e-lending consultations available?
  
- How large is the e-book diffusion among children and teen-agers?
  
- Are users also provided with e-book readers, when the case?

**Other**

- Is there any issue regarding e-lending in your country or specific organisation that hasn't been addressed in this questionnaire? If so, these issues are : .....

# CHAPTER TWO: PUBLIC LIBRARY ACQUISITION POLICIES, OPEN ACCESS AND RELATED COPYRIGHT STRATEGIES

BY ZÉLIA PARREIRA AND GIUSEPPE VITIELLO

## PREFACE, BY TON VAN VLIMMEREN

It can be said of copyright what Winston Churchill said about democracy, that it is the worst form of remuneration to authors, except for all other forms of remuneration that have been experimented from time to time. EBLIDA is fully committed to open access as it was formulated in the BOAI (Budapest Open Access Initiative), a “world-wide electronic distribution of the peer-reviewed journal literature and completely free and unrestricted access to it by all scientists, scholars, teachers, students, and other curious minds.”

When it comes to the book trade, however, a different strategy has to be followed and the whole history of EBLIDA will suggest that this strategy should be made of continuous collaboration with publishers and opposition to them, when necessary. This paper reports about main issues in the scholarly communication and book trade chains and how research libraries (RLs) and public libraries (PLs) should face current challenges. It deals with main differences between authorship in scholarly communication and authorship in the book trade value chains, with an emphasis on how quality is ensured within the two chains. Shortly said, the selection of scientific articles and quality insurance is a public endeavour in the scholarly communication chain. It is paid with public money, oriented at a global scale, guaranteed by peer reviewing and the academic scrutiny of the evidence-based nature of its content. In the book trade, instead, quality insurance is within the scope of individuals (authors) and private companies (publishers), in their respective roles of creating an artistic and/or educational work often oriented to a small cultural and language group and bringing it to the market at their own risk and expenses.

The report also describes the state of the art of the open access strategies pursued by RLs. It focuses on the great achievements performed by the open access movement and the RL resilience in the face of the tough economic constraints set by the oligopoly of academic publishers. It also expands upon the strategic gaps research libraries are facing when it turns to distribution and what PLs may learn from the research library experience.

Another important section of the report deals with the strategy that could be pursued by public libraries in a digital environment. The book trade is largely dominated by the paper format. The fact that the sector is technologically lagging behind in relation to the scholarly communication chain can be turned into an opportunity. *Tous les jeux ne sont pas faits* in the relationship between the book trade and public libraries, provided that the latter are ready to take the lead in the digital environment and build upon what has been done, what is being done and what could have been done.

Politicians and policy-makers in Europe are now in the process of demonstrating that the crisis generated from the pandemic is not going to be wasted. They are injecting huge amounts of resources into the machinery of recovery and resilience for the post-Covid age. Just as policy-makers, European libraries should demonstrate that they are not jeopardising the financial opportunities made available in the European context. There is a time for lawyers and Court practitioners and a time for library strategic policy and planning. I believe that, for copyright purposes, the time is come for strong policy changes and forward-looking library planning.

## INTRODUCTION

Politicians and policy-makers in Europe are now funding gigantic investment plans for the post-Covid age. Just as policy-makers, European PLs should demonstrate that they are able to make the most out of these opportunities and maintain the digital library “normal” they created and/or boosted during the Covid crisis. In an expanding digital library, PL negotiations with publishers cannot be managed in the old traditional way. A policy should be set up, with a view to facilitating the elaboration of viable projects with realistic requirements and objectives.

RL acquisition policies have been permeated by the BOAI (Budapest Open Access Initiative), which was launched in 2002. The BOAI is still now a fundamental drive for RL action (together with Lessig theories and Pirate Party programmes).

Open Access (OA) has made great strides with a panoply of successful projects, platforms and other initiatives. Even if the bill for RL acquisitions remains high, OA has contributed to the stabilisation of the market and to galvanising the advocates of products and channels which are alternative to the oligopoly of commercial scholarly publishing. What has been achieved in RLs can be transferred to PLs, but only with adjustments and adaptations that reflect the different nature of the book trade in relation to scholarly communication.

In the book trade, authorship and the selection of quality production – a public endeavour in the scholarly communication chain – is within the scope of private companies and of individuals. While scholarly communication is fully digitalised, the penetration of digital technologies in the book trade sector is still not pervasive - the paper format represents the large majority of publications, up to 90-95%. Despite increasing e-book sales and e-lending in libraries during the Covid-19 crisis, the percentage of digital publications in the book trade remains the same.<sup>46</sup>

This may be the reason why PLs delayed their reflection on negotiation policies and their interaction with the book trade in the digital environment. This also means that *tous les jeux ne sont pas faits* for PLs. How should they proceed? Should they adopt the Budapest Declaration (2002) as it stands? Or should they build up an initiative of their own?

This paper illustrates the peculiar nature of the book trade in relation to scholarly communication and the main differences between RL and PL acquisition policies. It takes into account market constraints, but also opportunities. Within the framework of the current European legislation this paper also describes some possible models for PL acquisition policies and their related copyright strategies. A viable model in medium-large countries, for instance, could be the setting up of a centralised entity negotiating rights with publishers and decentralised points of distribution where copyright-protected resources are combined with OA resources, blogs, conversations with users and other useful tools.

### **The primary aim of this paper is therefore:**

- To illustrate the main differences between the book trade and scholarly communication and how these differences impact on the acquisition policies of PLs and RLs,
- To set up an appropriate PL acquisition policy, which may contribute to build up “rich” platforms partially controlled by PLs.

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<sup>46</sup> Habran (2020), p. 121.



This paper is endowed with a set of SWOT tables which illustrate how PLs and RLs are currently embedded in the book trade / scholarly communication chains. For each of the links of the chain – Authorship, Production and Distribution – the SWOT tables in Annexes intend to build upon PL and RL strengths and opportunities and to enhance their positions within the chains. It is to be hoped that, by pursuing an appropriate policy, PLs will improve their negotiation skills and also shape up a copyright strategy which may help them play a distinctive role in the book trade chain.

## 1. SCHOLARLY COMMUNICATION AND THE BOOK TRADE – WHAT IS THE DIFFERENCE?

The publishing sector is not a monolith, but a highly heterogenous and diversified sector, often working in a haphazard manner. Scholarly communication is only a section of the publishing industry; to look at it as the dominant model in publishing is not only misleading but may cause a false perception about the quality of interaction between PLs and their publishing counterparts. It may also create misunderstandings about products and services that are released within the chain RLs and PLs are part of. There is in fact little in common between the production and the marketing of a scientific journal and the production and the marketing of a literary work, normally in the form of a book. Points below emphasise the main differences between scholarly communication (point 1) and the book trade (Point 2).

### A. Authorship

A1. In scholarly communication, authorship and the selection process is in public or non-profit hands. Researchers writing papers, academics offering the results of their researches to an academic arena are normally employed by universities / research centres. Authorship is not limited only to creators, it also involves other researchers / academics who accept to select articles to be published and comment / amend a scientific paper under a peer-reviewing process for free. Academics, who are voracious readers of scholarly journals, are per definition employees. The authors of a scientific article do not expect any economic return for their published research, but a consolidation of their academic reputation generated from being enrolled in the list of authors in a peer-reviewed journal with a high impact factor. As a consequence, the intellectual property of such work should be public (and not personal) and publishers' rights be limited to the value they add in the chain.

A2. Books are written by authors who make their living, or increase their own revenues, out of their published output. Authors in the book trade may have personal motivations to write (what is called the “psychic income”);<sup>47</sup> nevertheless, they have taken the personal risk of choosing the book channel as the way of diffusing and making known their artistic talent. As a rule, they negotiate their authors' rights with publishers, who normally perform the following functions: a) they discover new authors, themes and forms of publishing; b) they finance the fabrication of the work; c) they take the commitment of diffusing and distributing works written by authors; d) they promote not only the work of an individual author, but the whole of the published collection; e) as private companies, they have an obligation to make profits.<sup>48</sup> The authorship process in the book trade is in private hands; therefore, intellectual property may have a public component (the work is made public and, as such, should circulate as widely as possible); nevertheless, authors should enjoy the fruit of their talent and publisher's' rights be rewarded for the value they add in the chain.

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<sup>47</sup> Cuntz (2018).

<sup>48</sup> Schuwer (2002), Ch. 1.

## **B. Products.**

B1. In scholarly communication, the publishing output is normally a journal, a bulletin, and any other publication format which allows for the quick dissemination of research results. A scientific journal is a peer-to-peer product: the director of the publication and its scientific committee are normally prestigious academics in the field of specialisation of the publication. Unless the publication is in open access, a journal is normally acquired through subscriptions that are paid by university libraries, although both the price of scientific periodicals and the business models of scholarly publishers have greatly changed in the last twenty years. With the exception of Humanities and Social Science, books are secondary products in scholarly communication.<sup>49</sup>

B2. The publishing output in the book trade is a book. As already mentioned, books are the result of artistic talent and of the efforts made by the publisher who takes the financial risk of selecting, fabricating and diffusing it. The book trade has low barriers for new actors entering the market; this is the reason why it is considered the sector where freedom of expression and the multiplicity and diversity of opinions and expressions are better guaranteed, if compared with other media – film, music, and other entertainment industries.

## **C. Economics of publishing**

C1. A handful of scholarly publishers dominate the sector. The scholarly publishing market has gradually grown oligopolistic: between 1973 and 1990, the current five dominant publishers combined accounted for less than 10% of the published output. By 2013, their share had increased to more than 51%, meaning that, in 2013, the majority of papers were published by journals that belong to five commercial scholarly publishers. “Specifically, in 2013, Elsevier accounts for 16.4% of all SSH papers (4.4 fold increase since 1990), Taylor & Francis for 12.4% (16 fold increase), Wiley-Blackwell for 12.1% (3.8 fold increase), Springer for 7.1% (21.3 fold increase), and Sage Publications for 6.4% (4 fold increase). On the whole, for these two broad domains of scholarly knowledge, five publishers account for more than half of today’s published journal output.”<sup>50</sup>

C2. The total book market value was estimated at €36–40 billion in 2017. 575,000 new titles were issued by European publishers in 2015 – an amount of titles which increases year after year.<sup>51</sup> The book trade, too, has grown oligopolistic, with a few publishing house taking the lion’s share of the market. In France, for instance, the 10 leading publishers (with a battery of brands under their control) make 88,9 % of the publishing turnover (62 % for three of them) in 2018.<sup>52</sup> In Germany, around 7 percent of publishers account for 95 percent of the total turnover and the 40 biggest publishers (representing 2% of all publishers in publishing statistics) make 78,8% of the total publishing turnover. Small and medium publishers (87% of all publishers) only make 6% of the publishing turnover.<sup>53</sup> In Portugal, two major publishers, representing 0,3% of publishing houses (667), published 13% of the titles between 2013 and 2017.<sup>54</sup> And in Spain, where the number of publishers remained almost the same between 2013 and 2017 – 3,086 in 2013 and 3,032 (2017)<sup>55</sup> - 46 publishers representing 2% of all publishers control the market with a publishing output going beyond 300 titles/year.<sup>56</sup>

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<sup>49</sup> Vitiello, G (2020).

<sup>50</sup> Larivière V, Haustein S, Mongeon P (2015).

<sup>51</sup> FEP (2017), p. 2.

<sup>52</sup> France (2019).

<sup>53</sup> Peischel (2019).

<sup>54</sup> Portugal (2021); APEL (2021)

<sup>55</sup> Orús, A (2021)

<sup>56</sup> Enelmar (2021)

In spite of this high level of concentration, a dense network of independent publishers is in existence in all European countries, if by independent is meant (at least in Germany) a “publishing house [that] does not belong to any group, has a professional publishing and sales structure, and publishes at least two titles a year.”<sup>57</sup> These publishers show high resilience and take more risks than leading publishing companies because the sale of their books is not supported by a “friendly” distribution system.

#### **D. Global/Local**

**D1.** The few enterprises working in the scholarly communication publishing segment operate at global level, and use English as standard language. There are high entry barriers, also due to the cost of platforms devised to create the data banks of articles where indexing services and evaluative functions are performed. The sector is technology-intensive with a high level of customer-oriented technologies and AI tools.

It comes as no surprise then, that four of the major scholarly publishers rank among the first eight biggest publishers in the world in the 2017 list released by Publishers Weekly:<sup>58</sup>

2017 Rank	2016 Rank	Publishing Group or Division	Parent Company	Country	2017 Revenue	2016 Revenue
1	1	<a href="#">Pearson</a>	Pearson PLC	U.K.	\$6,070	\$5,617
2	2	<a href="#">RLEX Group</a>	Reed Elsevier PLC & Reed Elsevier NV	U.K./U.S./Netherlands	\$5,609	\$4,864
3	3	<a href="#">Thomson Reuters</a>	The Woodbridge Company Ltd.	Canada	4,941\$	\$4,819
4	4	<a href="#">Bertelsmann*</a>	Bertelsmann AG	Germany	\$4,240	\$3,697
5	5	<a href="#">Wolters Kluwer</a>	Wolters Kluwer	Netherlands	\$3,994	\$3,384
6	6	<a href="#">Hachette Livre</a>	Lagardère	France	\$2,735	\$2,390
7	7	<a href="#">Grupo Planeta</a>	Grupo Planeta	Spain	\$1,974	\$1,889
8	10	<a href="#">Springer Nature</a>	Springer Nature	Germany	\$1,956	\$1,715

\*These figures refer to 2017; in 2019, Bertelsmann acquired Penguin, thus reinforcing its market position; see Bertelsmann Acquires Full Ownership of Penguin Random House, <https://www.bertelsmann.com/news-and-media/news/bertelsmann-acquires-full-ownership-of-penguin-random-house.jsp?atn=&abp=>

<sup>57</sup> *Ibidem.*

<sup>58</sup> Milliot (2018).

**D2.** The national book trade normally operates in printed form in a market that is restricted by language, and is very restricted in those cases when speakers of that language do not exceed some hundred thousand (Baltic, Slavic, or Balkan languages). Even for larger markets, when the language is spoken by several million people, there is a natural barrier that does not allow for further expansion, but is essential for the preservation of the national language and people’s cultural identity. The German book trade is among the largest in Europe; nevertheless, the comparison between the turnover of scholarly communication big players and that of the major companies publishing in German shows that, while the first count is in a thousand million (because they are scholarly and because they publish in English), the second count is in tens of millions, as the following table will show:<sup>59</sup>

<b>Publisher</b>	<b>Turnover in MI Euro</b>
1 Random House	293,0
2 Bastei Lübbe (Independent)	84,0
3 Carlsen (part of the Swedish Bonnier Group)	70,7
4 S. Fischer (part of Holtzbrinck group)	67,2
5 Rowohlt (part of Holtzbrinck group)	67,0
6 Ravensburger Buchverlag (part of the Ravensburger game and toy company)	61
7 Dtv (paperback publishing house common to 11 publishers)	60,2
8 Droemer Knauer (part of Holtzbrinck group)	57,9
9 Ullstein (part of Axel Springer group)	46,1
10 Hanser (Independent)	43,4

### ***E. Reading in Scholarly Communication***

**E.1** Scholarly communication is a closed circle: academic authors write for academic readers - themselves academic authors and university students. The main product circulating in this segment is the academic article and the market knows no crisis also in light of the increasing number of papers written by Asian researchers. There are expectations that more granular products may take over in the future, like videos of experiments, statistical tables, pictures - digital objects which are identified by identifiers having a low level of granularity such as the DOI (Digital Object Identifier). Nevertheless, this trend has not yet become dominant. What is dominant is instead the implementation of evaluation systems, such as the Impact Factor, which is widely used by universities and research centres. The “market” for indicators will certainly grow in the future.

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<sup>59</sup> Boersenverein des deutschen Buchhandels (2019).

## E2. Reading in the Book Trade

Reading books is a declining practice. According to a study published by the Börsenverein des Deutschen Buchhandels, in only four years, from 2013 to 2017, the number of book sales decreased by 17,8 percent. The long-standing common belief that half of the German population are book buyers is no longer true; in 2017, only 29,6 ml German citizens bought one book, corresponding to 44 percent of the population above the age of 10. Declining figures are confirmed by reading trends in public libraries, as the following table is demonstrating:

<b>LIBRARY LOANS</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>Variation</b>
Denmark	1 895 534	1 828 621	1 715 132	2 067 263	1 983 489	<b>4.64%</b>
Estonia	11 198	10 718	10 382	10 007	10 154	<b>-9.32%</b>
Finland	68 985 936	68 547 619	67 944 365	67 337 146	66 602 013	<b>-3.45%</b>
Germany	374 897 196	364 005 121	363 215 343	335 439 623	346 032 584	<b>-8.82%</b>
Portugal	2 394 237	2 120 472	2 118 437	2 100 947	2 126 076	<b>-11.20%</b>
Slovenia	26 332 506	25 755 260	25 796 762	25 692 211	24 365 483	<b>-7.47%</b>
Spain	56 563 781	52 054 604	51 745 244	48 292 336	46 970 378	<b>-16,96%</b>

The main reason for these trends is lack of time and daily stress, which discourage people from performing a practice which requires slow social habits and proper reading skills. In Germany – but the same remark can be extended to all European countries - reading is less present in people’s experiences and its practice has been eroded by the quick consumption of content diffused through Google, Facebook, Instagram, Twitter and other social media. Other competitors of the book are TV series and stream platforms.<sup>60</sup>

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<sup>60</sup> Krise im Buchmarkt Studie (2018).

## 2. PUBLIC LIBRARIES AND RESEARCH LIBRARIES - WHAT IS THE DIFFERENCE?

PLs and RLs differ in the public they address. This statement may seem self-explanatory, but it is worth being stated and restated. PLs are open and serve everyone: their working universe is the community they refer to. Their aim is to open pathways to learning and reading. They develop general information services while promoting special services like story time activities, provision of new titles and, in general, any other service which contributes to the development of individuals, the attainment of social inclusion and the integration of their patrons in society.

RLs have a specific purpose. Often specialised in academic disciplinary fields, they promote access to knowledge which is stored in data banks, repositories and other cloud services provided by scholarly providers. Their working universe is usually smaller than PL, but is intense and specific: they build up areas of expertise and promote knowledge in all its aspects.

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### 2.1 PUBLIC LIBRARIES

What kind of information is accessed in PLs? Where and how? In general, PL users wish to know what is available in the library in relation to a subject of their interest, whether in an analogue or in a digital format. Users are in the first stage of their research and have a concrete objective to fulfil: a project for school or a problem to solve in a timely and appropriate way.

Nevertheless, this typology of essential information, which encouraged many people to come to PLs to consult basic information sources, such as inventories or encyclopaedias, is now found on the Web. The length, width and depth of the PL scope is in their leisure status – PLs are venues where people converge, meet and develop, by using appropriate material like books. Therefore, the first expenditure to be cut in PLs with tight budgets for acquisition is non-fiction.

At the beginning of the Third Millennium, it may be strange that the bulk of the PL products on offer is still the printed book. It is PLs' response to the remarkably high demand for books. It is not surprising that books represent the largest (and sometimes only) share of PL acquisitions. Some years ago, the CD and DVD market seemed to be on the rise, but the Internet and streaming services have reversed this trend. Products available on the Web are accessible on digital devices with no library help.

#### **So, how can PLs continue working and still be relevant?**

In recent times, some library theories have pointed to the role of PLs as third place, a relaxed and loose infrastructure between home and the work place, a nice place to spend time where individuals find opportunities for their own development. An indispensable condition to play this "third" role is a place, and this place cannot be empty; it is to be filled with books and services on offer.<sup>61</sup>

This is the main reason why PL acquisitions should turn to books, again. Libraries buy new titles, follow the printed publishing market and establish partnerships with bookstores and distributors. PLs remain the institution owning the property of tangible information, partly also because some PL staff may still be anchored to the "magic" of printed paper. As demand for books normally concerns items highly requested in bookshops, the

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<sup>61</sup> Oldenburg (1989).

dilemma for a public librarian is whether they should buy bestsellers in a big number of copies, which may become redundant after the hype has passed.

An updated collection is the first criterion to attract people; diversity is its corollary, since publications must reflect a variety of opinions and currents of thought. Small authors, different movements of expression and literary genres open up minds and contribute to the formation of a critical spirit and a well-grounded citizenship. When services are planned and collections are managed, literature represents between 40 and 60% of PL book acquisitions. And the main objective remains the consolidation of reading skills.

The transition to digital publications in PLs is not easy. Only a few libraries have regular programmes of acquiring and lending eBooks; when it happens, this takes place mainly in urban centres, where users are more comfortable with new gadgets, ask for technological upgrades and are keen to dematerialized reading materials.

The hesitation of public librarians to accept digital runs parallel with an offer that is still poor and unable to meet the diversity requested in public libraries. Big publishers and distributors are not interested in investing in a market that doesn't offer the guarantee of minimum levels of profit, their reluctance is expressed in the possibility of inhibiting or, at least, limiting sales to PLs. Libraries also need additional investment in hardware enabling everyone, including economic disadvantaged people, to have equal access to publications.

A small, but important step has been the offer of digital newspaper services. The old newspaper corner in PLs has been transformed into digital reading access points, where the bulk of newspaper content is available in the library, at home, at the office or in vacation resorts, if the user has access to the Internet and a compatible device. This requires that library users are registered (and it is good for statistics); remote use, however, does not require people's presence in PLs and weakens their role as third place.

The Covid-19 pandemic boosted digital forms of e-lending. PLs were forced to innovate and create new ways of contacting users.<sup>62</sup> Unfortunately, many PLs limited themselves to releasing publications on social media. The transition to a digital PL implies both investments and good policy and planning - now that the pandemic is gradually coming to an end, are PLs on the verge of digital transition?

This depends on the negotiation ability of public librarians. In the printed book world, PLs make small and frequent acquisitions, have accounts open with local bookstores or friendly distributors and still manage to purchase books directly with small publishers. While research- and scholarly publications are presented to a world-wide stage of scientists, local acquisitions made by PLs are connected to local culture, heritage and politics and, as such, add to the fabric of the community.

In the digital environment, what is the margin for freedom of choice and freedom of expression? Will there be room for new and unknown voices in a market that is strongly monopolised? Open Access may play an important role in this landscape, as an opportunity to get small authors known to the public. But this solution requires a mechanism equivalent to the institutional repositories of RLs and financial input.

Even with no major investments in hardware and acquisition of digital library materials, one relevant service PLs are now performing is the fight against fake news and awareness raising on misinformation and disinformation. Certified information has always been a duty (if not a mission) of PLs, but has gained today new meaning and relevance. For public libraries to be pictured as safe harbours of information a double level of certification is needed: the selection and certification made by publishers, and the selection and certification made by public libraries.

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<sup>62</sup> EBLIDA (2020).

Acquisitions in libraries are made easier with the support of the selection made by publishers. This collaboration also extends to e-books, certified information in the printed world and certified information through e-books and e-publications have very much in common. Both formats need a panoply of reviewers and editors who process information and help build critical thinking and judgement in the community. For e-books and publications, however, new digital skills are required as well as a proactive attitude towards the evaluation and the validation of information in the digital environment.

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## 2.2 RESEARCH LIBRARIES

RL users know what they are looking for and rarely resort to library expertise, however competent this is: they are in control of what they are looking for. What matters to researchers is how they get access to the relevant information that will upgrade their knowledge and take them to the next level of their research. Information needs are high and intense: the latest scientific publications, the most cited authors, the publications having the highest impact factor.

RLs have a carefully designed collection development, strongly associated with the focus of their umbrella institution, aiming to support university courses and research trends. RL acquisition policies are heavily focused on digital reference journals, with most updated information being available at users' fingertips. Printed formats have been replaced almost totally by digital materials and new forms of channelling information; the ownership of library material has left the floor to temporary access to bundled aggregation of periodicals available on the platforms of scholarly publishers.

Budget restrictions turn RLs towards the acquisition of a combination of OA and paid-for resources. Since their first criteria of choice is the Impact factor, to restrict digital collections exclusively to sources in open access is virtually impossible. RLs have the obligation of providing certified information, in real time, to guarantee that their users – students and/or researchers – have access to the best opportunities for learning and to carry out research; by doing so, they also contribute to the reputation of their research institution.

Therefore, scholarly publishers charge RLs not only for the content they channel or the editorial service they perform, but mainly for the reputation they have built upon their publishing output. Technologies designed to provide fast and easy access to resources have turned into their opposite: limitations to the content through contractual clauses and a more than adequate price clearing all technological restraints.

In response to this market appropriation, RLs have joined forces in consortia and given birth to ad hoc associations, in an attempt to get some leverage in negotiating contracts with publishers and shift the negotiation power from the seller back to the buyer. Some of these consortia are funded through the generous support of external actors, like non-profit organisations; the bulk of them is however supported through university money.

This system benefits smaller institutions, since financial participation in consortia intends to provide equal opportunities to all members and, therefore, is proportional to the potential number of users. Minor universities pay less but gain access to the same window of knowledge designed for major institutions. Not all RLs share the same portal created by library consortia; the largest universities, for instance, have created their own platforms.

In this respect, the ability for researchers to perform text and data mining in search of new insights and knowledge is essential for the progress of a research where there is unhindered access to vast quantities of information stored in databases and repositories. Text and data mining is guaranteed through Article 3 of the



EU Directive on Copyright in the Digital Single Market, which allows research organisations and cultural heritage institutions to carry out text and data mining of works.

Scientists, researchers and librarians are developing a justified concern with the proliferation of fake science. This perverse process can be contrasted only through the reinforcement of peer reviewing mechanisms ensuring the reliability of the published information. The centrality of the Impact Factor, too, as an instrument designed to regulate prestige, reputation and career development, is a warrant of scientific trustworthiness. Both tools submit the content of scientific information to wide scrutiny and, therefore, certify the validity of the information made available.

### 3. OPEN ACCESS IN RESEARCH AND PUBLIC LIBRARIES

#### 3.1 OPEN ACCESS IN RESEARCH LIBRARIES

The official start of Open Access has a date and a name. The date is 14 February 2002 and the name is the Budapest Open Access Initiative. Right from its outset, OA was aimed at changing publishing requirements in scholarly communication and in scientific journals:

“An old tradition and a new technology have converged to make possible an unprecedented public good. The old tradition is the willingness of scientists and scholars to publish the fruits of their research in scholarly journals without payment, for the sake of inquiry and knowledge. The new technology is the internet.”<sup>63</sup>

The ideals enshrined in the Budapest Declaration include easy access to content (“remove access barriers to this literature”), personal enrichment and learning (“accelerate research, enrich education, share the learning of the rich with the poor and the poor with the rich”) and free of charge access to information (“The literature that should be freely accessible online is that which scholars give to the world without expectation of payment”).<sup>64</sup>

The BOAI did not come out of blue, but was the result of a long season of what was called “serials crisis” – i.e., the cost of subscription to journals increasing at a much higher rate than the Consumer Price Index. Statistics released by the Association of Research Libraries showed that the price of periodicals had grown by 210% from 1986 to 2000, while the Consumer Price Index and salary increases for academic personnel had grown, respectively, by 52% and 68% in the same time lapse.<sup>65</sup>

The reason for this depended, and still depends, on two factors: horizontal concentration and vertical integration in the scholarly communication chain. The horizontal concentration is an oligopoly of five major publishing houses – RLEX Group (former Reed-Elsevier), Thomson Reuters, Wolters Kluwer, Springer Nature and Taylor & Francis – which have clout enough to impose their sale requirements and prices to RLs. None of these companies resort to external distributors, but each of them has its own distribution platform where scientific periodicals are aggregated and offered to RLs.

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<sup>63</sup> BOAI (2002).

<sup>64</sup> Ibidem.

<sup>65</sup> Frosio, G (2014); Guédon, J-C (2001).

Platforms are innovative tools offering any kind of indexing service and, most importantly, releasing usage statistics to their users through the Impact Factor, an indicator evaluating the number of times each periodical is consulted as well as the number of times an author or an article is quoted in other publications. These services are much appreciated by universities and research centres, to the point that one can say that the income of scholarly publishers is generated as much as from the products than from the services they deliver.

A wide range of products and services fall under the scope of the Open Access movement. Among the products, open access scientific journals take the first place, whether they follow the Gold or the Green OA model. Gold OA is when publishers make all articles and related content available for free immediately on the journal's website, but charge the author for the work they do to process the article. Green OA is the case of a publication which is posted on a website controlled by the author (self-archiving); a post-print publication is posted after it has been peer-reviewed, a pre-print is posted before peer-reviewing. The Wikipedia article on OA also reports cases of hybrid OA, when articles in closed access and in OA are hosted in the same journal issue; bronze OA, when the article is free to read on the publisher's website, but licensing conditions are not clear; "diamond/platinum" OA, when peer-reviewed journals sponsored by institutions publish OA articles without asking for charges related to article processing. And finally, there is also a Black OA, when articles are freely available, but only after infringement of copyright rules.<sup>66</sup> A list of OA journals is in DOAJ, the Directory of Open Access Journals.<sup>67</sup>

OA also endowed itself with a set of platforms which are major disciplinary assets. An example is ArXiv, in principle an archive of pre-prints (i.e, articles not yet peer-reviewed) in the fields of physics, mathematics, computer science, quantitative biology, quantitative finance, statistics, electrical engineering and systems science, and economics. Other major publishers of OA journals in the Gold OA mode are the Public Library of Science, Hindawi Publishing corporation, MDPI and BioMed Central.

The OA is not only a new publishing practice; it is also a movement with a number of activists, politicians and philosophers. Activists are to be found among researchers and librarians; campaigns launched by them have achieved significant results: in 2002, Timothy Gowers, an eminent British mathematician, posted a petition named the Cost of Knowledge,<sup>68</sup> in which he invited researchers to stop supporting Elsevier journals. This call for a boycott included almost 20,000 signatures.

The OA movement also managed to have OA policies approved in many countries. According to a recent SPARC-Europe report, OA policies in Europe are official in 11 countries and unofficial in 14 countries [quote is needed]. While the Registry of Open Access Repositories (ROAR) stores a database of OA institutional repositories,<sup>69</sup> the ROARMAP (Registry of Open Access Repository Mandates and Policies) (ROARMAP)<sup>70</sup> is an international database of policies. Another important entity is cOAlition S,<sup>71</sup> a coalition of institutions exerting pressure on commercial scholarly publishers with a view to consolidating the principle of transformative agreements of contracts shifting away from the subscription model in the short or medium term and dropping paywalls or article fees. According to a recent investigation, in 2019, 31% of all journal articles were available in open access and 52% of article views related to OA articles. Estimates forecast that 44% of all journal articles and 70% of article views will concern OA publications in 2025.<sup>72</sup>

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<sup>66</sup> Open Access (Wikipedia).

<sup>67</sup> [DOAJ](#).

<sup>68</sup> Cost of Knowledge (2012).

<sup>69</sup> ROAR.

<sup>70</sup> ROARMAP.

<sup>71</sup> Plan S.

<sup>72</sup> Piwowar et al (2019).

More than horizontal concentration, it is the vertical integration of production and distribution in scholarly communication that has generated the most disruptive consequences for research library budgets. The distribution of academic journals internalised in proprietary platforms has reinforced the oligopoly of scholarly publishers. In spite of the incorporation of open access practices, we have seen that their turnover, normally generated from academic library acquisitions, keeps growing and exhibits profit margins stabilized at around 15-25% of their revenues.

RLs have been less effective in facing vertical integration. For years, they have pursued a sterile opposition to the Impact Factor, touted as the pillar underpinning the economic hegemony of commercial scientific publishers. They missed the point that the Impact Factor is a major factor to evaluate science, academics and researchers themselves – an exercise much needed in academic institutions. They were unable to take advantage of their proximity to the places where research is produced and engineered on at least two occasions.

The first was the TULIP project in 1992. In a pioneer project undertaken with Elsevier, RLs were offered the possibility of distributing digital publications of scholarly publishers at a time when horizontal concentration was not complete and vertical integration had not yet taken place. The reason why RLs rejected this opportunity can easily be understood. In the TULIP project, RLs were asked to use their technologies to administer copyright revenues on behalf of Elsevier in an environment where the price of scientific journals was already spiralling up. The proposal seemed, more than an opportunity, an outrageous request to subcontract Elsevier administration to libraries for free.<sup>73</sup>

More regrettable is the fact that RLs were unable, at the turn of the Millennium, to set up global platforms curated by them where open access resources would be stored, made accessible and linked with rating systems. This task was performed by the private and the non-profit sector – ResearchGate, Academia.edu, etc. The opportunity of creating a distribution system was therefore jeopardised and research libraries were unable to take the lead in linking evaluation tools to the needs of the academic community they refer to.

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### 3.2 THE THEORETICAL FOUNDATION OF OPEN ACCESS

The theoretical underpinning of the OA movement is to be found in a philosophical-political undertaking advocating for a radical change in the copyright paradigm. Especially popular in the academic milieu, these thesis call for a more simple implementation of copyright rules which are considered to be hampering free expression and being a stumbling block to innovation. A prominent lawyer, Lawrence Lessig, among the originators of the Creative Commons Public Licences, has in particular emphasised two aspects leading to the reconsideration of copyright: the new nature of digital culture and the commonisation of cultural products on the Web.

For centuries writing and reading were considered two different cultural practices, the first being the “romantic” act of a writer expressing its genius in an artistic work, the second being the practice of a silent reader. With the advent of digital technologies, writing and reading may take place simultaneously; they are the object of constant interaction. Lessig calls this new nature of digital culture Remix, based on a read/write culture and replacing a read-only culture. Each new work based on a read/write culture is technically a derivative work in copyright regulations – it includes elements of copyrightable work but is autonomous and different to the one from which it originates. According to current copyright rules, any derivative work can be published only after authorisation of the copyright holders. In Lessig’s theories, Remix is an ordinary business on the Web; therefore, the use of derivative works should be allowed in order to encourage innovation and further creativity.

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<sup>73</sup> Vitiello (2021).

Commonisation – the governance of a common good through the use of shared rule – is the other feature Lessig identifies, which allows the sharing and use of creativity and knowledge. In previous theories, individuals having open access to a resource act independently according to their own self-interest cause depletion of the resource – what is called the “tragedy of commons”. Creative commons licences provide the response, since they allow file sharing and innovation based on collective intelligence.<sup>74</sup>

Both remix and creative commons support an understanding of the Internet where the economic concept of scarcity no longer plays a role. The Internet is characterised by a relative abundance of resources. In this post-scarcity environment basic knowledge products may be offered free of charge, while more advanced products are paid-for or are offered following freemium (free + premium) models. According to this theory, popularised by Chris Anderson in his book *Free: the future of a radical price*, information is abundant and free, while copyright is re-creating an artificial regime of scarcity.<sup>75</sup>

In politics, voice to these academic theories was given by the emergence of pirate parties, the first of them being born in Sweden in January 2006. Successively, pirate parties spread through some 30 countries, especially in Europe and North America, and were particularly active in Sweden and Germany. Even if pirate parties have practically disappeared in the political theatre, or merged with other formations, their programme has been summarised in five points: a) **No changes to the moral rights of authors;** b) **Free non-commercial use of products, for instance for file-sharing;** c) **Five years of commercial exclusivity;** d) **Free sampling – codified “fair use”**, so that the default rule becomes that it is legal to create new works out of existing ones; e) **A ban on “Digital Restrictions Management” (DRM).**<sup>76</sup>

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### 3.3. THE IMPACT OF OPEN ACCESS ON RESEARCH LIBRARY ACQUISITION POLICIES

Open access has made great strides; with all evidence, library expenditure for acquisitions would have gone beyond any emergency level without the vigorous action of open access activists. RL expenditure has stabilised, although it is not clear whether changes in indicators for library acquisitions depend on the effect of the OA revolution. What follows is library expenditure for acquisitions in France and Germany observed in 1984 (France) and in 1999 (Germany) – therefore, before the “price periodical crisis” reached its peak - compared to RL expenditure in 2020 in the same countries:

#### RL expenditure before the periodical crisis and now (France and Germany)<sup>77</sup>

	1984		1999		2020	
	Expenditure	Per student	Expenditure	Per student	Expenditure	Per student
France	FF 64 MI € 20.0 MI (2020 equivalent)	€ 43.3			<b>€ 93,282,983</b>	<b>€ 50,94</b>
Germany			€ 216,128,149	€ 98.46	€ 358,749,534	€ 77.3

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<sup>74</sup> Lessig (1999).

<sup>75</sup> Anderson (2009).

<sup>76</sup> Engström - Falkvinge (2012).

<sup>77</sup> Sources: For French statistics, “Enquêtes (1985) and ESGBU; for German statistics: DBS.

These figures are ambiguous and do not tell whether increases, or decreases in library expenditure are the result of the increased cost of scientific publications or of decreasing budgets for acquisitions allocated to French and German RLS. A better indicator may be the operating profit margins of major **scholarly publishers. Since RLS are the main, if not the only purchasers of academic publications, there might be a direct relation between publishers' profits and library expenditure on acquisitions.**

RLEX (previously Reed-Elsevier) and Taylor & Francis are among the biggest scholarly publishers all over the world, the first operating in science and business, the second in social and human science. In the last ten years the turnover of both organisations has been pretty steady; their operating profit margins have rarely gone below 20% of the global turnover.

**RLEX and Taylor&Francis operating profit margins (in percentage over the turnover)<sup>78</sup>**

	2005	2010	2015	2016	2017	2018	2019	2020
RLEX (Reed-Elsevier)	16%	18%	25%	24%	25%	26%	26%	21%
Taylor&Francis	20%	25.5%	19%	14.7%	19%	15%	18%	16%

A company's operating profit may also be an ambiguous indicator, since profits can be the result of better management controls, more efficient use of resources, improved pricing, and more effective marketing. It is interesting, however, to see how regular the financial inflow for these companies has been in the course of decades. An arguable, but realistic conclusion is that OA has not helped RLS to lower their acquisition bills, but has certainly contributed to stabilising them.

The reason for such high level of profits for publications whose raw intellectual capital (the content of an article) is provided for free is not only the result of the monopolistic positions scholarly publishers hold in specialised academic fields. The concentration process was a gradual process which started in the last decades of the Second Millennium, when Elsevier, Wolters Kluwer, Springer, T&F massively purchased publishing companies or the publishing sections of a learned society in order to be hegemonic in specialised academic fields. The high profits of scholarly publishers are also the result of strategic choices, and in particular of the vertical integration between the production and the distribution segment with platforms allowing for the bundle sales of scientific periodicals. By raising barriers for newcomers, they manage to eliminate possible competitors; the high Impact Factor of their journals has been essential in maintaining leading positions in the market.

We have mentioned the boycott of Elsevier publications called by Timothy Gowers in its cost of knowledge petition launched in January 2012. Two months later, Elsevier announced that it would be a champion of open access, in the wake of Springer Nature, another major scholarly publisher, who had acquired BioMed Central, then the major open access publisher with more than 200 OA publications in the biomedical sector.

The incorporation of OA journals into the core business model of scholarly publishers shows that OA products are not enough to change the fundamentals of the economics of scholarly communication; as long as OA is

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<sup>78</sup> from RLEX (2020) and RLEX Annual Report Archives; T&F Annual Reports can be consulted in Informa Annual Reports Archive.

integrated into the development strategies of scholarly publishers, as long as they add value to the content they distribute, OA, too, can contribute to the centrality of their platform among users and acquirers. Scholarly publishers will not fall soon into irrelevance, unless RLs are able to produce new activities of interest to their sponsoring universities and research centres, like evaluation systems concerning new university and research activities or citizens' science programme.

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### 3.4 LIBRARY ACQUISITION POLICIES IN PUBLIC LIBRARIES AND THE TRANSFER OF OPEN ACCESS PRACTICES

PLs functions are evolving towards features of social hubs; they share some of the traditional functions of other social services and agencies. Within this new environment, new practices are built up and autonomous content is produced, which is distant from the traditional book and knowledge chains and their communication channels. The production of this autonomous content consists of the fabrication of open educational resources, tutorials and other intellectual output as a result of "conversations" with users (incidentally, on the rise during the Covid-19 crisis). In spite of these innovative attitudes, new content elaborated in PLs very often lacks in quantity and in quality if compared with the results of a well experimented and professional book trade; in terms of content aggregation, they represent a minimal contribution to the publishing output. Publishers are not merely releasing content produced by authors; they take the risk of, and invest in, the selection and the discovery of new authors, themes and forms of publishing. Moreover, by making the commitment of financing their fabrication, they submit work to the expert advice of critics and users, thus providing legitimacy both to the work of the authors and their own expert work. In other words, they contribute to the legitimacy to the published output as a whole. In conclusion, copyright strategies should reflect the differences between scholarly communication and the book trade and Open Access practices cannot be applied in the book trade as they are in scholarly communication.

**When dealing with library acquisition policies in PLs and how OA practices can be transferred from RLs to PLs, the following issues should be taken into account:**

1. Declining reading practices in the book trade and in PLs;
2. The resilience of traditional paper format and the still uncertain future of platforms distributing content in digital form in the book trade;
3. Licensing systems;
4. The evaluative function in the book trade;
5. The fight against fake news and opinions.

1. ***Declining reading practices.*** The news that there are not as many book buyers in Germany as before is devastating not only for German publishers, but also for libraries. Reading is a skill which gets lost if it is not constantly and extensively practiced. And constant contamination and convergence of text, images and sound on the Web and social media has not (yet) resulted in social practices widely diffused and supporting the development of individuals and of communities. Individuals may perhaps send a video instead of a detailed cv for job applications and for tutorials; nevertheless, the construction of a communication act, the way thinking is organised, the reporting structure, and other daily skills based on a narrative structure rely on text, text rhetoric and text construction. This is the reason why books, whether in paper or in digital form, are still needed, and why libraries and publishers should ally to stop and deflect reading declining practices and work together to reinforce them.

2. **Resilience of traditional paper format in the book trade and design of platforms distributing content in digital form.**

In Europe, the e-book trade covers only a small percentage of the book market – up to 6–7% of the total book trade and with significant disparities between countries. In France and Spain, the e-book share is only 3%, while in Germany, Italy and the Netherlands it is around 4.5–5%. The sale of databases and subscriptions reaches more relevant percentages in the United Kingdom (11.5%) and in Denmark (18%).<sup>79</sup> In 2020, during the Covid crisis, sales of e-books rocketed not only in terms of access to digital platforms, but also of e-channels of book sales. E-book sales were up 12.1% in Sweden, 37% in Italy, 16.2% in Germany (passing from 5% to 5.9% of the total market); small percentages in other European countries are recorded while, in Greece, publishers re-entered the ebook market after several years of absence. The Covid crisis also saw an impressive growth of e-lending in many countries; in France, for example, ebook loans via the Library Digital Lending service (Prêt Numérique en Bibliothèque, PNB) grew by 78% in 2020, reaching more than 1 million.<sup>80</sup>

The importance of setting up shared platforms should therefore be a priority. In Chapter 5.1 We have seen that, in 1992, RLs were offered the possibility of distributing digital publications of scholarly publishers through the TULIP project and that it was the private/non-profit sectors, some twenty years later, that created global platforms distributing open access publications. The importance of maintaining control of the distribution segment cannot be underestimated: if content is king, the distributor is the king-maker. The entity managing the distribution segment is able to balance different inputs, create temporary or permanent content aggregations, respond to urgent demands when needed, enrich basic read-only content with read/write elements (blogs, evaluative instances, etc.). A platform partially or totally controlled by libraries, distributing digital content among library users on the basis of agreed rules (see point 3) would not only provide strong impulsion to digital content distribution, thus aligning book trade practices to societal trends. It would also give PLs the possibility of shaping up a well-defined position in the book chain of which, willingly or unwillingly, they are an essential link and emphasise the legitimacy of the content they distribute.<sup>81</sup>

3. **Licensing systems in the book trade.** A reference milestone in this domain is the Judgement passed by the Court of Justice of the European Union in 2015 (VOB vs Stichting Leenrecht) allowing for e-lending to be applied under Article 6(1) of the EU Rental and Lending Rights Directive. E-lending is permitted on the conditions that: a) the author is remunerated; and b) the e-lending occurs on the basis of the one-copy-one-user model.<sup>82</sup> This model mirrors the practice of the Internet Archive (one-copy-one-user model) with the difference that the American platform finds its legal ground on the fair use practice.

This legal bottom line (one-copy-one-user model with fair remuneration to authors in compliance with the EU e-lending directive) can also find other possible ways of remunerating authors for non-commercial consumptive uses online.<sup>83</sup> OA activists have been very active in contrasting licensing systems, in particular when Big Deals are provided by scholarly publishers. It should be kept in mind, however, that licences remain the most practical way to ally copyright rules and technologies.

4. **Evaluative functions in the book trade.** OA activists have often mobilised against the Impact Factor which has objectively provided more clout to scholarly publishers and allowed them to create

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<sup>79</sup> FEP (2017), p. 4–5.

<sup>80</sup> FEP (2021), p. 6–7.

<sup>81</sup> On the need for legitimacy of the content distributed by PL, see Bats (2019).

<sup>82</sup> CJEU (2016).

<sup>83</sup> Hugenholtz – Quintais (2018).

monopolistic positions in specific disciplinary fields. It is, however, to confuse the ends with the means to identify in the Impact Factor the pillar underpinning the hegemony of commercial scientific publishers in scholarly communication. After all, the Impact Factor is a very effective tool designed to measure the productivity of researchers.

A PL evaluative stance should be embedded in any platform distributing publications in libraries and evaluation tools should allow for the measurement of the success or failure of a publication and its relative reputation with an objective audience of critics and influencers. An evaluative policy is not just a calculator ensuring fair remuneration of authors. It should also be an instrument of cultural policy and assess the way PLs can exert their influence and strike some balance in a book trade where the turnover is concentrated in the hands of a dozen big publishing groups.

5. **Fight against fake news.** Finally, it should not be forgotten that libraries are playing a fundamental role in the fight against misinformation and disinformation. In scholarly communication, the mechanisms of selection, control, correction and editing are unpaid tasks and are on the shoulders of academics who are rewarded with prestige in their affiliation to Editorial Committees or peer-reviewing panels. In the book trade, these mechanisms are entirely in private hands and it is advantageous for PLs to picture themselves as safe harbours of information. Their “safe” nature is ensured by a double level of legitimacy and two quality checks made on the distributed content: the selection and the certification made by publishers, and the selection and the certification made by PLs.

#### 4. FREE ACCESS TO INFORMATION IN PUBLIC LIBRARIES – A DOUBLE-DECKER ARCHITECTURE FOR OPEN ACCESS IN PUBLIC LIBRARIES

##### 4.1 MORE, AND BETTER, KNOWLEDGE ABOUT E-LENDING FOR SUSTAINABLE COPYRIGHT

According to the Council of Europe EBLIDA Guidelines, “libraries are created for the benefit of their user communities so as to further their rights of access to information and ideas”.<sup>84</sup> They achieve this task mainly but not only, through lending books, both in printed and digital form. Therefore e-lending is an essential component of their core mission.

E-lending is perhaps the most promising development for public libraries, as the EBLIDA report on libraries during and after the Covid age has clearly demonstrated.<sup>85</sup> Nevertheless, it is surprising to see how little e-lending is known in terms of relevance for, and acceptance in, public libraries. There are two reasons for that. The first is that literature about the quantity and the quality of digital distribution of e-books in libraries has been constantly dominated by enquiries in research libraries – suffice is to mention the series of excellent studies published by SPARC Europe as a way to promote open access literature in research libraries.<sup>86</sup> The second is that speculations about e-books in libraries have strongly focused on legal and institutional aspects, usually overlooking their economic dimension. The only Europe-wide study elaborated by Mont for the European Parliament describes current e-lending models.<sup>87</sup> This study, however, fails to explore how closely linked the model is to facts and figures of the national publishing industry and its institutional and economic environment – actors, the volume

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<sup>84</sup> Council of Europe / EBLIDA Guidelines on Library Legislation and Policy in Europe (2000).

<sup>85</sup> EBLIDA (2020).

<sup>86</sup> SPARC Europe, <https://sparceurope.org/what-we-do/sparc-europe-key-resources/sparc-europe-documents/>.

<sup>87</sup> Mount, D. (2016).



of e-lending, support provided by the State, the size of the national publishing industry and its level of concentration.

The limits of an exclusively legal campaign are apparent in Germany. The Onleihe platform is the leading e-book lending platform for German libraries and is associated with the "Buch ist Buch" (A Book is a Book) campaign, organised by the German Library Association.<sup>88</sup> The campaign encourages the implementation in the e-book environment of the same rules that are applied in the traditional book environment. The German Library Association claims that publishers should lift the so-called "windowing" from the licencing system - e-books offered to libraries after a waiting period of about one year -, so that PLs and RLs are able to pay the so-called *Tantième*, the royalties to authors for the lending of e-books. The argument raised by German libraries is effective, since it shows that publishers' resistance to enter into licensing agreements is not only detrimental for libraries, but also for authors. Nevertheless, advocacy made by the German Library Association would be much more effective, if authors were made aware of how much money they are losing by if libraries are unable to raise the *Tantième* for them.

To be fair, a comprehensive study of e-lending in Germany has been published by the Boersenverein des Deutschen Buchhandels. The conclusions drawn in this study emphasise that: 1) The Onleihe consumers are the same as the book trade, as two third of them also buy printed books; 2) There is a direct impact of the e-lending system on the book trade, since half of borrowers have decreased or even stopped the acquisition of books; 3) demographically, the strongest group of Onleihe borrowers are young people, whose age ranks between 30 and 49; 4) it is not true that resorting to e-lending is done for economic purposes, since borrowers have normally a good economic position and educational background; 5) Onleihe borrowers are satisfied with the current Onleihe offer and therefore, do not need more new publications.<sup>89</sup> Presumably, the Onleihe data are open to both publishers and libraries. Therefore, it should not be difficult for libraries to demonstrate the so called *post-hoc* fallacy of this study, if the issues to be investigated do not remain at the surface of consumers' behaviours and enter into the complexity of their choice – in other words, what they borrow, why they do so and how library practices are determinant in ratcheting the whole e-book trade up.

Duringh the Covid crisis, the National Library of Latvia managed to come to an agreement with AKKA/LAA (Copyright and Communication Consulting Agency/Latvian Authors' Association) – an unparalleled example in Europe. At the beginning, the agreement concerned the collection of e-periodicals (the digital versions of more than 1,400 newspapers and magazines published in Latvia from 1748 to date). AKKA/LAA agreed on a License Agreement providing public access to the periodicals portal at no cost for the National Library until the end of the state of emergency. The portal itself was upgraded in response to the AKKA/LAA's request to receive detailed statistics at the end of the emergency time.

A collection of digitised books - more than 10,000 works from the 17th century to the end of the 20th century, including some 2,500 authors - were made available to users through a paid license until the end of the state of emergency. Additional expenses for accessing e-books are covered by the Ministry of Culture of Latvia and concern both the number of times the publications are accessed and the number of sessions. It is also important to mention that the e-books subject to the AKKA/LAA - National Library of Latvia agreement represent only a limited share of the portal and do not cover commercial works. After the agreement, the National Library of Latvia issued a statement in relation to works not included in the AKKA/LAA-NL Agreement and asked their authors whether they wished to be excluded from the portal. One month after they were notified, no author had asked to be removed from the portal. It is very likely that this experience will continue after Covid with satisfaction of all parties involved.

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<sup>88</sup> Bibliotheksverband.

<sup>89</sup> Boersenverein des deutschen Buchhandels (2019).

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## 4.2 THE NEED FOR A DOUBLE-DECKER ARCHITECTURE FOR PLATFORMS PARTIALLY OR TOTALLY CONTROLLED BY PUBLIC LIBRARIES

The importance of maintaining control of the distribution segment cannot be underestimated: if content is king, the distributor is the king-maker. The entity managing the distribution segment is able to balance different inputs, create temporary or permanent content aggregations, respond to urgent demands when needed, enrich basic read-only content with read/write elements (blogs, evaluative instances, etc.). A platform partially or totally controlled by libraries, distributing digital content among library users on the basis of agreed rules would not only provide strong impulsion to digital content distribution, thus aligning book trade practices to societal trends. It would also give public libraries the possibility of shaping up a well-defined position in the book chain of which, willingly or unwillingly, they are an essential link.

**A platform controlled by public libraries should have the following features:**

- Centrally negotiated contracts with publishers, in order to consolidate their position in the distribution segment and provide more clout in negotiations with book trade actors;
- Decentralised architecture in order to encourage open access experiences and the exchange of OA applications among public libraries.

A good example is free access to language learning books designed for non-native speakers. The internet is full of linguistic resources that can be freely used for language learning: dictionaries, sentences in context, videos with translated subtitled, grammars, exercises, specialised training sessions, tandems with native speakers and, in some cases, free of charge, fully-fledged language courses arranged by level and progressive learning objectives. In spite of this considerable offer in open access, language learning handbooks and books circulate; their trade is more prosperous than ever. Authors and publishers aggregate resources meaningfully, enrich textbooks with exercises and tests and order them in accordance with the linguistic objectives corresponding to the Council of Europe scale proficiency and qualification (Common European Framework of Reference for Languages, from A1 to C2).

On the other hand, every teacher of English, French, Italian, etc. as a foreign language knows that the teaching material is often prepared and produced in classrooms as a joint exercise of teachers and students. The classroom, with its specific level of education and curriculum, is the living textbook and a formidable publishing machinery producing open access material.

A double-decker platform partially or totally controlled by public libraries would enhance the circulation of both copyright-protected and open access e-material. The first, centralised level is the one where resources are delivered to users through e-lending after having been negotiated with publishers. A platform of this kind would be particularly useful for small independent publishers, who produce a large quantity of titles but have no marketing capacity to convert and distribute them in a digital format. The second, decentralised level is the one where autonomously produced resources are stored and shared with other users as open access material. In these decentralised points of distribution, therefore, copyright-protected resources are combined with OA resources, blogs, conversations with users and other useful tools.

This strategy of free access to information through a combination of licenses and open access resources is a win-win situation where PLs take the lead in the digital transition of the book trade, users are served at no detriment of authors and publishers' rights, in particular of small and medium publishers, and open access material is made available to all.

## 5. CONCLUSIONS

This report has explored various issues, going from the differences between scholarly communication and the book trade to the publics of PLs and RLs and the implementation of open access initiatives in libraries. It has focused on the different motivations of authors publishing in the two different channels, with researchers caring about reputation in scholarly communication, and writers searching for reputation *and* remuneration in the book trade.

Nowadays, libraries - all libraries - are facing major problems in delivering information and knowledge for all : publishers are refusing to sell e-publications to libraries, they are applying discriminatory price policies which result in expensive library purchase, or are setting up embargo policies which exceedingly restrict the availability of publications.

The contractual nature of these issues may conjure up radical responses based upon a hard legal background. Libraries may appeal to governments and request compulsory standard contracts where clauses restricting access in libraries are offset. They may evoke the public nature of copyright and advocate for the universal adoption of open access rules. They may demonstrate how technological systems of data protection ensuring digital rights management are hindering free access to information. They may even plea for the re-establishment of the primacy of the first sale doctrine – the doctrine exhausting intellectual property rights after the copyright-protected product is sold to a third party. There is no doubt that the implementation of these measures would provide more liberty to libraries and increased clout in their relationship with their publishing counterparts.

There are two major shortcomings in dealing with publishing-library relations exclusively from the legal perspective. The first is that, without a robust reflection on how authors' remuneration is ensured, all these measures are far from being enforceable. The 2019 EU Directive 2019/790 on copyright in the Digital Single Market has made explicit that Member States may allow for copyright exceptions “for the sole purpose of illustration for teaching” (Art. 5) and has mandated collective management organisations to “conclude a non-exclusive licence for non-commercial purposes with a cultural heritage institution for the reproduction, distribution, communication to the public or making available to the public of out-of-commerce works” (Art. 8). In all other cases the EU Directive has reinforced the rights of intellectual property owners against free use of copyright-protected content. At least in Europe, the success of a radical approach based on legal grounds other than the Copyright Directive is dubious.

Another consequence of an exclusively legal approach in copyright strategies is that it may be beneficial, or neutral, for RLs and harmful for PLs. Weithin the scholarly communication realm, publishers will continue selling e-publications to libraries (their main, and sometimes only, customer), libraries will persist in subscribing journals and databases, also hoping to have cheaper subscriptions, and authors will keep on writing scientific papers. In the book trade, instead, an exclusively legal approach can bring about an exacerbation of publishing-library relations: the more PLs adopt an anti-publisher/author stance, the more they are vocal about open access, the more publishers will be reluctant to sell their e-publications to libraries (after all, a minor market in relation to the book trade) and to keep their economic returns on the safe side through embargo policies.

This does not mean that PLs should not spell out their claims and state, loud and clear, that libraries are not cows to milk, but arenas of democracy which guarantee free access to information for all. This narrative, however, would be much more effective if it is implemented together with non-legal arguments and an in-depth consideration of the economic foundation of library copyright strategies. There is not much awareness on how libraries contribute to the (e-)book chain as a whole, to its sustainability and to the diffusion of reading and information literacy in all layers of the society. Library activities repair what is a typical market failure – the creation, maintenance and enrichment of reading skills, whatever the product and the format they apply. Therefore, the priority for PLs - institutionally isolated and administratively fragmented - is to federate and to create a common network where best practices are shared and resources and experiences are transferred. The

creation of a networked environment is instrumental in demonstrating the value of PLs and their ability to provide services not only to users, but also to other actors in the value chain.

Likewise, public libraries should promote open access publications within a well-established framework of policy objectives and directions as well as a working digital infrastructure where much requested e-books are made available together with e-publications in open access having a more scholarly nature. Until now, PLs have not played a big role in the digital swirl and their offer is traditional, very much rooted in the printed environment. During the Covid crisis, access to digital publications in PLs boomed and many librarians started to manage digital objects as new library normals. Prior to this, in order to make the most of a digital infrastructure, library public policies should be re-oriented towards a centralised-decentralised governance: centralised, in order to negotiate with publishers in a consortia-like way, and decentralised, in order to exchange open access products and practices in a networked environment.

The Internet is still the vibrant place where a huge amount of resources and free content is made available. Nevertheless, it is no longer the realm where trust and source reliability are, in a way or another, at users' fingertips. Especially during and after the Covid crisis, with so much disinformation and misinformation circulating, Internet users have started appreciating paid-for services where accurate information and trustworthy services are accessible. And the more users value paid-for services, the more they prize library points of access where such information and services are made available for free.

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## RECOMMENDATIONS FOR PUBLIC LIBRARIES AND THEIR ACQUISITION POLICIES, OPEN ACCESS RESOURCES AND RELATED COPYRIGHT STRATEGIES

PLs should reduce their dependence on e-content provided by publishers and be able to have better coverage and lower bills for library acquisitions, while protecting the rights of creators, contributors, and users in a digital environment.

### **PLs should:**

#### ***In relation to the general Book Trade:***

- promote reading in all its forms, which is a much needed competence in today's society and provides a boost to the whole of the book trade chain;
- analyse the book trade chain, in the attempt to understand major shortcomings and how the concentration process in the publishing industry is a barrier to the diversification of cultural, out of mainstream products;
- wherever possible, have distributive platforms incentivising e-lending systems attracting authors and small/medium publishers, in alternative to mainstream commercial systems dominated by big publishers;
- within these platforms, carry out independent cultural policies corresponding to the interests of the communities PLs refer to and designed to enhance access to information.

#### ***In relation to Authorship:***

- promote quality authorship in sync with the communities they refer to;
- devise initiatives in collaboration with authors and small/medium publishers aiming at making library platforms, totally or partially controlled by libraries, an attractive channel for content distribution;

- elaborate contracts with authors and small/medium publishers aiming at making library platforms, totally or partially controlled by libraries, an attractive channel for content distribution, on the basis in particular of long-tail mechanisms;
- encourage prosuming practices (consumers who become producers), thus diversifying PL sources of acquisition and reducing PL dependence on acquisitions from publishers;
- set up, or encourage the setting up of, adequate evaluating systems within library platforms (book influencers, statistics regarding the circulation of e-publications) which are linked to the communities PL refer to and truly independent;
- present themselves as safe harbours for information, and committed to the fight of fake news through a double level of certification: that of publishers and that of libraries.

***In relation to the production of library-oriented digital platforms:***

- stimulate, as much as possible, the creation of platforms where interactive forms of “conversations” with users are promoted in connection to, or commenting, e-publications and get an adequate form of legitimacy for further circulation;
- record all forms of publications, generated both from publishers and from users, with adequate bibliographic coverage;
- promote open access content in response to information needs in library-oriented platforms through adequate forms of selection, formatting, marketing.

***In relation to content distributed in library-oriented digital platforms:***

- take advantage of their capillary distribution and wide dissemination of reading points and create a library-oriented platform distributing content previously negotiated with publishers by a centralised entity;
- design platforms in ways that best fit the communities they refer to but keeping the concept of a centralised entity negotiating contracts with publishers;
- where they exist, this task may be addressed by a layer of intermediate actors, whose role is now limited to the negotiation of rights between publishers and PLs;
- most importantly, library platforms should be so designed that they are able to facilitate the conversion of consumers into prosumers, thus facilitating the production and the distribution of autonomous content legitimated by the library itself;
- where possible, create library platforms allowing for direct conversion of different Digital Rights Management.

***In relation to copyright strategies in library-oriented digital platforms:***

- take into account that copyright is a fundamental cultural right; it is the task of PLs to support the right of authors in the digital environment while ensuring at the same time wide access to information;
- consider that the 2019 Directive on copyright in the digital single market allows for library exceptions for research / education purposes, but also requires fair remuneration for authors;
- and that, similarly, the judgement passed by the Court of Justice of the European Union in 2015 (VOBvs Stichting Leenrecht) allows for e-lending to be applied under Article 6(1) of the EU Rental and Lending Rights Directive on the conditions that: a) the author is remunerated; and b) the e-lending occurs on the basis of the one-copy-one-user model;
- to promote the one-copy-one-user model as far as possible also envisaging, in line with the EU judgement, fair remuneration to authors as they are ensured by e-lending rights;

- elaborate contracts with authors where limitations to copyright for the works circulating in the library-oriented platform are compensated through active promotion of the same works and their authors;
- library-oriented platforms should also allow for easy purchasing of the same e-book, should users be willing to buy it;
- when authors do not get royalties, green open access and greater uptake of opportunities for rights retention for researchers be provided, in order to maximise impact and access.

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## PART III: COUNTRY PROFILES



## 1. E-LENDING IN BELGIUM (FLEMISH COMMUNITY), BY GWENNY VLAEMYNCK<sup>90</sup>

### INTRODUCTION

There are 307 public libraries in the region of the Flemish community of Belgium. Cultural policy and its implementation are an exclusive competence of the Government of Flanders, with Brussels as its capital. Flemish municipalities are fully autonomous in the governance of their public libraries. Subsidies are allocated to the respective municipality's Gemeentefonds, a public funding mechanism which works for all municipality expenditure; therefore, there is no special budget earmarked for the local public library. Since 2018, the provinces are no longer involved in cultural policy and the task to support public libraries has been transferred to the Flemish government. A separate regulation for Brussels-Capital, a bilingual area, is maintained. The Brussels-Capital Dutch language public library system is subsidised if public libraries comply with a number of prerequisites, such as policy plans, staff, digital expectations and expenditure criteria. Funding is allocated in accordance with several criteria, such as the number of residents (more or less than 10,000 residents).

For the implementation of digital services and innovation in public libraries, the Flemish government works with Cultuurconnect. Among other things, this non-profit organisation manages the unified library system, the local library websites and also offers a range of digital collections (e.g. the Flemish e-book platform). For this, Cultuurconnect works together with the public libraries like a cooperative, in which the libraries decide how to expand services.

### GENERAL DATA AND THE LEGAL FRAMEWORK

In September 2020, Cultuurconnect launched the Flemish e-book platform, cloudLibrary, with a collection of over 5,000 titles in Dutch and English. The e-book platform is currently offered by 208 public libraries to their members. All participating libraries form a consortium that co-manages the e-book platform under the guidance of Cultuurconnect.

E-books are offered to the public within a single use model. Apart from economic constraints, there is no limitation on the number of copies that can be bought by the consortium.

Windowing practices for e-book circulation may vary from 6 months to 1 year. Usually, however, there are no clearly defined restrictions; for each title, publishers choose whether to supply them (or not) and under what licence conditions.

Members can borrow 2 e-books at a time for a period of up to 6 weeks. Extensions are only possible if there are no simultaneous reservations of the title. At the moment there's no limitation on the number of loans per month because it's technically not possible within the cloudLibrary system. E-books can be returned at any time.

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In 2021, 331,000 e-books were loaned by 44,000 unique users. What follows is a table summarising the number of e-lending transactions broken down by typology of material and its percentage in relation to printed collections.

2021	Printed collection	E-lending
Number of transactions	3.72 MI (all libraries that offer e-lending)	331,000 (e-books) 441,000 (digital magazines & newspapers) 47,000 (interactive children's books)
Unique users	1.2 MI	44,000 (e-books)
Number of titles	2.7 MI	12,000+ (e-books)

75% of the loans within the cloudLibrary system are fiction and 25% are non-fiction. Most popular are thrillers, romantic literature, (auto)biographical literature and cookbooks.

At the moment, there is no automatic link between the printed-related user data and the digital-related user data. A solution is currently being worked out to provide for a Business intelligence (BI) tool, which will allow us to analyse data and integrate them into our library system. Another working point is that we cannot follow up the data from our digital collections in real time. Mostly, data is only available one month later. This makes it difficult to take certain CRM (Custom Relationship Management) actions.

Besides the judgement made by the European Court of Justice (law case 174-15), there is no legal framework for e-lending in Belgium (Flemish community). Cultuurconnect launched a public tender requesting an aggregator and an IT-platform. As a result of the Call, an agreement was concluded with Standaard Boekhandel, one of the largest bookstores in Flanders, who took on the role of aggregator, and Bibliothecca, who provided the cloudLibrary platform as a technical partner.

## INTERACTION BETWEEN AUTHORS/PUBLISHERS/LIBRARIES

Standaard Boekhandel, the aggregator, negotiates the licences for all participating public libraries. As mentioned earlier, public libraries participate in a cooperative model, centrally purchasing one collection to be used by the members of all participating libraries. Standaard Boekhandel is the negotiator for Dutch titles and Bibliothecca for the English (or other languages) titles.

The platform model was established within the single use model. Under pressure from publishers, however, titles are being loaned via a licensing model, which means that there's a deviation from the ruling of the Court of Justice. It is the reason why currently no public lending rights are now paid to authors for e-book loans.

Within the single use model, (most) licences contain a number of 16/26 loans for a period of maximum 2 or 4 years. These licences are of restrictive nature and are offered at a price per copy which may be up to 4 times higher than the price for an individual purchase. Most major publishers participate in this model, although they

often offer a rather limited part of their collection. The DRM is built into the cloudLibrary platform. Loans happen through a secure app or through Adobe Digital Editions.

The e-book licences are paid by the consortium of participating public libraries. The libraries are joining a business model developed by Cultuurconnect. They pay an annual fee which is proportional to the number of inhabitants of their municipality. In return, library members get access to the central e-book platform and marketing and communication support.

The annual amount of money levied for e-book lending services in libraries is up to €600,000 a year. How this money is re-distributed among right holders is partly a black box. A small part of it goes to the IT vendor. Most of it is paid for licences to Standaard Boekhandel, which pays publishers who should in turn compensate authors. Neither the current distribution between publishers and authors nor the fee that Standard Boekhandel gets for the services they offer, are transparent.

Because of that, since the launch of our e-lending platform there have been discussions with authors' associations about the compensation they receive for loaned e-books. This compensation is now not contractually regulated and is determined by the individual publishers. Authors complain that mechanisms for remuneration are not transparent. They also feel that the compensation they currently receive is too low. As a general assessment, it seems unfair that public libraries pay up to 4 times more than an individual buyer for a limited licence and authors do not get a fair share of the amount. There are definitely shortcomings in the e-book value chain and Cultuurconnect wishes to re-start the dialogue with all stakeholders. A solution that is acceptable to all parties involved is being sought.

In the opinion of the Flemish libraries, e-book lending through the public library is a way to combat piracy. Public libraries in Flanders are (almost) free. When people can read books legally for free or for a small fee, this will move or keep them away from illegal downloading.

## THE ROLE OF LIBRARIES AND OF PUBLIC POWERS

As mentioned earlier, the e-book platform is set up as a consortium. Within the consortium, e-books are purchased centrally by a team of 3 collection developers (Dutch fiction, non-fiction and English fiction) who are also responsible for the same publishing categories of the printed collection within their own local library. The collection developers seek the right balance between popular titles and lesser known titles that are brought to the attention through digital bookshelves on the platform.

The platform is identical for all participating libraries and the collection is therefore also shared. The collection developers are also part of a broader working group of libraries representing the consortium. This working group also decides on the collection plan, the marketing and communication approach, technical improvements and the overall operation of the e-book platform.

## USERS' PRACTICES

Library users seem to be quite happy about e-lending services. In a recent survey, carried out one year after the launch of the e-book platform, 80% of the users were satisfied or very satisfied with the platform. Users would like to see more titles and more recent titles in the offering, but the general assessment is positive. Many users also indicated that they would recommend the platform to friends or relatives. 10% of our users indeed have learnt about the platform through relatives.

The first e-book collection focused only on adults. Since mid-2021, young adult titles have also been purchased and an expansion of the collection to 12+ is planned for the Fall of 2022.

In 2021, 5% of loans were made by young adults: the larger the offer for young adults, the more young adults use the platform.

Given the difficulties in building a quality Dutch-language collection, many foreign-language (mainly English-language) titles are also being purchased. We notice that these are also well lent. Especially by young people and 30-40+.

Some libraries offer both e-books and e-readers for their users. This is usually done for specific target groups, such as retirement home residents or reading groups.

Public libraries in Flanders do not want to just offer e-books. They are also looking for ways to use digital reading to encourage people to read more.

Cultuurconnect works for example with the organisers of a children's book award. As part of their annual campaign, children in each age group read about 6 books, of which one wins a prize. The organisers of this campaign wanted to extend these reading groups also to e-books offered via public libraries. Unfortunately, most publishers do not want to cooperate, which means that on average only one or two titles per age group can be offered as e-books and that fully digital reading groups cannot take off. It may be easily argued that this is a missed opportunity to appeal to a new generation of young reading audience.

In addition, Cultuurconnect is currently working on two projects: a) the first is to make e-books available to the older population (70-80+) and b) to look at ways in which schools can also use the public libraries' e-book platform in a classroom context.

## 2. E-LENDING IN DENMARK, BY MIKKEL CHRISTOFFERSEN

### INTRODUCTION

In Denmark public libraries are organised as part of 98 municipalities. With 37.4 million visits in 2019 (data in the following years are altered by the impact of the pandemic), they are the most visited Danish cultural institution. A public library-system is in place in each of the 98 Danish municipalities and a unique platform is offered to the development of common societal solutions, in collaboration with other bodies / agents and in cooperation with local citizens.

The purpose of the public libraries is to promote enlightenment, education and cultural activity by making books, magazines, music and digital resources available, and ensuring free and equal access to knowledge.

The Danish Act Regarding Library Services provides the framework for the public libraries. It aims to do so by defining the library as 'extended' in relation to media and by providing more flexible rules on the development of library infrastructure. The act continues the basic traditions in Danish public libraries, above all free (also free of charge) and equal access to information.

By law, every municipality in Denmark must run a public library – either by themselves or in co-operation with other bodies / agents. The financing of the municipal library service is done via block grants, which means that each individual municipal council determines the level of their particular local library service. The framework for the public libraries and their co-operation with the research libraries is determined in the Act regarding library services, which makes it obligatory to purchase collections and provide services. A basic principle in the Danish welfare society is that using the library is free of charge, and so is e-lending for citizens.

### GENERAL DATA AND THE LEGAL FRAMEWORK

There are 80,000 titles available and 7,8 million e-lending transactions (2021) in Danish public libraries, which represents 20% of the total number of lending transactions, with some small municipalities having a few thousand transactions annually and some others like Copenhagen reaching over 500.000 transactions annually. More detailed statistics, as for instance patrons' preferences, are difficult or unavailable because they may use sensitive social security numbers of patrons.

The legal act regulating e-lending is The Danish Act Regarding Library Services, which was approved in 2000. E-lending is implemented through the "eReolen" and administered by the association "The Digital Public Library" composed of all 98 Danish municipalities, Greenland, The Faroe Islands and Slesvig. The Digital Public Library association enters into collaborations with technical intermediaries and negotiates prices and terms & conditions with publishers.

In Denmark e-lending used to be a bone of contention between Danish publishers (with major players like Gyldendal, Lindhardt & Ringhof, and Politiken) and eReolen, Denmark's only digital public library, to the point that major publishers withdrew cooperation at certain stages of the process (2012 and 2016). In 2018, however, eReolen settled terms with Danish publishers, in a country where the number of people are 5.8 million people and 96% of households have internet access.

eReolen uses different lending models and one of them is the one-copy-one-user model, while the rest of transactions are regulated through bilateral pricing agreements with publishers. The country that is the cradle of public lending right - the first PLR programme in Denmark was initiated in 1941 – started remunerating authors for digital books in 2018. Denmark was the first country in the world to include digital audiobooks in e-lending schemes.

Year	E book loans	Cost (ebooks)	Audiobook loans	Cost (audiobook)	All costs
2013	640 629	Kr 8 300 659 € 1 115 680	545.391	Kr 9 271 657 € 1 246 190	Kr 17.572.317 € 2 361 870
2014	598.168	Kr 7 485 853 € 1 006 163	716.607	Kr 12 182 319 € 1 637 408	Kr 19.668.172 € 2 643 571
2015	1.165.910	Kr 14 026 069 € 1 885 224	1.381.478	Kr 20 484 675 € 2 753 316	Kr 34.510.745 € 4 638 540
2016	996.834	Kr 11 047 420 € 1 484 868	1.534.664	Kr 19 298 887 € 2 593 936	Kr 30.346.307 € 4 078 804
2017	1.108.361	Kr 12 661 965 € 1 701 877	1.771.200	Kr 24 860 800 € 3 341 505	Kr 37.522.765 € 5 043 382
2018	1.396.575	Kr 17 613 241 € 2 367 371	2.225.155	Kr 27 221 191 € 3 658 762	Kr 44.834.432 € 6 026 133
2019	1.950.365	Kr 22 660 099 € 3 045 712	2.879.106	Kr 34 202 669 € 4 597 132	Kr 56.862.769 € 7 642 845
2020	2.629.292	Kr 27 756 885 € 3 730 764	3.871.602	Kr 43 609 681 € 5 861 516	Kr 71.366.566 € 9 592 280
2021	2.826.785	Kr 32 922 352 € 4 425 047	4.595.317	Kr 53 092 863 € 7 136 137	Kr 86.015.215 € 11 561 184

Moreover, these are e-lending transactions directly from data bases:

**International ebook & audiobook databases:**

	2021
ProQuest (Ebook Central)	321.449
EBSCO (Ebook Collection)	384
Overdrive	402.969
Books 24x7	1.645



**Major actors in the Danish e-lending system are:**

- A. Publishers, who supply titles and content on the basis of national framework agreements entered into by the association The Digital Public Library;
- B. the Digital Public Library (formerly The Danish Digital Library), an association that operates and manages digital services for their library members and the public (98 country's municipalities, as well as Greenland, The Faroe Islands, and South Schleswig). The Digital Public Library develops and maintains a platform for websites through which public libraries can make their online materials and physical catalogues available to the public, along with all other relevant library services and information. It also operates eReolen and negotiates prices and terms & conditions with publishers and enters into framework contracts;
- C. eReolen, the national e-lending service which used to be its own association but is now under control of The Digital Public Library;
- D. libraries, which pay individually for their loans;
- E. Publizon; the 3rd party platform operator serving as the backend for both the public library and commercial vendors and streaming services.

Financial details are governed by bilateral agreements with the big publishers and by bilateral agreements between every individual municipality and the platform vendor Publizon. For each loan, a small percentage is taken by Publizon for their services on the platform (ca. 12%). In this way, the quasi totality of the publishing output is made available (99%) by eReolen.

Seven big publishers (Gyldendal, Politiken, etc.) have individual contracts with eReolen which grants them some flexibility in the use of lending models. Only the "big seven" allow for the one copy – one user model and have windowing constraints in time – with time lapse between the offer of a publication in the book trade and the offer of the same title through eReolen. All other publishers are subject to eReolens general pricing and terms and conditions which, as a rule, do not contain embargo provisions and only practices the one-copy-multiple-users model.

DRM devices are implemented strictly within the Digital Public Library in a closed app environment and the web solution only allows streaming. Therefore, no general DRM system for downloading is needed.

eReolen is regarded by publishers as a way to prevent piracy; it is possible to say that eReolen has made piracy practically redundant; therefore, fear of piracy (or of potential piracy practices) is no major impediment for authors and publishers to go digital.

**The role of libraries and of public powers**

E-books are purchased as individual e-books only when licenses are purchased on the one copy – one user basis (ca. 5% of the Digital Public Library collection). The remaining 95% of the purchases are spent equally between a flat rate model where entire catalogues are bought for a year at a time ("borrow as many as you want") and the one-copy-multiple-users model where the individual libraries pay per loan based on the age of the title.

Limitations to e-lending are set locally by individual municipalities. They range from 2 e-books and 2 audiobooks per month (in one municipality) to unlimited use (in six municipalities). The rest falls somewhere in between with most municipalities staying within the limits of about 4-5 ebooks and 4-5 audiobooks per month per patron.

Only the national association The Digital Public Library is entitled to make agreements on e-lending with publishers. Requirements are different from those of university libraries. University libraries deal with large, globalised scholarly communication publishers and find it difficult to negotiate with actors having de facto monopoly on must-have content. eReolen deal with smaller companies and have an excellent collaboration with national publishers as well as much more power on the buying side.

The negotiation team is in-house in The Digital Public Library secretariat. The negotiation team is very mindful of eReolen's role in the national book market and the sector's interest in eReolen's business practices. E-lending represents 28% of the digital trade market and gives the public libraries leverage in the yearly negotiations.

In this respect, public lending rights reinforces digital lending in libraries, since the more widespread the availability of digital titles is - de facto availability on eReolen - the more money is distributed to authors and other contributors, to the widespread satisfaction of all actors operating in the e-book chain. Authors may feel that they are underpaid for digital rights and may complain about their little remuneration from e-sales, streaming and/or lending; this depends, however, on bilateral negotiations between authors and publishers and does not impact on the soundness of the e-lending system.

Altogether, the annual amount of money / year levied for e-lending services in libraries is €12 million for content and an additional €1.2 million for the management and maintenance of eReolen, which represents a large part of the digital trade market and 28% the percentage of the annual publishing turnover.

## *USERS' PRACTICES*

Library users are in general happy about e-lending services, as is demonstrated by the number of 715,000 unique users in 2021 out of a population of 5.8 million inhabitants. It is interesting to note that borrowers of books in printed form and borrowers of digital products are not the same and overlap between them is in the order of 20% according to the national statistics bureau.

E-lending transactions can be broken down by target group (children/adults) and by overall category (fiction/non-fiction). Children's books are historically about 40% of all loans, but the figure is rising. Fiction is historically about 70% of all loans. In particular, the e-book diffusion among children and teenagers is quite successful with e-lending with school children totalling +1.3 million loans in 2021 through the eReolen GO! product. E-lending only works through the platform and there is no distribution of devices (e-readers, for instance).

In general, there is no issue regarding the functioning of e-lending in Denmark and problems are found at more general level. One of them is the correct repartition between funds allocated to the digital library and the physical library, with the first taking more and more funds. The major problem is therefore to make the physical and the digital library work together in a more effective and user-friendly way, in relation for instance to the 20% overlap between loans of printed and digital e-products.

Another major problem is perhaps to ensure better long-term access, because the digital collection available for e-lending is assured year after year on the basis of a contractual relations; a legal impediment or a major clash could make the e-lending offer unsustainable in the long-term.

### 3. E-LENDING IN FINLAND, BY SUVI SIVULAINEN, MARJA HJELT, ANNA TUOMIKOSKI AND JUHA MANNINEN

#### INTRODUCTION

The Finns are avid readers and library users: in 2019 the total annual lending was 85.9 million items (15.7 per capita), the annual number of library visits was 53.7 million (9.79 per capita) and the internet services of the libraries were used 47.0 million times. There is a public library in every municipality (281), most of them also have branch libraries (436) and bookmobiles (135).

In Finland, public libraries are the responsibility of municipalities. The services are free of charge to users. Libraries are funded from the state (30%) and municipal (70%) budgets.

**The last Public Libraries Act came into effect in 2017. Its objective is to promote:**

- 1) equal opportunities for everyone to access education and culture;
- 2) availability and use of information;
- 3) reading culture and versatile literacy skills;
- 4) opportunities for lifelong learning and competence development;
- 5) active citizenship, democracy and freedom of expression.

The digital literacy of citizens is supported in many ways, and library premises can be used as venues for cultural events, meetings, work and learning.

Public libraries must provide equal services to residents everywhere in Finland. To help libraries develop their activities, the legislation provides for the national and regional development of these activities. A library tasked with the national development responsibility is responsible for the development and maintenance of shared online services as well as communications and promotion of the joint activities of libraries. The nine libraries tasked with the regional development responsibility coordinate joint activities and developing the skills of the library personnel within their region.

This national and regional development is funded from the budget of the Ministry of Education and Culture. Libraries can also apply for a project grant for development, projects and new service trials. The granting and use of these project grants is guided by the library authorities of regional administrations, which also train library employees in judicial and administrative matters.

In recent years, development efforts have particularly focused on promoting reading, learning environments, online services and media education. From the beginning of 2020, Seinäjoki Public Library will be assigned the special task of promoting children and young people's reading and literacy in Finland.

## GENERAL DATA AND THE LEGAL FRAMEWORK

Data in the Finnish Public Libraries Statistics Database and its maintenance are the responsibility of the [Ministry of Education and Culture](#).

Year	Lending transactions	Per inhabitant	E-lending transactions	Per inhabitant
2021	71,730,751	13.75	1,509,599 of which : 630,601 (ebooks) 878,997 (eaudiobooks)	0.27
2020	70,366,365	12.72	1,553,275 of which : 708,548 (ebooks) 844,726 (eaudiobooks)	0.28
2019	85,942,056	15.53	988,896 of which : 488,577(ebooks) 500,318 (eaudiobooks)	0.18
2018	84,530,120	15.42	640,715 of which : 278,608 (ebooks) 362,106 (eaudiobooks)	0.12

Finna, the national library catalogue, produced by the Finnish National Library, is used by museums, archives and libraries to catalogue the content located elsewhere. Public libraries do use Finna as well, but it doesn't solve the problem of content provision for public library users. There is also another catalogue <https://ekirjasto.kirjastot.fi/en>, which links to the resources – it is possible to have access to it if the user is entitled to use a specific library.

The annual public expenditure for e-lending amounts to about 1,8 million. It is not possible to identify how public money is spent at each of the stages of the process, but the provision for aggregators can be estimated to be ca 10-15% of the total expenditure.

E-lending is regulated through EU legislation and copyright-related legislation. The bulk of operations, however, is realised through licenses.

The Finnish National Digital Library was created by the Ministry of Education and Culture as a unifying structure for contents and services. Using Finna as library catalogue, the aims of the Finnish National Digital Library are:

- to develop a centralized long-term preservation system;
- to provide Finnish materials to Europeana, and
- to promote the digitisation of cultural heritage materials and the ICT interoperability of libraries, archives and museums.

The National Digital Library ([Finna.fi](#)) is in many respects a unique entity: it brings libraries, archives and museums together to build a system that provides easily available materials and services and secures the long-term preservation of digital materials for future generations.

In response to a growing demand for e-books, the Helsinki City Library and the National Library of Finland joined forces in the [Next Media project](#) and its subproject "[E-books for public libraries](#)". The aim of project was to generate a model that would facilitate publishers' business practices, enable the payment of royalties to authors, and formulate a framework that would enable public libraries to provide high quality domestic literature as e-books to the libraries' users. A starting point of the project was the establishment of a co-operative mechanism among libraries, publishers, as well as usability and online service experts whose aim is to create a service that would encourage users to read Finnish literature. It is within this framework that the lending platform was also created with Ellibs (technology company) stepping in with its good performance in terms of usability.

[Consortium of Public Libraries](#) with [Kuntahankinnat](#) launched a Call for tender in 2014 and 2018 with a view to having a platform which would support e-lending both in content and technologies. The Framework agreement is so engineered that Kuntahankinnat was responsible of the agreement and municipalities sign contracts individually with the service provider, while the Consortium of Public Libraries organises the procurement process.

As a result of 2018 calls, two aggregators were selected: Finnish solutions, Ellibs, and Swedish Axiell Biblio. Both of them provide Finnish and Swedish literature through different licence models. Libraries were able to choose a service provider/aggregator independently; some of the libraries chose Axiell, some Ellibs and some both, because the contents they offer are different. Ellibs has a larger offer of Finnish content, whereas Biblio has more Swedish e- and audio books. Some libraries also subscribe to the Overdrive library to cover the demand for literature in English. Each of these platforms has its own licensing and e-lending system, which is inconvenient for both libraries and customers.

The system that was created in the "E-books for public libraries" project has proven to be unsuccessful in some respects. Tendering for four years is challenging. As a result of the tendering, the service provider and lending platform may be changing every four years, which is not customer friendly. Another challenge in the tenders was to be able to tender the service fee of the lending platform, even though it is only about 10% of the total purchase value of the e-book service and the content itself, i.e. the e-books, is the remaining 90%. The aim of this requirement was to separate the provider of the platform from the publishers.

This acquisition model has brought about a series of models with the formation of 46 e-book collections of different contents and sizes. Access to content has therefore put citizens in an unequal position in relation to each other. Some have extensive e- and audiobook collections, while others only have e-books.

The [E-library project](#) was established to correct these issues presented above by implementing a shared e-library for all Finnish public libraries. The purpose of the project is to improve the usability and digital collections of public libraries by creating a one-stop e-library for Finnish library users.

## *INTERACTION BETWEEN AUTHORS/PUBLISHERS/LIBRARIES*

In "the e-book for public libraries" project, set up in collaboration with publishers, license models following suitable requirements for Finnish public libraries were created: the one copy - one user model; the one copy - multiple user model and loan pool. After the project, the constant contact and follow-up with the publishers was transferred to the service provider. At the end of the day, new license models have been introduced with the result that each service provider has its own models, such as pay per view.

Consortium of Public Libraries has discussed with publishers on the same playground, but not the licensing model. The Consortium of Public Libraries is funded by Finnish municipalities through fees which are calculated

on the number of inhabitants that libraries serve; The Consortium represents libraries in the negotiations and the tendering of digital content.

The e-library project is currently negotiating with publishers to find an economical balance between commercial services and public libraries. The aim is to create ways to secure collections to the libraries also in digital form.

Also, there is practically no contact with Swedish publishers, and the international provider Overdrive reports problems in contacting them. (Apparently, this is a problem also common to Swedish libraries).

Officially, there is no embargos or windowing practices, although embargoes have been reported for some titles. The e-book trade for libraries is generally not aligned to the e-book trade and there should be more transparency in the process. Another problem is that there is no interoperability with the publishing catalogue and therefore information in advance about the availability and prizes of e-books to libraries is not available.

DRMs are currently directly administered by the three aggregators.

## *THE ROLE OF LIBRARIES AND OF PUBLIC POWERS*

The e-lending scheme in Finland is not clearly consistent with the law case 174-15 of the European Court of Justice of the EU because authors are not remunerated. The Ministry of Education and Culture is finding ways to reimburse authors and studies have been promoted, although there is not yet a clear solution. On 19.10.2022, the Ministry of Education and Culture announced that there is no impediment to the remuneration of authors through PLR (public loan remuneration); even more, they made clear that compensation could have an immediate effect - <https://okm.fi/-/selvitys-e-lainauskorvaus-tulisi-ulottaa-e-kirjojen-ja-e-aanikirjojen-lainaamiseen-yleisista-kirjastoista>

In spite of smooth relations and close monitoring, there are criticalities that may suggest the further enhancement of the scheme in the following directions:

- 1) the scheme is considered expensive, since only 15% of citizens have access to it; the following shortcomings were detected:
  - a. The basis for pricing e- and audio books and the distribution of costs in the value chain are unclear;
  - b. citizens' access to local collection is unequal;
- 2) authors are not satisfied because they are not remunerated;
- 3) the second biggest publisher in the country does not offer e-books and a solution to this is being sought.

In general, Finnish publishers do not seem to have a clear vision on e-publishing and feel they are threatened in an e-book trade environment. Whereas the printed book scheme is easily predictable and publishers knew in advance the number of book orders that libraries may be able to place, this information is not available for e- and audiobooks and publishers' attitudes seem to be described by uncertainty and hesitation. Although there is clear awareness that there is no piracy in libraries, there is a lack of understanding on the publishers' side.

## *USERS' PRACTICES*

It is possible to monitor the scheme and have a good understanding of users' practices. It is possible to identify the deliberate features, like age of the user, but not sex.

Some users are happy, some are not. In general, there are complaints about the number of platforms and the fact that too many platforms create confusion among users. Paradoxically, it is not possible for users to know what libraries may make available to them, for instance, no less than 80% of the users do not know that libraries also make available e- and audiobooks.

## 4. E-LENDING IN FRANCE, BY VALÉRIE BOUISSOU<sup>91</sup>

### INTRODUCTION

In France, more than 16,000 public libraries are currently listed, the two national libraries, the [Bibliothèque nationale de France](#) (BnF) and the [Bibliothèque publique d'information](#) (Bpi) are under the direct supervision of the Ministry of Culture. The vast majority of other public libraries (municipal libraries, departmental lending libraries) are under the responsibility of local authorities. These libraries have very different means depending on the size of the community they serve. In their regard, the action of the Ministry of Culture is multiple: definition of the legislative and regulatory framework, statistical evaluation of their activity, technical and scientific inspection provided for by the Heritage Code, technical and financial support through various mechanisms.

Municipal libraries: some figures (2018 data from the [Observatoire de la lecture publique](#))

Nearly 90% of French people live in a community offering access to at least one library;

€145.5 million in documentary expenditure;

279.5 million in loans;

16,3 million audio documents ;

7,6 million video documents.

Libraries are monitored by the [Department of Libraries](#) of the Book and Reading Service ([DGMIC](#)) at the Ministry of Culture.

Information on e-lending was provided by Ms Valérie Bouissou, on the basis of a Report drafted in 2019 by Réseau Carel and the Ministry of Culture. The 2019 Carel investigation dealt with the totality of paid-for digital resources acquired by French public libraries, although it puts more emphasis on resources acquired through the Carel network.

### GENERAL DATA AND THE LEGAL FRAMEWORK

In France, e-lending of books is taking place in an eco-system called PNB “Prêt numérique en bibliothèque”. PNB offers both a legal and a technical framework for making digital books available in libraries. PNB is an inter-professional project, an economic model and a technical data exchange system. Dilicom, the project's technical operator and trusted third party, coordinates exchanges and transactions between the various players in the book chain (publishers via their distributors, booksellers and libraries) thanks to a technical interface that connects the various information systems.

From a copyright point of view, PNB is based on a contractual model: publishers negotiate the marketing rights of digital books with the authors or their beneficiaries and then set the price and conditions of use for public libraries. With regard to the law on the single price of digital books, this price is fixed and corresponds to a specific offer towards libraries and with precise access conditions (numbers of loans and simultaneous users authorized, maximum duration of access to the title).

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<sup>91</sup> Director, Public Library Nîmes and Chair, EGIL.



Since 2014, more and more library networks have joined PNB and usage is gradually increasing. The arrival of the new LCP DRM in PNB also offers interesting prospects for facilitating the uses of digital books and for increasing the number of titles available. There is still room for improvement in PNB. Publishers are working to enrich this offer, which already covers a large part of the production; it is also to be hoped that the dialogue between librarians and publishers can improve the conditions of access, in order to adapt them even better to the expectations of libraries, both small and large.

This dialogue is mainly conducted by the association “ Réseau Carel”. The association is a national network of competences and exchanges in the field of electronic documentation for public libraries, structured around an online collaborative tool. The principal aim is to contribute to improve the editorial offers, the information systems, the pricing methods, ergonomics and accessibility, to develop acquisition policies and to develop the policies of acquisitions and valorisation in the field of digital resources as well as the observation of the uses; and then evaluate the digital resource offers.

In France, the average number of e-resources subscribed by all public libraries is 9,1 per library, of which 55 % are negotiated through the Réseau Carel (2019 data). Two public libraries - BCU Lausanne and BPI – acquire respectively 300 and 107 resources. Without these two libraries, the average number of acquisitions falls to 5,3 e-resources. In general, it can be said that, when library expenditure is equal to € 10 000 yearly, the average number of acquired resources is 2,8; when library expenditure is about 30 000 € per year, the average number is 19,1.

The PNB (Prêt Numérique entre Bibliothèques) platform, is used by 46 % of the public libraries having responded to the 2019 investigation of réseau Carel. In 2019, 196 libraries networks were connected

corresponding to 5,100 libraries benefiting the service. The enquiry shows a very heterogeneous landscape and a growing role for departmental lending libraries.

The average budget spent by libraries on PNB amounts to 9,182 €, with 44% of public libraries allocating less than € 5000 for PNB transactions, 40 % public libraries allocating between € 5,000 and 20,000 and 12 % more than € 20,000 . The following libraries are at the top of public library expenditure on e-books e-lent through PNB: BCU Lausanne (€ 60,000 ), Médiathèque Sillon lorrain ( €50 000) and the Médiathèque départementale du Pas-de-Calais (€ 30,000). In 2018, public libraries spent an average € 0.65 for any registered user through PNB.

In France, e-lending is an issue relevant within the European law on authors’ right; therefore, there is an active role of public authorities in ensuring that there is an appropriate balance between, and a role to, all actors belonging to the (e-)book chain. The French Ministry of Culture actively supports e-lending in public libraries. In 2014, The French Minister of Culture has signed with representatives of professional organizations and local authorities a text of recommendations for the distribution of digital books by public libraries. This text establishes a balanced framework for the development of digital book lending in libraries, while respecting copyright, remuneration of creation and public expectations. An inter-professional working group, including representatives of authors, publishers, booksellers, librarians and elected officials, has drawn up these 12 recommendations, which constitute principles and best practices shared by all the players on several important issues, such as the conditions for distributing digital books to libraries, usage models, economic models and the legal framework for the distribution of digital books by public libraries

**The document includes the following recommendations to all signatories, who should:**

1. Ensure that public libraries should have access to the totality of the publishing output;
2. Ensure that bookshops are made aware of the offer of digital resources for libraries, so that they are enabled to offer them to libraries;

3. Integrate quality metadata that are needed for transactions in the digital offers to public libraries;
4. Ensure the interoperability of the catalogues proposed to public libraries;
5. Develop access to digital resources for public library users both within library premises and from remote places;
6. Acknowledge that regulating access to digital resources is needed to ensure a balance between consultation in libraries and acquisitions in bookshops, since e-books do not have the same modalities of usage as printed books;
7. Acknowledge that Digital Rights Management are a proper way to ensure access to digital resources in libraries;
8. Facilitate the offer of digital libraries to people who are unable to read;
9. Share usage statistics;
10. Adequately remunerate authors and maintaining all opportunities for creation in the publishing environment;
11. Experiment a diversity of economic business models;
12. Ensure the stability of the contracts signed with local communities.

### *INTERACTION BETWEEN AUTHORS/PUBLISHERS/LIBRARIES*

A concern of public authorities is that actors already operating in the printed book chain may find a similar role in the sale of digital books to individuals and in the lending of digital books to libraries. The business model works as follows.

Dilicom circulates information: they deal with e-book records and loan requests as well as the metadata of titles. The system is open to booksellers, traditional suppliers to libraries, at least those who have set up an interface that allows a library to buy digital books. Not all booksellers join the system since this represents a significant investment.

Distributors of printed books also deliver e-books. Libraries, however, do not detain the files, which go directly from the distributor to the reader. The library does not own, even temporarily e-books, it only owns the metadata of the titles and the licenses on e-lending rights.

The publisher dictates the conditions of sale of the books they publish, which vary considerably from one distributor to another. The portal provider develops the interface with readers, Dilicom and the distributors, according to libraries' requests, provides a turnkey solution. Through the platform users to consult a catalogue, to access their account and to address a loan request through Dilicom to various distributors.

From the library's perspective, a digital resource comes together with a license that gives certain rights within the time and the price determined by the publisher. A library knows whether a book is purchased because the book title is displayed on the portal and because loans start flowing in.

A digital book which is made available on PNB is defined by 6 components: the price of the book, a time-limited license, a series of tokens, authorization for simultaneous loans, the maximum authorized loan duration and the reference price on which the price of the digital book is calculated.

The price of an e-book is defined in a way that is different from the printed book. While this is a well-defined object, the digital book in PNB is determined by the duration of the license and the number of tokens. A license is limited in time from 6 to 7 years, and sometimes 10; in some cases there are no time limits. This situation reflects the rotation of shelves in libraries, where books are discarded after 9-10 years. This wear-and-tear permanence of the book in the library is somehow artificially reconstructed by the publishers in the digital environment.

The license enables libraries to acquire a certain number of chips in casino terms, i.e. the number of loans that the publisher authorises the library to make during the term of the license. As soon as a library uses all chips they are entitled to, the license expires, even within the time limits. Once the terms of the license expire, the license is automatically terminated.

A long-term license allows libraries to purchase catalogue holdings having a slower turnover rate. A short-term license encourages libraries to purchase recent, new, or even best-selling books to be lent out quickly. The collection policy of the digital library changes accordingly. Experience shows that new e-books have a rapid turnover. Some libraries have opted for an acquisition policy essentially focused on new titles, in the short term at least. A long-term license allows libraries to make their users discover older titles. Réseau Carel's action encourages acquisition policies based on long-tail products.

The number of tokens is also a qualifying element of e-acquisition policies. A small library will have less trouble in lending all the tokens of a book – for instance 30 tokens instead of 60 – and may find more convenience to pay half the price for license. Flexibility in the number of tokens protects the interests of small libraries with a license not based on the duration of the license, but on the number of tokens.

The cost for a library is therefore the relationship between the total price of the e-book/number of tokens and is a good indicator of the soundness of a library acquisition policy. Distributors also use the same variables.

The requirements set by publishers may be different according to the distributor. It is the reason why libraries are asking their providers to display the unit cost of the token on their acquisition platform.

The reference price that the publisher uses to set the price of the book in PNB must be included in the criteria. The publisher fixes a multiplying coefficient and this tendency is being generalized. Some publishers use multipliers of less than 2; for other, the multiplying coefficient is close to or equal to 3. A better indicator is the unit cost of the token because some distributors offer batches of 60 tokens for one title and others batches of 20 tokens for one title.

For many publishers there are two reference prices: the price of the book when it is released and then a reduced price after a year, or the price of the paperback, even if this notion is strange when referred to digital books. Some publishers are keen to preserve, at least temporarily, the notion of paperback in digital (notably for marketing reasons). Some publishers even manage to have three consecutive prices: price of a novelty book, price after one year sale and the paperback price. This makes things even more complicated.

PNB has chosen to rely on a time-dependent DRM. DRM (Digital Rights Management") is a technical device that allows to protect the digital book against certain unauthorized uses (duplication of the file, massive copy-paste,...). It also allows to limit the possibility of opening the file, which is an operation similar to borrowing. So if the borrowing duration is fixed by the library to 30 days, for example, at the end of this period the file can no longer be opened by the reader; this corresponds to an automatic return of the book.

The DRM used for PNB, Adobe DRM, also allows for an early return so that other users can borrow the e-book, provided that borrowing does not exceed the ceiling set up by the library. For example, if the user has actually 5 titles on loan, the fact of returning a title in advance allows her/him to borrow a new one. Among the weaknesses of Adobe's DRM, it is to be mentioned its relatively high price (8 cents per loan), the absence of certain functions (namely, the basic function in a library of extending the loan term) and the fact that the data that the user has to introduce during the creation of the account (a prerequisite for opening borrowed files) are kept by a single major commercial player.

These weaknesses of the Adobe DRM have encouraged Dilicom and several PNB players to think about the adoption of another DRM recently produced by EDRLab (a European association linked to the Readium Foundation), LCP, which is now currently used.

## *THE ROLE OF LIBRARIES AND OF PUBLIC POWERS*

Libraries subscribe to the offers made by distributors partly through Réseau Carel, partly directly through PNB. Specific to PNB, is also the ability of the library to lend simultaneous loans of the copy they have purchased. This possibility must be authorized by the publisher, otherwise it is technically impossible. When PNB was launched, it was not uncommon for some publishers to allow up to 20 simultaneous loans. Under the pressure of some authors' societies, many publishers have gone back to decreased numbers with two major distributors now offering five simultaneous copies. This requirement allows to concentrate loans in the time window when the book is requested. Libraries not resorting to PNB claim that this service is expensive, or does not provide with a satisfactory offer.

Some authors' societies fear that the simultaneous copy requirement may cannibalize the trade of the book at the very time the author is making the most sales, but this element has not been proven by any study. Rather the opposite, there is evidence that the overall effect (not limited to new releases or new titles offered through simultaneous lending) tend to show a positive effect of lending on sales.

Two major publishers - Hachette and Albin Michel - do not permit simultaneous loans, in spite of Réseau Carel's recommendations to allow a minimum of 10 simultaneous copies.

Dilicom has launched a project based on the interaction between four components, within a system: a distributor's warehouse, the bookseller's sales platform, the library's lending platform (one library or a network of libraries) and, at the centre, the Dilicom hub. The sequential operation can therefore be described as follows, with three chains of actions taking place in parallel: the first for the dissemination of metadata, the second for the acquisition of a title (or, more precisely, the authorisation to lend x times this title - x "tokens"), and the last one for the borrowing of a digital book.

1st sequence: metadata supply. The distributor sends the Dilicom hub the description (the metadata in Onix format) of the offers defined by the publishers it distributes; offers are integrated into the Fichier Exhaustif du Livre (FEL) and distributed to the bookseller connected to the hub. The bookseller presents the offers of the various distributors to the libraries under contract via the Web interface of its platform. (Files are hosted by distributors and they leave the warehouse of a distributor only to be directly downloaded by the library).

2nd sequence: acquisition of a title by the librarian. The library proceeds to its acquisitions from the bookseller by connecting to its professional space within the bookseller's platform. The bookseller validates the library's order and sends it to the hub; the hub transmits the orders to the distributors' platforms concerned by the titles ordered so that they can prepare their warehouse for the supply of these titles for future downloading by the library users. The hub transmits the metadata corresponding to these titles to the library's platform.

3rd sequence : the borrowing of a title by the user of the library. The user asks to borrow a title on the digital platform of his library. The library's platform sends the loan request to the Dilicom hub; the hub examines whether there are still tokens available for the title, transmits the request to the distributor's platform. The hub validates the order and sends the request to the distributor's platform. The link is downloaded by the library, which sends it to its reader. The user downloads the digital file in a reading application present on his reading device (e-reader, tablet, laptop, smartphone, etc.) and the book is ready for reading. At the end of the loan period, the file will either be no longer available or will disappear from the books in the application/reading tool; this is known as chrono-degradability.

### ***Users' practices***

In 2019, the most popular resources subscribed by public libraries were : Toutapprendre.com (self-learning through e-learning courses, e-newspapers, e-books and e-cartoons, and other services), Médiathèque numérique (a selection of films), Arte UniversCiné (a selections of films d'essai), LeKiosk (newspapers and magazines), diMusic (cultural diversity and artists), la Cité de la musique en ligne (music), Skilleos (photos), Vodeclis (software programmes, webapps, cloud services), Assimil, (language courses), Storyplayr (children books), Europresse.com (magazines). These resources are aggregations including huge quantities of resources; to give an example, Dimusic offers a catalogue of more than 7 million titles.

Concerning the status of the offer of digital resources proposed by Réseau Carel, the institutions surveyed identified several obstacles to the development of digital technology. First, the cost of e-resources is strongly criticized. The economic models based on usage slow down the development and even call into question the sustainability of the offer.

Lack of institutional communication about the digital offer can also slow down the use and development of the offer, especially for those libraries that are not open to the public and work in collaboration with partner libraries in their territory. The question of statistics also comes up to the stage. Indeed, both institutions mention the difficulty of defending the interest of purchasing digital resources in libraries to their colleagues and, above all, with the supervisory body that funds these resources, because of the heterogeneity of the indicators.

Other obstacles to the development of digital resources are mainly technical. The obsolescence of certain products / services makes it impossible to develop the library's digital offer. Another frequently cited example is that DRM on digital books considerably complicates reading and discourages users. Search engines on some platforms are not efficient and do not take into account the width of the digital offer. All libraries surveyed report that they spend a considerable amount of time in providing technical assistance to users and resolving bugs.

Users' willingness to consult the digital offer proposed by the library is another factor which hampers the development of the digital offer in libraries. The library's e-offer is in competition with the rich domestic packages proposed in particular by telephone operators (for films, press and music). Resources are still consulted in streaming while many users have problems with internet connections, whose functioning remains uneven across the territory. The general impression is that digital resources remain tools that are only accessible to computer-literate people, use proprietary formats and do not work on all formats and on all devices. The development of digital resources in libraries can only be based on the most open resources possible, working on all devices, whatever their version.

In addition to these various obstacles, it is difficult to evaluate the use of resources by the public. Institutions have great difficulty in obtaining reliable and consistent statistics that would allow them to set up reliable and

consistent data enabling them to accurately assess the use of their resources. When institutions manage to get statistics, they find that digital resources are still not well known by the public.

The results of the use of self-training resources are more uneven and librarians seem to be very much linked to the mediation and partnerships set up by the library. In some libraries, reading on screen and technical problems have led to a decline in usage. Some "niche" resources allow the library to play its role as a discovery space, but their promotion will remain difficult and their use is limited.

### *PROFESSIONALS' EXPECTATIONS.*

Professionals that have been interviewed are in demand for training and tools specific to digital collections, in particular in the mediation of digital resources or in the management and use of tablets and e-readers, in particular when related to self-learning resources. They would like to have tools enabling them to manage and use applications for promoting digital resources integrated into the media library's portal. These expectations are mainly related to the cinema, online press and audio book offers. Concerning the press, librarians expect, for instance, a subscription to *Le Monde en ligne*, more national daily newspapers and, on Pressreader, more magazines. Librarians would like to see offers like Canalplay, Amazonplay, Netflix, HBO negotiated. They also would like to be able to "buy" recent documentaries in digital form.

Librarians' expectations are technical simplicity and adapted functionalities such as the administrator's module - libraries need reliable and directly accessible statistics, good ergonomics, improvement of DRM to facilitate the reading of digital books. Libraries expect publishers to adapt to the technical constraints of libraries by improving interface with metadata and better information about their potential maintenance work or technical malfunctions.

Concerning financial issues, it seems that digital resources are very expensive: they take up a large part of the budget, even though they are less used than physical resources. The pricing model should not be indexed to usage. On the PNB system, a library is expecting for digital books to be more accessible and the creation of a national platform of e-resources could help rationalize costs. Expectations from the libraries are: at least 5 simultaneous accesses and 20 tokens for a license lasting at least 5 years.

*Users' expectations.* Users ask for digital books, online press, youth resources and children's resources. In all the libraries surveyed, users seem to be satisfied with the digital offer that is proposed to them. They appreciate a cultural offer of proximity, accessible 24/7 from their homes. The public is sometimes astonished by the richness of the proposed offer. They express specific requests concerning the purchase of video games on consoles and specific needs for self-training. Concerning audio-visuals, users would like to consult beyond the quota allowed for films. Feedback from readers is positive despite the technical difficulties they may encounter.

Other random answers refer to PNB as too complicated for users, while others emphasise that going through the library's portal to access digital resources is cumbersome for readers and hinders use of the resources.

*The expectations of the supervisory authority.* Supervisory authorities are not straightforward in supporting digital resource projects in libraries. Some of them are not interested, the majority see in it an innovative image for libraries that are accessible 24/7. In the majority of cases, elected officials are not aware of the creation of the digital offer and trust the library management.

*Expectations of Réseau Carel.* Interviewed librarians encourage the association Réseau Carel to continue to defend the interests of libraries. Some librarians regret not being able to invest more time in this important and useful work, while others, who are very involved in Réseau Carel, would like to see more colleagues participate.

On the site, the catalogue of digital resources is consulted by the majority of the librarians interviewed. Registration in the Carel catalogue is interpreted as a quality label. They praise the work of negotiation with the publishers, while measuring the extent of the work to be done.

Some members would like to see more regular updates. Several librarians point out to the limitations of negotiations: publishers offer different pricing conditions than those published on the Carel website, rates should be negotiated with some toughness. Réseau Carel should have more leverage with publishers and have more means to negotiate by creating a consortium similar to Bibliopresto in Canada. Some librarians also would like to be better informed about the status of negotiations.

One library regrets that the extensive work on paid-for resources is leading to the neglect of the work on open access resources, even though expectations are high on this subject. Almost all librarians interviewed expect the Réseau Carel association shares experiences on digital resources, evaluation, digital projects carried out by members about the use of resources, so that difficulties encountered in the management of digital resources become common knowledge.

### INTRODUCTION

There are approximately 6,859 public<sup>93</sup>, 240 academic<sup>94</sup> and 400<sup>95</sup> special libraries in Germany, where the library landscape is decentralized – there is no central planning and control authority, in spite of intensive cooperation among libraries. Most libraries are financed with public funds from either the national state like the National Library, the 16 federal states (Region, Laender) like many but not all academic libraries, or local authorities like most public libraries, along with other very rare sponsorships.

Five of the 16 Individual federal states have library laws which describe the system as a networked, cooperative system at the level of the respective state, but do not define standards or funding framework except for in Schleswig-Holstein. Due to the federal state system, there is no national library law.

Cooperating institutions have been established at the federal levels: library departments and library service centres as well as regional library network systems. Member-funded professional associations play an important role. The most important are: The German Library Association (dbv) as an association of institutions, and the two Professional Association Information Library (BIB) and the Association of German Librarians (vdb) as associations for employees. These associations are united, together with the Goethe Institute and the ekz Library Service Group, under the umbrella association Library and Information Germany (BID).

Other central coordinating functions are fulfilled by, among others, the Network of Excellence for Libraries (knb), which, for example, develops the German Library Statistics at the Hochschulbibliothekszentrum NRW, and the German Research Foundation (DFG), to provide financial support for projects and tasks in the academic library system.

Information for e-lending in Germany was provided by Barbara Schleihagen, Director of the German Library Association (dbv).

### GENERAL DATA AND THE LEGAL FRAMEWORK

In 2020, there has been an estimated number of 30,2 Million e-lending transactions in Germany, which corresponds to 13,54% of lending transactions of lending of printed/physical products (223 Million). It is fair to say that these statistics having been taken in 2020, the first year of pandemic, and reflect a spectacular increase for the loan of digital products library loan and a considerable decrease for the loan of physical products. These figures are referred to public libraries only and are provided by the German Library Statistics, an excellent source

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<sup>92</sup> Director, German Library Association.

<sup>93</sup> [https://service-wiki.hbz-nrw.de/display/DBS/01.+Gesamtauswertungen+-+Kerndaten%2C+dt.+ab+1999?preview=/99811333/721387702/dbs\\_gesamt\\_dt\\_2020.pdf](https://service-wiki.hbz-nrw.de/display/DBS/01.+Gesamtauswertungen+-+Kerndaten%2C+dt.+ab+1999?preview=/99811333/721387702/dbs_gesamt_dt_2020.pdf)

<sup>94</sup> [https://service-wiki.hbz-nrw.de/display/DBS/01.+Gesamtauswertungen+-+Kerndaten%2C+dt.+ab+1999?preview=/99811333/721387702/dbs\\_gesamt\\_dt\\_2020.pdf](https://service-wiki.hbz-nrw.de/display/DBS/01.+Gesamtauswertungen+-+Kerndaten%2C+dt.+ab+1999?preview=/99811333/721387702/dbs_gesamt_dt_2020.pdf)

<sup>95</sup> <https://aspb.de/ueber-uns/>



for general statistics, but not very detailed. Internal statistics related to one of the two main aggregators for e-product loans in Germany - Divibib GmbH and Overdrive Inc. - are not available.

The annual amount of money / year levied for e-lending services in libraries is 2018: 9.728.552 Euro, 2019: 10.464.068 Euro, 2020: 12.222.736 Euro paid for the licenses contracted by public libraries with Divibib GmbH and Overdrive Inc.

Sales of e-books in the general-interest book market increased by 16.2 percent in 2020 compared to the previous year, while unit sales climbed by 10.8 percent from 32.4 to 35.8 million copies sold. In 2021 sales increased by an additional 6.0% from 35.8 to 38.0 million copies sold (5.7% of the whole book trade) [source: <https://www.boersenverein.de/markt-daten/marktforschung/e-books/>]. According to Boersenverein des deutschen Buchhandels, the e-book turnover generated from loan in libraries (only via Divibib) is equal to € 26,9 Million – this figure, however is based on assumption and the real cost is 12.222.736 Euro paid for the licenses contracted by public libraries with Divibib GmbH and Overdrive Inc. Since there is no legal basis for e-lending, e-lending royalty are not distributed to authors.

There are no legal regulations on e-lending in Germany, but all library transactions are based on licenses negotiated through two intermediate actors and aggregators: Divibib GmbH and Overdrive Inc. Divibib is a subsidiary company of the ekz.bibliotheksservice; it created the “Onleihe” service in 2007, which is active in all German-speaking countries and in Italy, France, Denmark and Belgium, as well as in all Goethe-Institute sites all over the world. Divibib GmbH offers a service that is called “Onleihe”, which is not a mediator but an aggregator.

The Onleihe offer includes E-Books und E-Paper, E-Audio und E-Music, E-Video and E-Learning. OverDrive Inc. is the German branch of the American company leader in digital reading platforms for libraries and schools, with a worldwide diffusion in 84 countries. OverDrive has provided ebook services for Germany since 2014 and partnered with Libreka, one of the largest distributors in Germany representing over 40,000 publishers and more than 1,000 domestic and international trading partners. The OverDrive network uses a one-tap reading app, Libby.

Loans of physical products in Germany falls within the German copyright law, where library royalties to authors are regulated in Section 27 (2) UrhG. It is estimated that libraries pay around 3-4 cents for each loan (14,9 million divided by the number of loans). In Germany, royalties are not paid by libraries but by the 16 federal states (KMK) and the national government. They negotiate regularly a new contract with the Verwertungsgesellschaft Wort (VG Wort). The amount paid by the 16 federal states and the national government (2020 and 2021: 14.9 million euros lump-sum remuneration) is distributed to the authors and the publishers in the form of royalties after deduction of VG Wort's administrative costs. This distribution is made according to criteria determined in the contract between KMK and VG Wort. While there are royalties to authors and publishers for the lending of physical products, no royalties for authors and publishers are paid for e-lending. Libraries do also not play a role in the governance of VG Wort.

Basic licensing agreements for e-products are based on the principle of one copy - one user . Therefore, local practices are consistent with the law case 174-15 of the Court of Justice of the EU. Publishers and authors are against a legal framework for e-lending. They claim that e-lending by libraries is cannibalising the free e-book trade and they prefer to negotiate condition and prices.

## *INTERACTION BETWEEN AUTHORS/PUBLISHERS/LIBRARIES*

In Germany, the basic model is the one copy - one user loan model - a digital library can pay for multiple copies of a title when it pays accordingly, but only one user can borrow a copy at a specific time. When it comes to multiple copies, there are different licensing models offered by Divibib GmbH and Overdrive Inc.. Divibib makes

available a catalogue of 500,000 e-book titles by approx. 7,200 publishers with the following limitations: only 7% of them concern publications of recent release (referring to 2021); ca 40% of the catalogue concerns e-books published in the years 2014-2017, and more than 10% are older than 2010. Many of the 500,000 e-book titles are therefore not relevant for library users. Moreover, big publishing houses set an embargo of up to 12 months.

E-books made available to libraries are often sold at ca 1,5 the price of the same e-book to the customer. In other words, there is a general increase in prices when an e-book is sold to libraries.

Over 3 500 libraries (inside and outside of Germany) rely on Onleihe for their e-book loan transactions. The two aggregators - Divibib GmbH and Overdrive Inc. - are implementing DRM devices and they exert full control over them. In 2018, Divibib discarded the Adobe DRM system and adopted "CARE" (Content & Author Rights Environment), a DRM solution based on the open source solution Radium LCP 2015. CARE's advantages are that: a) It enables the lending of electronic reading media without an additional password and registration with a DRM provider; b) protected content distributed by Onleihe no longer requires additional reading software such as Adobe Digital Editions (ADE); c) data inserted by users in the library also work for access to Onleihe.

Piracy is no major impediment for authors and publishers to go digital, since there is a commercial offer of e-books.

## *THE ROLE OF LIBRARIES AND OF PUBLIC POWERS*

Individual e-books are offered under license by the aggregator to public libraries under the conditions set by publishers. In Germany, public libraries do not negotiate with authors / publishers / collecting societies.

Academic libraries negotiate e-media themselves, often in consortia, they are very often forced to accept bundle packages under license at very high prices. Scholarly communication publishers operate on their own platform and only registered members of the university can use these media.

Licences offered by aggregators also provide the necessary technical platform for public libraries where e-books and e-media are borrowed by all registered members of the public.

Divibib GmbH is not assisting libraries in their negotiations, but they negotiate all licences on behalf of libraries. They provide the technical infrastructure that is integrated into the digital portals of the libraries. At the same time, they arrange the licences that allow the public libraries to offer e-books to users according to the respective licence. Next to Divibib GmbH, Overdrive Inc. too is offering their services to libraries. About 100 libraries (especially big libraries) are using both services.

Public libraries are institutions that serve the general public and are paid through taxation. Since they have a much broader mission than just lending (e-)books, they provide free access to information and freedom of expression in any format.

E-lending is seen by librarians as a support for the book field, as it raises interest in reading and stimulates also the buying of books, while authors and publishers claim that e-lending is a factor causing harm to the book trade.

The German Library Association has lobbied for more than 10 years for a legal basis for e-lending. Libraries consider that an embargo of up to 12 months set by major publishing companies is not acceptable. In addition, libraries think that it is unfair that authors and publishers do not receive royalties for e-lending. The Authors Association in Germany claims that authors do not earn enough from e-lending. In addition, they regard royalties as too low already for the printed environment and ask for an extension to e-media and an increase by 10 times. The Publisher Association fears that e-lending cannibalises their e-book sales.

During the implementation of the EU directive, the Federal Council (Bundesrat) suggested on 26 March 2021 during consultation phase, a new paragraph for legal regulation for e-lending:

#### § 42b Digital lending

If a written work has been published with the consent of the rightsholder as a digital publication (e-book) and is available as such, the publisher is obliged to grant non-commercial libraries the right of use on reasonable terms and conditions. Reasonable conditions include in particular that the libraries are granted the right to make one copy of the work digitally available to one person at a time for a limited period.

This clause was not included in the final law. However, the coalition agreement which forms the basis of the current Government promised that they will find a solution for e-lending based on fair conditions.

## *USERS' PRACTICES*

About 1/3 of the users are unhappy with the offer, since there are no new releases and not enough copies for popular titles. There is no study available about users' behaviour in relation of the use of printed books and e-books. Many public libraries offer also borrow devices.

There is a need for a broader user behaviour study. From the GfK survey (GfK is a provider of data and analytics to the consumer goods industry), we know that library users are main book buyers and that they buy more than non-e-book users. However, the cross-media usage is not known. From personal experience we know that readers use both printed and e-books, and some read e-books and buy afterwards the printed version as a gift for friends.

## 6. E-LENDING IN GREECE, BY MARIA BOTTI

### GENERAL DATA AND THE LEGAL FRAMEWORK

In Greece only the National Library of Greece (NLG) engages in e-lending, as part of the Greek public library system. The annual number of e-lending transactions at the National Library of Greece has been approximately 19,472 in 2021. In 2020, the number of e-lending transactions amounted to 23,919; 1,34% of the total number of lending transactions which amounted to 1.782,553 the same year (Hellenic Statistical Authority, ELSTAT).

The Greek National Library only caters for trade books in Greek. The greatest percentage of e-lending is realised through academic libraries (scientific publishing, mostly).

Category	Percentage
Fiction	72,90%
Social sciences	9,15%
Philosophy and psychology	7,25%
History and geography	5,58%
Technology	1,58%
General interest	1,33%
Arts	1,01%
Other	2,31%

There is no official agency that collects data on the subject of e-lending in Greece. The only way to find relevant statistics would be by contacting libraries individually.

Concerning e-lending, the only legal framework is the general law of contracts, in combination with the law on the protection of intellectual property 2121/1993. The National Library of Greece has designed and implemented the eReading Room Service, on the basis of negotiations undertaken with publishers.

In the case of academic libraries, part of their online collections is provided by Heal-Link which negotiates all the contracts on behalf of all Greek academic libraries. The rest of their online collections is negotiated directly between libraries and individual publishers or libraries and intermediates (such as EBSCO).

### INTERACTION BETWEEN AUTHORS/PUBLISHERS/LIBRARIES

As e-books are purchased on an individual basis, the only e-lending platform is provided by the National Library of Greece: [ereading.nlg.gr](http://ereading.nlg.gr).

Lending is ensured for a period of 15 days with a renewal period of 15 more days (1 renewal for each e-book), up to 3 simultaneous downloads. As an average, that makes 36 e-book downloads yearly per user. Public libraries do not engage in e-lending, although their users would like to benefit from more variety and a bigger collection of e-books.

Since e-books are diffused exclusively through the e-reading room at the National Library of Greece, the publishers themselves are in charge of disseminating the royalties to the authors.

E-lending transactions are limited in time and in use. The e-lending model envisages a compensation to publishers based on the maximum amount of downloads in the first two years an e-book is made available for e-lending, irrespective of whether the book is actually used or not. After the first two years, publishers are compensated for the number of actual downloads.

In Greece, there are some 950 publishers and of these, only 120 publish e-books. Only 15 from the 120 publishers allow their e-books to be used in e-lending services (1.6%) – these are among the largest and most prolific publishers.

There is no consensus amongst Greek publishers on requirements. Each publisher sets their own rules. Some enforce embargos, some do not. We have seen a limit on the number of times that an e-book can be borrowed. For example, 100 downloads per year for each e-book. There are, however, no embargo provisions. DRM services are implemented either by the publishers (if they already have a DRM server) or by the contractor. The most common used is Adobe.

The National Library of Greece has been trying to trace any pirated copies, but so far there have been no incidents on record, to the point that e-lending is considered by libraries the best way to decrease piracy. However, most publishers in Greece disagree with this position and this is the main reason why they are reluctant to allow e-books to be lent. However, at least in Greece and as far as Greek books are concerned, there are no serious incidents of e-book piracy. Piracy (or fear of potential piracy practices) is a major impediment for authors and publishers to go digital.

E-books purchased are purchased individually and in bundles, the latter being the most common and the one copy - one user model is followed.

Only academic libraries are networked in a system (HEAL -link) which is active in university libraries.

Libraries are well aware that networking is a crucial asset for pooling resources and gain favourable rates. E-books do not enjoy extreme popularity in general, so even libraries tend to underestimate their worth.

There are no significant policies or measures taken to support the e-book diffusion. In fact the only attempt that has been made is by the NLG and the launch of the e-Reading Room.

E-book readership for Greek books is very low; in fact e-books represent only about 10% of print titles in circulation. NLG is the only library that offers Greek language e-book lending. The users are happy that such a service exists, but they would like a lot more variety in the titles they offer. E-books do not have wide diffusion among children and teen-agers.

## 7. E-LENDING IN IRELAND, BY STUART HAMILTON<sup>96</sup>

### INTRODUCTION

With a population of 4,995,000 inhabitants (2000), Ireland has a dense public library service including 330 library branches across 31 local authorities and 30.5 mobile libraries. Between 2012 and 2017, 45 new or extended library branches were created and, in 2018, there were 1,195,909 valid members and 17,067,255 visits to libraries. The number of loans in 2018 was 17,879,890.

Libraries play an important community role as centres of knowledge, information and culture. They develop a national literacy and reading programme (Right to Read), services for business and employment supports for locally based entrepreneurs, start-ups and job seekers, and a health information in public libraries programme, providing books, e-books, audiobooks and e-magazines.

Academic libraries are largely funded through the core government grants to higher education institutions or through central funding for private institutions. The Health Service Executive runs 28 libraries and other hospitals host independent libraries in medical and healthcare settings.

### GENERAL DATA AND LEGAL FRAMEWORK

The Library Development, LGMA, COLLECTS GENERAL STATISTICS ABOUT LIBRARIES, IRELAND. DATA AVAILABLE ON THE LGMA WEBSITE SHOW THAT The public library service provides access to a large collection of free online resources:

- More than 58,699 eBooks and 44,571 eAudiobooks
- 4,000 magazines
- 2,500 online newspapers from over 100 countries
- More than 500 e-learning courses
- More than 100 online language courses

Year	Ebook Loans	Audiobook Loans	Libraries overall media expenditure
2017			
2018			
2019			
2020			
2021	900,441	1,283,646	1.7 mil euro

<sup>96</sup> Head, Libraries Development at Local Government Management Agency (LGMA), County Dublin, Ireland

In percentage, this represents 0.18 e-book transactions per inhabitant and 0.25 e-audiobook transactions per inhabitant.

The number of book or audiovisual loans in Ireland is:

Year	Book Loans (available)	Audiobook loans (physical)
2017		
2018	17,879,890	
2019		
2020	NA (Covid)	NA (Covid)
2021	NA (Covid)	NA (Covid)

In 2018 the percentage was 3.58:

3.58 loans per inhabitant.

There is no legal framework regulating e-lending transactions in Ireland, but only a contractual relation between LGMA, which negotiates on behalf of the thirty public authorities managing public library services, and the aggregator having been awarded the contract for e-lending transactions.

In the last quinquennium the e-lending contracted supply service was Bolinda. Originally an e-commerce website especially oriented at libraries, Bolinda started in 2010 a BorrowBox app where e-audiobooks are made available commerce initially to Australian libraries and, then, to the rest of the world, in particular Great Britain and Ireland.

Similar to OverDrive, Bolinda is one of the key suppliers operating in the Anglo-Saxon e-lending market; they work both on audiobooks and e-books.

Not only there is no regulation regulating current e-lending practices, but the Public Lending Right is not applied. Therefore, there would be no appropriate legal framework for e-lending on the basis of the two EU Directives on lending rights. Solutions for e-lending can only be found at EU level.

The Irish book trade is strongly dominated by the Big Five AngloSaxon publishers - HarperCollins, Random House / Penguin, Hachette, Simon & Schuster, and Macmillan – which distribute their resources. Each of the Big Five has its own strategy: Hachette, for instance, does not distribute e-books in Ireland.

## INTERACTION BETWEEN AUTHORS/PUBLISHERS/LIBRARIES

There is no dominant business model underlying e-lending practices in Ireland, but a variety of license models dependent on publishers' decisions. Bolinda only acts as an intermediary between publishers and libraries and aggregates audiobooks, also managing DRM applications. In general, these are the terms of conditions of e-

publications set up by publishers in regard to the whole collection of e-publications, with best sellers being the front-end of the e-collection and publishers deciding their own windowing policies.

<b>Usage Conditions</b>	<b>Percentage of collection</b>
No Loan or Term Limit	59.2%
Loan Limit: 26	9.2%
Loan Limit: 26 & Term Limit: 4 years	0.6%
Loan Limit: 36 & Term Limit: 1 year	0.06%
Loan Limit: 36 & Term Limit: 2 years	12.2%
Loan Limit: 52 & Term Limit: 2 years	6.5%
Term Limit: 2 years	9.5%
Term Limit: 5 years	2.75%
	100%

Prices are also applied to libraries discriminatorily in relation to the unitary price applied to individuals. As a rule, it is 1.8 times more than the unitary cost of a e-book, when the publisher is Irish, 2.6 times more if the publisher is one of the Big Five, and 5 times more when it is an audio-book. This percentage does not apply to academic libraries, which are included in other supply chains.

There are two problematic issues in the current state of affairs. The first is that the basis underlying this system is fragile, with contracts that are renewed every one or every two years, and unsteady prices (normally three times more than the unitary price of a e-book). On this basis, it is hard for a library decision-maker to implement collection management policies which may serve the interest of the local community.

The second is that, with collection management being externalised, libraries do not engage with their own users. Since e-lending transactions are managed by the aggregating agencies, library patrons become invisible to libraries – libraries do not know any longer their usage patterns and practices.

### **The role of libraries and public powers**

In the traditional lending environment, libraries are supporting the traditional book chain - the measure that better illustrates this approach is the Public Lending Right. The e-lending value chain is instead an opaque environment where royalties to authors are not known. The assignment of Public Lending Right would further increase e-lending costs for libraries. The issue of transparency along the e-book chain, however, stays relevant.



During the COVID-19 global pandemic, ebook usage soared by up to 300% and, with an additional €200,000 investment in e-books for public libraries, the government responded positively to this increase. The Library Association of Ireland launched an “ebooksos” campaign pointing to the dysfunctional market and skyrocketing customer demand in relation to ebook provision. This campaign resulted in increased levels of awareness of the challenges facing libraries. The ultimate goal of this campaign is that publishers play their part in the ebook market, but on fair, reasonable and sustainable terms.<sup>97</sup>

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<sup>97</sup> Stuart Hamilton, Marian Higgins and Cathal McCauley. The #ebooksos campaign in Ireland, October 2021, <https://www.libraryassociation.ie/the-ebooksos-campaign-in-ireland/>.

## 8. E-LENDING IN ITALY, BY GIULIO BLASI AND MICHELE CORSELLO

### INTRODUCTION

This chapter is the result of two interviews given to Mr Giulio Blasi, CEO Horizon - a company in charge of e-lending transactions in Italy through their MLOL (Media Library Online) service oriented to public libraries and mediating between public libraries and publishers – and Mr Michele Corsello, librarian in Parma and MLOL coordinator for the Region Emilia (ca 4 M inhabitants, 7% of the Italian population). The interviews took place on 13 and 26 January 2022.

### GENERAL DATA AND THE LEGAL FRAMEWORK

In Italy, it is not easy to collect data at national level, since the Italian Institute of Statistics has started collecting these data only recently. It is difficult, therefore, to build up historical series of data. Library policies are implemented at local level where “local” means either regional (as is the case of the Region Emilia-Romagna) or city level (as is the case of Milan, Rome, Turin, etc.). Thanks to the information provided by MLOL, Horizon Inc. (see below), it is possible to get data on e-lending on a national basis; MLOL claims to cover the totality of the book trade.

#### E-lending transactions in Italy (e-books)

E-lending transactions	2017	2018	2019	2020	2021
E-Books	466 791	653 087	784 257	1 609 182	1 474 013

According to the Italian Statistics Office, in 2019 the number of loans of physical books was 45 469 000.

It may also be interesting to focus on a single region - the Region Emilia-Romagna - where e-lending is a priority in library policy.

### Data for the Emilia-Romagna region

E-lending product (percentage / e-lending offer)	Overall budget 2022: €415,806 + €50,000 (separate funding)	Unitary cost / individual loan	Number of loan transactions	Relation physical / digital lending
E-book (52%)  The relation is calculated on the basis of the budget, not number of loans	€220,236 + €50,000	0.95 (1 copy / 1-2 user(s) model);  1.75 (pay per loan model)  98% local access;  2% ILL	261,620	<b>Parma:</b> 332.622 physical (90,5 %), 34.950 digital (9,5%)  <b>Modena:</b> 784.790 physical(93,9%), 51,269 digital (6,1%)  <b>Piacenza</b> 162.239 physical (88%), 22.186 digital (12%)
E-newspapers (45%)	€161,744			
MLOL (8.1%)	€21,220 (fee and other services)			

Disparities from region to region and from city to city may produce anomalous data altering the meaningfulness of e-lending statistics. Small scale examples, like the provinces of Parma and Modena (ca 1,158,992 inhabitants, ca 2% of the Italian population) may be homogeneous and express a trend likely to be followed by other Italian cities and regions.

There is no legal framework for e-lending transactions in Italy; these are regulated through private arrangements made between library systems and publishers. Contacts with publishers are of an individual nature, although one big publishing group (like Mondadori, for instance) may cover up to 30 imprints and publishing brands.

The MLOL platform, set up by Horizon Inc., is specialised in the book trade, whereas other actors (for instance, Casalini Libri) operate in the Italian academic publishing business or (Il Mulino, for instance) have their own channels. MLOL mainly works with public libraries, whereas Casalini and Il Mulino operate in the Italian academic publishing segment. Global STM publishing is still another segment.

In regard to the CJEU decision on the one copy – one user model implemented in The Netherlands the impression is that CJEU has given legal status to e-lending, thus providing some kind of legitimacy to it; on the other, the one copy-one user model is not the only e-lending model. The risk is that a widespread application may freeze technological developments and provide an economic advantage to global platforms which are providing e-lending exclusively on the basis of this model. It can be a basic model but alternatives (flat rate, pay per loan, etc.) may even be more convenient for libraries.

There is no single model, but MLOL applies a variety of models. For instance, an ad hoc model has been found with GEDI (Italian publisher of La Repubblica, La Stampa, etc); still another with Il Sole 24 ore (Italian financial newspaper).

**As a rule, two models are widely applied by MLOL:**

- c) one copy-one user (and most generally, one copy-two users), with a cap limit of loans or windowing practice beyond which the copy has to be re-purchased; under this model, an additional archive copy is provided for local, and not remote, consultation;
- d) pay per loan, where the publisher applies a fixed price for each loan with no limitation; this model is particularly suitable for best-seller, which have a short life-cycle and therefore their e-lending cost is minimised. The pay per loan system is much appreciated by publishers because it guarantees a good balance between publishers' revenues and library usage.

**The distribution of e-books, however, is broken down between two dominant actors:**

**Edigita** (60% of the e.lending offer). It is a publishing platform gathering some 10 imprints (Feltrinelli, Mauri Spagnol, etc.) and individual publishers (e.g. Nave di Teseo). Their e-lending model is one copy-one (and two in several cases) user model, where the licence is acquired to buy 40 downloads (twenty in the local system, twenty for digital ILL). This model has disadvantages: it is costly because it imposes an ILL quota to the detriment of the consumption in the local library. Moreover, even if there is no 14-day ceiling and is good for long-selling books (and not for the loan of best-sellers), e-lending stops when the credit (20 internal loans + 20 external loans, rarely used) is exhausted. According to Corsello's estimation the one copy- one (or two) user model has a unitary cost of cover price + €0.90-0.98 / loan.

**Mondadori** (also including Einaudi, Rizzoli, etc), 22% of the e-lending publishing offer. Mondadori offers both models: one copy - one (or two) user model and pay per loan.

**Both distributors have a share of 82% of the e-lending publishing offer.**

Another important group is Giunti (also a MLOL major stakeholder). The only model provided is pay per loan, with pay per loan unitary costs that are dependent on the publishing houses hosted by the Giunti distributor. According to Michele Corsello's estimation, the weighted cost for each loan is €1.64.

Under certain limitations, the most convenient e-lending model is the one copy-one (two) user because: 1) the unitary cost is lower and 2) it allows expenditure control (It has happened, for instance, that loans for one single bestseller in individual libraries absorbed in one week the budget allocated for 1 year).

MLOL makes a point in saying that there are very limited practices of embargo, windowing schemes, or other kinds of restrictions made by publishers to the e-lending of traded books in Italy. School books follow different practices (and also providers, they are not within the remit of MLOL).

Italian publishers do not apply overpricing in the 1 copy-1 user systems. The reason may also be that e-lending is still limited in Italy and therefore publishers do not see it as a threat to their sales in commercial channels.

DRMs are totally within the control of MLOL. DRMs are: Adobe, the open source [READIUM LCP](#) (European Digital Reading [LAB](#)). MLOL works under a push frame: the publisher provides the file and MLOL manages the platform. It is the only way to ensure economies of scale.

There are piracy problems in Italy as there are all over the world, but the market ensured by MLOL is very much controlled.

## *THE ROLE OF LIBRARIES AND OF PUBLIC POWERS*

While information produced by MLOL and Corsello concerns public libraries, it should be remembered that university libraries have licensing contracts with Italian publishers (e-books, e-newspapers, e-audio), such as *Il Sole 24 ore*, *Il Mulino/Carrocci*, *Giuffrè* etc. Similarly, the diffusion of non-Italian online published products in Italy is ensured by aggregators like EBSCO or ProQuest. It should also be remembered that access to scientific literature is dealt with directly by the Conference of Italian Rectors (CRUI). Moreover, university handbooks are not present in MLOL and the publisher only decides whether to have an online offer.

There is no common framework for e-book purchases. Libraries can participate either on a regional basis (for instance Region Emilia Romagna or Toscana), or on a municipal basis (Milano city, for instance). This creates an e-lending offer which may be underexploited, since local libraries may not fully use the offer that is made available by the central buyer (the library system).

There are no limitations in terms of use of e-books, unless those envisaged in the contract.

Consortia in Italy are created to deal with academic libraries; for the book trade negotiations are mediated by MLOL. Individual libraries refer to their networked systems, such as the regional library system (Emilia-Romagna, Toscana) or the city network system (Milano).

E-lending mechanisms implemented in academic libraries and in public libraries are of a totally different nature, since academic libraries negotiate through consortia with global publishers and public libraries resort to MLOL to cover their digital offer.

On the other hand, the amount of library expenditure spent for digital books cannot be compared with that spent by academic libraries. Libraries may be aware of the role of distributors as king-makers; some of them (Modena, Milan) have tried to convince individual authors to make available the rights of one book for free – what may be considered a form of freemium.

E-lending is not a policy undertaken by public powers to support the whole of the book trade; it is a market-driven need designed to cover the inter-relation between public libraries and, to some extent school libraries. Public libraries adapt their budgets and pay a fee to MLOL to subscribe the service. A different model is pursued in school libraries based on a fee of € 1/student and making available a collection of 70,000 books. There is also the possibility to use MLOL as an interlibrary system with a minimal fee of €250 per a package of 40,000 books and a cost of € 1,50 per loan.

Public powers helped libraries during the pandemic and results are quite visible with e-lending transactions growing by almost double in comparison with pre-pandemic transactions.

E-lending costs can be assessed against the cost of library loans of the analogue (physical) book which can be estimated at €30 euro per loan. Arguments against e-lending value the fact that centralised policies may generate disaffection with local needs in terms of library policy. These arguments, however, are not of an economic nature, but should be assessed in terms of library governance and policy.

MLOL has no clue on how royalties are re-distributed by publishers among authors. This is totally within the remit of right holders; it can be said that literary agents tried to formalise contracts – unsuccessfully.

It can be estimated that the digital offer is 5% of the whole book trade in Italy, but the percentage of e-lending services is unknown.

## *USERS' PRACTICES*

Librarians find it difficult to incorporate e-lending practices into the general offer of library services. They feel that the digital library is far from the current collection and somehow remote. In particular they feel that collection curation is developed elsewhere, and not by them. This is a strong disincentive in using digital collections as part of the services offered to the library community. In this respect, by strongly incentivising digital access, the Covid crisis has accelerated the leap forward. It has been assessed that e-lending transactions increased by 70% during the Covid crisis in the Emilib library system: Piacenza, Parma, Reggio Emilia, Modena, Bologna and Ferrara; this increase is sustainable and tends to persist also after the Covid crisis.

In spite of common opinions, e-lending is not for youngsters. The large majority are the 50-60 year old users, who use e-lending for practical purposes : reading while travelling, possibility of increasing text size, etc.

A major impediment has been the DRM Adobe configuration which requires technology literacy. When MLOL also made available the LCP Radium DRM technology, users found the app is easy to use and e-lending transactions increased remarkably.

Teenagers consider a printed book as part of their individual identity, while older users may consider e-lending as part of their territorial identity.

## 9. E-LENDING IN LATVIA, BY JURGIS IVANS

### GENERAL DATA AND THE LEGAL FRAMEWORK

In Latvia, e-lending transactions are not many. Latvian publishers are against e-lending in libraries; e-books collected through the legal deposit channel are not accessible for e-lending purposes; in the National Library of Latvia e-books are accessible within its premises and on some devices; in many cases, publishers prohibited any access to them.

The National library and public libraries have access to some international databases, also including e-books, but access to them is restricted by clauses set in the contracts that have been signed (EBSCOeBook Academic Subscription Collection, eBook Public Library Collection).

There is however one Latvian database of e-books for public libraries (<https://www.3td.lv/>), where publishers have granted access to publications with fixed prices for each view (pay-per-loan model); public library users can get access to them through links to the publication, for a limited period of time, and can read them from a PC or a phone. This access is not supported by e-book reader).

No statistics are available for the lending of e-books. Those concerning <https://www.3td.lv/> show a number of 39,346 transactions regarding e-books in 2021. It is minimal if compared to the number of lending transactions of books in printed form, which, in 2021, were 5 394 208 in public libraries only. In the portal <https://www.3td.lv/> 39346 e-books are recorded. (These statistics do not include EBSCO and other databases, because terms and agreements are different from one library to another). Altogether, the percentage of e-lending in relation to general lending in public libraries is 0.007% only.

Statistics produced by the National Library are only available for public libraries. Schools, High schools and university libraries are independent, and do not report to the National Library of Latvia. In general, 90% of the resources stored in <https://www.3td.lv/> are fiction, or literature e-books. It can be said that publishers do not give access to e-books stored by libraries, but only to links.

Since e-lending is regulated by contracts stipulated between publishers and libraries, the legal framework can be found in the Legal Deposit law, approved in 2006, which also extends to e-publications, and the implementation of the 2019 European Directive on copyright in the Digital Single Market, approved in 2020.

Negotiations with publishers are carried out by the National Library of Latvia, the Ministry of Culture and the Centre of Cultural Information. Libraries only make available e-books for which publishers have granted access. It is not known where royalties to authors are distributed to authors.

In general, it can be said that publishers are afraid to see their e-books be pirated and this is the reason why they do not allow e-book downloads or their storage into libraries, but only a limited access to publishers' databases.

## *INTERACTION BETWEEN AUTHORS/PUBLISHERS/LIBRARIES*

Libraries negotiate with publishers and international databases for e-lending; discriminatory prices, however, are not applied. Publishers themselves implement DRM services or these are done by the international contracted aggregator. They believe that this practice enhances security and avoids piracy, in spite of the fact that access to more e-books locally stored would not result in piracy cases.

## *THE ROLE OF LIBRARIES AND PUBLIC POWERS*

Practically all public libraries have potential access to e-lending transactions either within the framework of the international database, with limited access, or to <https://www.3td.lv/>, on a pay-per-loan basis.

During the pandemic, the National Library of Latvia negotiated directly with a number of authors access to their works converted in digital format.



## 10. E-LENDING IN THE NETHERLANDS, BY SANDER VAN KEMPEN AND PETRA RIJKELIJKHUIZEN

### INTRODUCTION

In addition to the national library (RToyal Library, Thee Hague), in 2021 there were 1,122 libraries in The Netherlands: 1,072 are public libraries and 49 are academic libraries. Their number has increased again after a period of streamlining when, between 2009 and 2019, approximately 300 libraries were suppressed or merged with other libraries. From 2012 onwards, service points made up around one fifth of library services available.

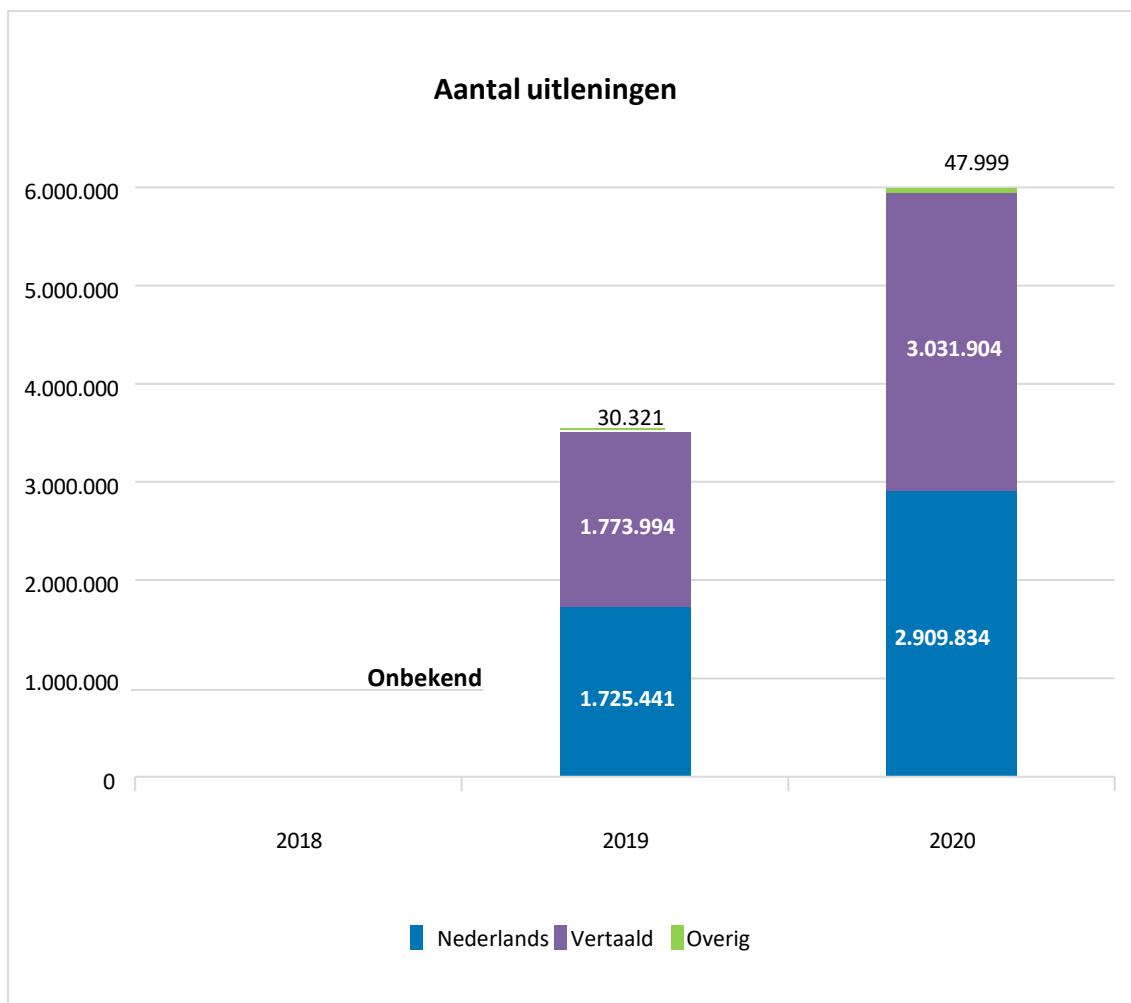
The Netherlands has a number of organisations, not-for-profit-foundations, and for-profit enterprises involved in maintaining library infrastructure and keeping services up-to-date. The KB, National Library of the Netherlands, offers a platform for people and information to come together. Its most important task for the coming years is the further development of a national digital library and the focus on the three societal challenges (literate society, participation in the information society and lifelong learning).

Responsibility for libraries lies within Dutch municipalities, which also provide for the majority of funding. The Ministry of Education, Culture and Science is responsible for the development of policy and legislation concerning libraries.

The law regulating library work is the Public Library Facilities Act / Wet stelsel openbare bibliotheekvoorzieningen (Wsob), approved in 2015. This law describes a.o. the core functions of libraries and the roles of parties involved. It also states that the highly decentralized library sector constitutes a network for which the national government, provincial governments and municipalities are jointly responsible. The execution of the OCW tasks is carried out by the National Library (KB), which is responsible for the digital domain and for the coherence of the library system as a whole.

### GENERAL DATA AND THE LEGAL FRAMEWORK

5.4 million e-books and 2.1 million audiobooks were loaned in 2021 in public libraries. In 2019 and 2020, before and during the pandemic, the number of e-loan transaction is described in the following table (source: National Library, Netherlands):



In 2021 this volume of traffic represented ca 16% of the total number of loans (print and e-lending). Between January and August 2022, this is the number of transactions broken down by Dutch provinces (Source: <https://www.metdekb.nl/pages/16>; login required):

Province	Number of e-book loans
Drenthe	110.767
Flevoland	89.736
Friesland	146.448
Gelderland	485.073
Groningen	154.680
Limburg	128.663
Noord-Brabant	420.704
Noord-Holland	504.580
Overijssel	275.011
Utrecht	316.190
Zeeland	94.442
Zuid-Holland	673.245

Users subscribe as members of the national digital library; this has consequences for data ownership, since local libraries do not have access to this data, since providing this data is in conflict with the privacy law.

After the 2016 Judgement of the Court of Justice of the EU (law case 174-15 opposing the Dutch Library Association to the Leenrecht Foundation), contracts with individual publishers were signed on the basis of the E-lending Covenant, signed in Oct 2018, that came into force on 1 January 2019. The E-lending Covenant is agreed between the Dutch publishers, libraries, KB, government, Dutch Authors' Association and the collective management organizations (CMO's). Evaluated in 2021, this Covenant is currently still running, at least until next evaluation.

**E-lending is implemented through a number of intermediate actors, namely:**

- KB, the National Library, which makes individual arrangements with Dutch publishers on a one-copy-multiple-users basis (and is supported by CB, which runs the e-lending platform, and Odilo, delivering the platform to KB);
- Lira and Pictoright, the Dutch Collective Management Organizations for authors, translators, photographers and illustrators; they are in charge of collecting e-lending royalties on behalf of libraries and are responsible for payments to the creators.

One of the difficulties in setting up a legal framework on e-lending in The Netherlands is that, unlike books in printed form, there is no fixed book price for e-books. Since there is no legal framework for e-lending in the Dutch law, it is not clear whether publishers have to deliver e-books, for which price, and on which conditions to the libraries.

### *INTERACTION BETWEEN AUTHORS/PUBLISHERS/LIBRARIES*

Each user has to pay at least 42 euro per year for library membership, while children have a free subscription until they are 18 years old. This fee enables members to lend 10 audiobooks and 10 e-books simultaneously every 3 weeks.

More than 50% of the total number of publishers (trade, academic, etc) are part of the national e-lending platform. Following the E-lending Covenant, one year after publication, every Dutch publisher has to add at least the original Dutch titles they have published to the digital collection.

The Royal Library receives a grant from the Ministry both to acquire e-titles from publishers and to compensate authors per loan (with different loan charges). Local libraries are not charged for e-loans.

DRM measures are implemented by CB, that hosts the distribution platform.

As a whole the system is working well, although criticalities are found in a) lack of traceability, b) security of the platform and c) the current loan period, which is sometimes too long and does not allow for further borrowing (it is not possible to borrow more than 10 e-books and 10 audiobooks every three weeks).

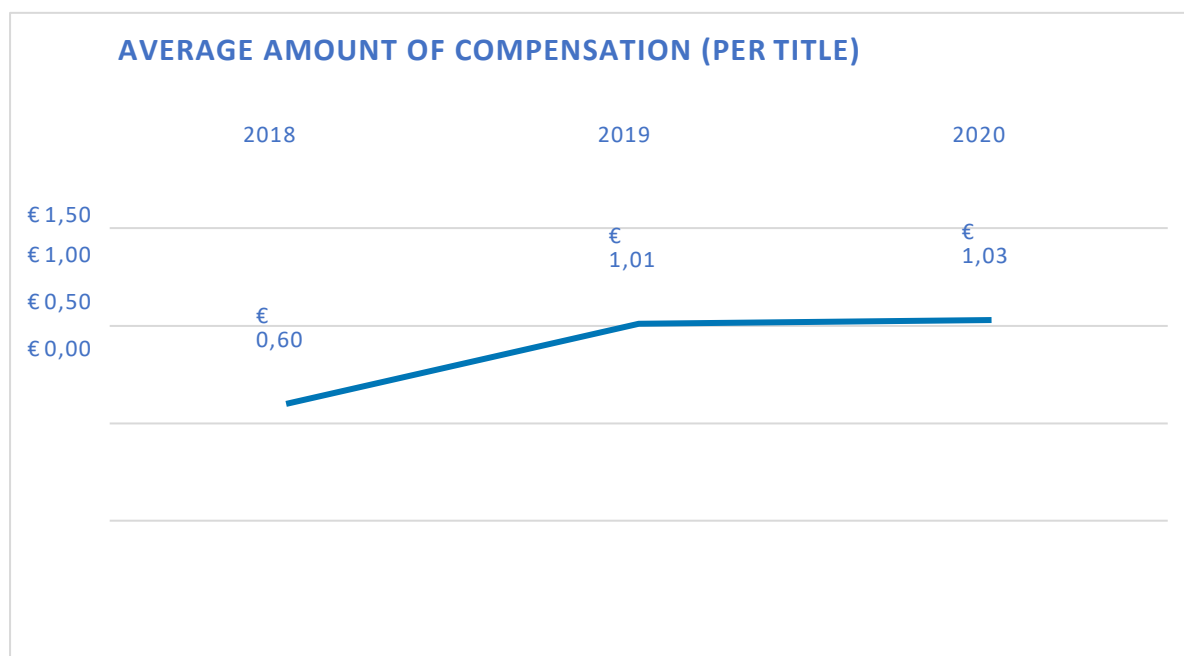
In The Netherlands, potential piracy practices are no major impediment for authors and publishers to go digital; there is, however, no clear and objective assessment of the level of piracy at the moment, although it may be assumed that e-lending is also a way to control piracy.

## THE ROLE OF LIBRARIES AND OF PUBLIC POWERS

E-books are purchased as a national service offered by KB, which agrees on licenses for all local libraries. KB tries to add as much e-book titles as possible to the digital collection. Standard limitations to e-book usage in libraries are applied at national level: library members can borrow 10 e-books and 10 audiobooks every 3 weeks. Since negotiations are done by the National Library (KB), all actors comply with this general rule.

Although there may be occasional complaints, during the 2021 evaluation all parties involved in the e-lending Covenant recommended it be continued; they committed themselves to pursue its objectives and to implement its procedures.

Initially, the cost of e-lending was equal to €0.60 per lending as an average. In 2019, however, authors were included in the scheme and royalties generated from e-lending were redistributed to them, too. Therefore, as it is apparent in the following table, the average cost of e-lending increased to €1.03.



Altogether, revenues for publishers and authors generated from e-lending have steadily increased. While the total amount was €4.042.752,19 in 2019, it raised to €7.018.230,72 in 2020 and to €4.757.801,73 in the first six months of 2021. The last two figures, however, may be exceptional since they are related to the boom of digital transactions during the pandemic. Interestingly enough, in full transparency along the value chain, Netherlands is the only country in Europe which is able to report about royalties allocated to authors. More than half of the revenue (50% of €4.042.752,19) goes to publishers and 30% to authors and creators. The percentage of this amount provided to image-makers and foreign authors living abroad is minimal, as the following Table shows.

## USERS' PRACTICES

Since its inception in 2014, the awareness and number of users of the online Library has increased significantly. Of all consumers, 45% are familiar with the online Library; 13% also actively use it.

This is a significant increase: in 2017, 25% of consumers were familiar with the online Library, of which 5% used the offer. A third of digital library users consult this service at least once a month; 12% even do so weekly. Young people under 35, over-65s and middle and highly educated people are more likely to be familiar with the services of the online Library than consumers in the 50-64 age group and those with low education (Source Nagelhout & Richards, 2020).

<b>Average compensation (per title)</b>		€0,60	€1,01	€1,03	-
<b>KB compensation</b>	Total	-	€4.042.752,19	€7.018.230,72	€4.757.801,73
	Given to publishers	-	€2.087.707	€3.584.013	€2.882.590
	To the Foundation Lira	-	€1.622.687,50	€2.850.400,71	€1.556.425,74
	To the Foundation Pictright	-	€332.357,69	€583.817,01	€318.785,99
<b>Payments made by Lira to creators</b>	To authors/ publishers	-	€1.232.894,48	€2.110.767,33	€1.144.877,33
	Of images	-	-	€49.991,33	€401.492,79
	To non-Dutch creators	-	€15.606,56	€27.260,37	-
<b>Average compensation (per title)</b>		€0,60	€1,01	€1,03	-
<b>KB compensation</b>	Total	-	€4.042.752,19	€7.018.230,72	€4.757.801,73
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	To the Foundation Pictright	-	€332.357,69 <sup>57</sup>	€583.817,01 <sup>58</sup>	€318.785,99
<b>Payments made by Lira to creators</b>	To authors/ publishers	-	€1.232.894,48	€2.110.767,33	€1.144.877,33
	Of images	-	-	€49.991,33	€401.492,79 <sup>61</sup>
	To non-Dutch creators	-	€15.606,56	€27.260,37	-

The online Library has experienced significant growth. At the beginning, over 80 thousand new accounts were created via Bibliotheek.nl. By the end of 2016, 346 thousand library members had an account; by the end of 2019, there were almost 428 thousand. By 2021 - after the transition to a new account system in 2020 - this

number will have further increased to over 435 thousand accounts. In recent years, more library members have been actively using the online Library. Of all valid accounts, more than eight in ten (84%) can be classified as active, with at least one loan in the past 12 months. Most of these accounts are used by residents of the European Netherlands (99.9%). In the Caribbean part of the Kingdom of the Netherlands (Bonaire, St Eustatius, Saba, Curaçao, Aruba, St Maarten), around 400 residents use the online Library (Sources: Van de Burgt & Klaren, 2022; CBS, 2022). Seven in ten e-book borrowers use the online Library's app for this purpose, 19% usually read via e-reader and 13% read via the website on a PC, phone or tablet (Source: De Bruijn, 2021).

Library users seem to be happy about e-lending services and give them a score of about 7,5 (out of 10). Quite obviously, they would like to see more bestsellers in the collection and translated titles are difficult to negotiate.

## 11. E-LENDING IN NORWAY, BY OLAUS BERGSTRØM AND HARALD BØHN

### INTRODUCTION

In Norway, public libraries are owned and operated by the municipalities. The Public Library Act of 1985 stipulates that all municipalities must operate a public library with an offer addressing all people and age groups, covering all subject areas. Their purpose is to work for enlightenment, education and other cultural activities.

Therefore, acquisitions and other operating expenditure are born by public libraries. The state contributes indirectly to the daily operations of public libraries, through purchasing schemes for literature managed by the Norwegian Arts Council. The Arts Council was established in 1965 to administer the Norwegian Cultural Fund. Today, it is in charge of a broad spectrum of administrative tasks and functions within the cultural field, including artists' grants, the Audio and Visual Fund and several other funding schemes.

These schemes ensure that all Norwegian public libraries receive one copy of published quality fiction for children and adults, a selection of translated literature and non-fiction titles for children and adults. Norwegian public libraries also received a number of quality music recordings (CDs), but this arrangement was ended in 2012, with no digital replacement.

In total, there are 647 public libraries (main and branch library units) in Norway (2020), manned by 1843 full year equivalent staff. Many of the libraries in smaller municipalities employ typically 1-2 staff. (Source: [Antall avdelinger og årsverk ved norske folkebibliotek - Medienorge - fakta om norske massemedier - statistikkmeny \(uib.no\)](http://antall.avdelinger.og.arsverk.ved.norske.folkebibliotek-Medienorge-fakta.om.norske.massemedier-statistikkmeny(uib.no).)).

In addition to municipal libraries, another layer is the County library – at regional level. County libraries provide guidance and assistance to public and school libraries within the county and advise local authorities and library owners about library orientations and directions.

There have been several pilot projects on lending e-books in Norwegian public libraries since 2011. At the start, the offer of e-books was minimal and the titles were chosen partly on procurement schemes established as cultural policy instrument by the Norwegian Arts Council, and partly based on the libraries' own market-driven procurement.

Pilot projects involved libraries, publishers and distributors. In 2016, the National Library proposed a model with a recommended scheme for purchasing and lending e-books in public libraries, consisting of a combination of license and pay-per loan models. This hybrid model came together with a similar scheme regarding the lending of digital audio books (e-audio-books).

As part of the work on development of the lending models for e-books and e-audio-books, the National Library of Norway asked a private consultant, Rambøll Management Consulting, to evaluate current e-media purchasing models. The evaluation involved county libraries, public libraries and the two largest content providers and concerned the recommended lending models currently used - agreements between suppliers and the county library / public libraries which are aggregated in consortia and deal with the selection of e-media and price negotiations. A consortium in this context is a voluntary association of public libraries that have chosen to collaborate instead of standing alone in their negotiations with the publishers.

The evaluation run by Rambøll Management Consulting was limited to the content, and not the technical platforms/apps. It consisted of two digital questionnaires, one for libraries/consortia and one to the public libraries, as well as in-depth interviews with the two largest content suppliers (Biblioteksentralen and Bokbasen). All 12 county libraries/consortia responded to the evaluation and 211 out of a total of 356 public libraries (60 %) responded in whole or in part the questionnaire. Both complete and incomplete responses were included in the database. Data collection took place in the timeframe 17 November-10 December 2021.

**The main findings of the evaluation were:**

- the models are too complex in that they have two components: license part and pay-per-loan option;
- the selection is too small, with a demand that is much higher than supply;
- it is too expensive for libraries and considered to provide little value for money;
- negotiations between libraries and suppliers have so far taken place at county level. The county libraries prefer they are raised at national level. On the side of public libraries, 50% want to shift to the national level, while 50% are satisfied with the current county level;
- libraries want lower prices, more loans per license and a longer duration of what is procured.

*General data and the legal framework ([Statistikk for folkebibliotek - Statistikk \(bibliotekutvikling.no\)](https://bibliotekutvikling.no/statistikk-for-folkebibliotek))*

Year	Ebook Loans	Digital audiobook Loans	Libraries overall media expenditure
2017	642 355	21 901	137 547 527 nok (€13 897 367)
2018	610 960	75 844	133 731 372 nok (€13 511 795)
2019	603 535	166 393	136 232 933 nok (€13 764 545)
2020	960 246	460 499	140 867 830 nok (€14 232 840)
2021	1 008 674	637 061	147 731 545 nok (€14 926 328)

Source: <https://bibliotekutvikling.no/statistikk/forside/statistikk-for-folkebibliotek/>



## Loan / E-loan Statistics (2019)

	Number of inhabitants (in 1000)	loan / inhabitant	book loan / inhabitant	e-book loan / inhabitant	e-book loan in % of book loan	e-audiobook loan / inhabitant
Norway total	5328	2,80	2,29	0,11	3,9 %	0,03
>300 000 inhab.	681	2,25	1,6	0,12	5,3 %	0,03
50-300 000 inhab.	1551	2,88	1,86	0,13	4,5	0.04
30-50 000 inhab.	633	2,65	1,54	0,11	4,2	0,02
5-10 000 inhab	623	3,03	1,89	0,09	3,0	0,02

The number of loans in public libraries has decreased in Norway, in total and per capita:

Year	Physical book loans and renewals / Only First loans	Physical audiobook loans and renewals / Only First loans
<b>2017</b>	16 503 568 (11 867 797)	1 473 628 (1 058 862)
<b>2018</b>	16 679 145 (11 907 882)	1 248 104 (881 970)
<b>2019</b>	17 431 409 (12 204 952)	1 021 945 (712 095)
<b>2020</b>	14 157 399 (9 722 547)	571 176 (380 102)
<b>2021</b>	16 614 852 (11 193 758)	437 646 (279 284)

2015:

4.4 loans / inhabitant, 3.25 book loans / inhabitant;

2005: 5.41 loans / inhabitant, 3.89 book loans / inhabitant.

## Downloading of e-books sorted on adult and children's e-books in Public libraries 2015 - 2020:

	2015	2016	2017	2018	2019	2020
E-books for children	73 012	94 107	111 311	n.a.	76 203	217 817
E-books for adults	389 487	473 870	531 044	n.a.	527 332	742 429
E-books (Total)	462 499	567 977	642 355	n.a.	603 535	960 246

### Sales of books also fell in parallel.

Number of copies sold (in 1000):

	2014	2015	2016	2017	2018	2019	2020
<b>non-fiction for adults</b>	4319	4120	3572	3175	2902	2721	2478
<b>non-fiction for children</b>	1102	858	716	755	599	770	742
<b>fiction for adults</b>	2271	2538	2381	2137	1944	1854	1658

The increase may be due to extra funds for public libraries as corona support in 2020. Compared with public libraries in Sweden and Denmark, public libraries in Norway have significantly poorer finances and frameworks for media purchasing. Book loans are clearly falling in Norway. E-book lending is increasing, but is only about 8,5 % of the total book lending. This share increased sharply from 2019 to 2020, up from 3.9 % to 8.5 %.

In public libraries, an average of 8,5% of the total lending is e-lending. For comparison 9% of the total media budget is spent on e-lending. This is a fairly good correlation between lending share and bidding share, which allows that libraries do not use disproportionately much money on e-media compared to other media.

## INTERACTION BETWEEN AUTHORS/PUBLISHERS/LIBRARIES

Norwegian public libraries get access to ebook- and audiobook-licences on two broad models, from respectively the Norwegian Arts Council and aggregators Bokbasen and Biblioteksentralen based on recommended models developed by the National Library.

The Norwegian Arts Council runs eight purchasing schemes funded by the state under the Norwegian Cultural Fund for literature with the aim to support the Norwegian literary sector.

### These are:

- The automatic purchasing scheme for new Norwegian fiction for adults, 773 copies of books (623 p-books and 150 e-book licences)
- The automatic purchasing schemes for new Norwegian fiction for children and young people, 1720 or 1750 copies of books for children and young people (respectively 1650 p-books for children and young people up to 4<sup>th</sup> grade and 1680 p-books for children and young people from 5<sup>th</sup> grade and up, as well as 70 e-book licences)
- The selective purchasing scheme for new Norwegian fiction for children and young people, 1720 or 1750 copies of books for children and young people (respectively 1650 p-books for children and young people up to 4<sup>th</sup> grade and 1680 p-books for children and young people from 5<sup>th</sup> grade and up, as well as 70 e-book licences)
- Translated literature, 542 copies (502 p-books and 40 e-book licences)
- New Norwegian non-fiction, 773 copies (623 p-books and 150 e-book licences (for titles registered and purchased before round 1-2022, 703 p-books and 70 e-book licences had to be delivered)).
- New Norwegian non-fiction for children and young adults, 1720 or 1750 copies (respectively 1650 p-books for children and young people up to 4<sup>th</sup> grade and 1680 p-books for children and young people from 5<sup>th</sup> grade and up, and 70 e-book licences)
- Cartoons (1680 copies of books for children and young people and 703 copies of books for adults).<sup>98</sup>

The ebooks purchased by the Arts Council are lent free of charge by the libraries and administered by consortia at county level. The consortia receive their proportion of licences by population. The ebooks are made available to libraries by digital licenses, which allow one simultaneous loan per license in a “one copy/one user” model. The licenses last for five years. In practice this covers the four calendar years following the year selected ebooks were submitted to the purchasing scheme. The approach seems to aim to achieve a degree of equivalence with the terms for the physical books in the purchasing scheme. Physical books purchased under schemes must be kept available in public libraries for at least five years. The physical books are purchased and public lending right remuneration is paid to authors for their lending. The five year period is therefore not a strict limit for the lending of the physical books as it is for the ebooks purchased on license, but rather a duty placed on the public libraries.

E-lending is furthermore implemented through two national aggregators – Bokbasen and Biblioteksentralen. Bokbasen was established in 2007 and is owned by the largest Norwegian publishers and the two largest bookstore chains. Biblioteksentralen is owned by the municipalities and has provided books, expertise and services to all the country’s public libraries since 1952. Biblioteksentralen is a non-profit cooperative, where all profits go back to the development of services. Other suppliers are also present, when the offer of the two agencies is not satisfactory.

A role is also played by the National Library of Norway, which has developed two non-binding recommendations for audiobooks and ebooks that combine the two e-lending models– licenses + pay per loan – with the aim to ensure supply e-books and audiobooks to public libraries. The model for ebook licences was published in 2016. The model for audiobook licences was published in 2019.

### The model for ebooks recommends two distinct licences.

**The first** is a “one copy/one user” model limited to ten loans on a two-year license. The copy should only be available to one user at a time. Loans not used in the two-year period can be used later. A loan is considered completed when 10 % of a book has been read. It is recommended that the licenses as a principle are priced as a paper book.

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<sup>98</sup> <https://www.kulturradet.no/innkjopsordningene>

**The second** is a pay-per loan model, also known as the “click model”, with no limitation to loans per license. The “one copy/one user” model is the default, but libraries can choose to implement the “click model” for the titles of their choice after a set time. The model presupposes that all books should be available for the click model from two years after publication. If the book has previously been published in physical format, the book should be available from one year after the publication of the ebook. It is recommended that price per click should not be more than 10 % of the recommended retail price.<sup>99</sup>

The model for audiobooks recommends that libraries can purchase licences for the lending of audiobooks to their users in the form of a single recommended license to individual titles. The model recommends that the licenses are limited to six loans per license. The lending model is “one copy/one user” for a non-returnable period of 14 days. A loan is considered completed when 10 % of the total playing time has been listened to. It is recommended that the price per license should be the same as the retail price of digital audiobooks on the market.<sup>100</sup>

The recommendations presuppose the establishment of good technical platforms for security, loans and control, coordinated by publishers and aggregators. In practice libraries acquire ebooks and audiobooks in the license models through consortia at regional level through the two dedicated aggregators Bokbasen and Biblioteksentralen. The aggregators offer access to ebooks as tenders offered to public procurement competitions from consortia at county-level.<sup>101</sup> The contract will normally state that if the aggregator cannot supply a license to a particular title, libraries are allowed to purchase these from other suppliers. Both aggregators also offer platforms for the technical and practical side of the lending process. These are however independent and can be cross-applied (purchasing licences from one aggregator and offering them through the platform of the other). Public libraries normally pay their share for access to e-lending licences through the regional consortia. This normally amounts to a flat rate per inhabitant. Some public libraries buy additional licences for their own users.

Bokbasen is the main supplier of e-media for e-lending, although the preferred supplier for county libraries is Biblioteksentralen. Two out of three county libraries also buy e-media outside the main suppliers, since they wish to have access to a wider offer and choice of e-books.

Over half of the county libraries have changed main supplier during the period the model has been in use. The reason why they changed content supplier may be technical – a better platform was available - or because libraries wanted to experience competition between the two suppliers.

County libraries indicate that they use the model recommended [by the National Library] for e-media. For suppliers, the critical point is not whether libraries use the model or not, but to what extent they follow or deviate from the model.

The licence models are only recommendations proposed by the National Library in conversation with publishers. In practice libraries and aggregators might reach different terms. While the counties report that the recommendations as a rule are followed, from reports from public libraries and the aggregators it seems in practice the approach might vary somewhat. Specification and deviation from the recommendations is possible both in the public procurement competitions offered at county level and by terms offered by the individual publishers. The aggregators note that while the majority of publishers follow the recommended models, publishers are the also the party that will normally deviate. Typical deviations concern modalities of the two

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<sup>99</sup> <https://bibliotekutvikling.no/nasjonal-bibliotekutvikling/anbefaling-til-innkjop-og-utlan-av-e-boker-i-folkebibliotek/>

<sup>100</sup> <https://bibliotekutvikling.no/nasjonal-bibliotekutvikling/nasjonalbibliotekets-anbefaling-til-modell-for-utlan-av-digitale-lydboker-i-folkebibliotek/>

<sup>101</sup> One exception from this is Bergen, which runs procurement at municipal level.

approaches (e.g. only offer pay-per-loan from day one; not to offer pay-per-loan at any point, offer licenses and pay-per-loan-concurrently), as well as prices different than recommended.

Publishers can also choose to offer their titles for a chosen number of concurrent loans in the license packs, as well as the default recommended option of only sequential loans. An offer of concurrent loans is reported to be the general rule, in part as a response to the wishes of public libraries. Interestingly it is reported that the offer of concurrent or sequential loan might vary from county to county, with only some counties applying the “one copy/one user” model for the ten loan and six loan license packs for respectively ebooks and audiobooks as recommended by the National Library. Others grant access to library users concurrently in part to avoid waiting lists. Specifically, Biblioteksentralen report that they allow libraries to revert publishers offers of concurrent loans back to the default of sequential loans. This modality is not as of now present in the system offered by Bokbasen. The aggregators also note many minor specifications and deviations from the different consortia in the Rambøll-report. The report further notes that the recommended models are considered complicated or difficult to comprehend for users by aggregators and libraries respectively, with the specifications and deviations seen to further complicate the models in practice by the aggregators.

So far, the mainstream model is the combination license + pay-per-loan proposed by the National Library, with minor changes introduced by libraries and publishers as noted above.

Norway has a one copy one user approach in the recommendation by the National Library, that is to say in the license models. It also has it for the ebooks offered by the Arts Council. In the first case it covers respectively ten and six loan license packs. In the second a five year license. In the first case however there is evidence libraries and publishers have partially abandoned the "one copy/one user" model, in order to give access to people in part to prevent waiting lists. At the same time it is interesting that some libraries seems to have actively abandoned the "one copy/one loan" model under the recommended models by the NB when given the choice, despite the statement from the county libraries to follow the recommendations in the Rambøll-report. The most prominent discussion about the license models recommended by the National Library currently therefore seems to revolve around this issue of "one copy/one user", yes or no.

Both the recommendation of the National Library and the purchases of the Arts Council apply the “one copy/one user” approach, but limited respectively to ten and six loan license-packs and a five year license period. The latter in the form of the Arts Council procurements is the closest the Norwegian system comes to a pure “one copy/one user” model.

## *THE ROLE OF LIBRARIES AND OF PUBLIC POWERS*

Normally, small municipalities spend a small share of the media budget on e-media, while larger municipalities spend more. Moreover, there is no correlation between overall satisfaction with the models and the libraries' share of e-lending (over lending transactions) and the budget for e-media. In other words, libraries which practice e-lending in a higher proportion are not more satisfied than the others.

92% of county libraries are dissatisfied with both models since they consider they get little value for money, and less value for e-audio-books (72%) than for e-books (46%). The variation is wider when public libraries are asked to comment on licenses concerning constraints on acquisition and the selection of e-media. In general, the level of satisfaction is higher for e-books than for e-audio-books.

Cooperation between library consortia and suppliers works well. The vast majority of county libraries are satisfied with the cooperation with consortia.

Suppliers, too, are satisfied with cooperation with consortia, since consortia have a good understanding of the situation and the challenges of public libraries. They note, however, that the requirements of the tender competitions – which are numerous and quite detailed - make it challenging for them to develop good solutions efficiently. They report that the consortia see themselves as uniform and similar, but that in the reality both needs, organisational structures and the ways they communicate differ; this requires great flexibility and a high level of adaptation, which raises the cost of developments.

All county libraries (working at regional level) prefer a national level of negotiation for the acquisition of media. Among public libraries at municipal level, about half prefer a national level, while approximately as many prefer the county level, as is the case now. The bigger the municipality, the greater the preference for negotiations at national level. In general, county libraries believe to a greater extent than municipal libraries that both license and pay-per loan models work satisfactorily with fictional e-books.

Municipal and county libraries on the one hand, and suppliers on the other, agree that today's models for the purchase of e-media have great potential for improvement. Both public libraries and county libraries think the model for e-audio-books works less well than the model for e-books. In general, libraries in smaller municipalities think that the current models work well, whereas libraries in larger municipalities would like to see different models.

**There are three main factors that explain why many people dislike the current models:**

1. Complexity – the practice of having two models (license and pay-per-loan) creates unpredictability for libraries with the result that librarians' time is often consumed to understand which model works better and how they have to implement it;
2. Selection/diversity - for both media (e-books and e-audio-books), the demand is much greater than the supply, with the result that libraries are frustrated as they cannot offer more titles and more copies;
3. Price - For both media, but especially for e-audio-books, libraries clearly point out that it is too expensive and offers little value for money.

In conclusion, almost all county libraries (regional level) believe that the e-library purchasing model offers little value for money, and three out of four think the same for e-books. In public libraries at municipal level there is more diversity, but the conclusion is the same; three out of four think the model for e-audio-books offers little value for money, while for e-books the proportion is 50%. Public libraries in the larger municipalities are more satisfied than libraries in smaller municipalities, but the latter are also more represented in acquisition committees.

## **USERS' PRACTICES**

The investigation reports about dissatisfaction with the current models and proposals for change have been put forward both by libraries and suppliers.

### **1. Criticalities from the perspective of libraries**

What follows is what libraries consider criticalities in e-lending in Norway.

- The ideal would be an offer of several models: models for more long term use of e-books, and models for quick use, including different business models, so that e-media having a long life-cycle may be more expensive than those having a shorter life-cycle.
- Choosing between different models would give libraries the opportunity to build a collection that best fits the needs of the public and is also more predictable;
- Library audiences can tolerate waiting lists, but there should be predictability in the selection, so that the user has clear messages in relation to the availability of titles.

**Other proposals include:**

- A delivery obligation - everything that is published digitally should be made available digitally, with the possibility of schemes making the ownership of titles possible for libraries, instead of renting titles;
- Offers that allow for one-year loans + the possibility of pay-per-loan model, as an alternative to the annual license or the 10-loan licence (a licence allowing 10 loans as a maximum).
- Better management of the economics behind the e-lending business so that borrowers experience a wider choice, as well as versatility of, and accessibility to, the e-collection;
- An alternative would be to increase the number of loans allowed per package to 50 loans (instead of 10);
- increase the number of e-books financed by KF (The Funds of the Arts Council, Norway) and keep the rule allowing reading of at least 10% of the total number of pages before invoicing;
- A lending model similar to that of Libby/Overdrive, where you buy a license on a work that you then own, and can lend it to one user at a time, as many times as you wish; this would provide a stable offer for the borrowers, and on the acquisition side, buyers would get titles once and for ever, and not at any time they wish to loan, as it is the case today;
- Increase the number of possible loans per library with not so many varying prices, and an equal price for new titles;
- The e-lending model should reflect the current book trade to a greater extent, so that the same regulations for physical and digital media would make it easier to manage and build up collections ("When we buy a paper book, it lasts until it is torn into pieces and then it is discarded – as an average, 20-40 times; e-books cost as much as a paper book but "lasts" for only 10 loans, it doesn't work");
- The model does not stimulate publishers to make e-books available for lending in libraries;
- It should be possible to buy copies for a few years at a time (copy model for lending);
- for financial reasons, the pay-per-loan option has been removed on parts of the collection;
- publishers use different models, some publishers offer the entire selection on pay-per loan, while the selection of others is offered in packages. The price of e-books does not reflect the fact that publishers do not have to bear the costs for production, storage and distribution;
- it is difficult to build up a predictable offer to the public when licences with a limited number of loans are used so quickly.

**In relation to e-audio-books libraries experience many criticalities: the following proposals were made:**

- The introduction of the rule of 10% has been a great improvement. This rule states that at least 10 % of the e-audio-book is listened to before it is considered a loan for which it is to be paid. A further improvement to the e-audio-book acquisition would be to implement rules normally applied for the e-book model, where the 10% rule is combined with package purchases, and any products older than 2 years is available on a pay-per-loan scheme;

- The price per loan must go down. New e-audio books are no longer available in libraries. The digital services will in the near future be the only place where patrons can access audio books for free. This is important for children/young people and the elderly. Keywords are: better access, predictability in the offer and more loans per purchased title;
- e-audio-books should be included in the list of purchased works financed by the K-Fund (Art Council);
- Several public libraries want a "one copy/one user" model, so that it buys a copy that lasts "forever", but is not lent to more than one user per time. This may well be more expensive than physical copies which would have a natural wear and tear lifespan;
- Some public libraries want to return to the way things were. At that time, licenses that were purchased lasted for a longer period;
- Mechanisms that ensure greater predictability for libraries and borrowers, even if it means longer waiting lists for borrowers. Borrowers understand waiting lists. Borrowers all over the country should have the same offer on e-media. There is no reason that the offer should be different from library to library when the products are digital.

## **2. Criticalities from the perspective of suppliers**

On the side of suppliers, there are positive and negative aspects in the current e-lending system in Norway.

What is positive is that it allows for local ownership and local involvement in libraries. It also allows for competition in the market and puts pressure on suppliers, which is positive for development in the long term.

Many of the consortia have set requirements to adapt to local needs, but this is expensive to develop and raises the entry barrier for newcomers while lowering the number of potential suppliers, in spite of theoretical competition.

Suppliers, too, see complexity in current e-lending systems in Norway as the main criticality. E-lending models are difficult to understand both for libraries and patrons, and libraries spend a lot of resources and time in learning, interacting, and navigating into platforms.

There is a widespread perception that publishers have a disproportionate fear of cannibalisation between the library market and the commercial market. In addition, there is a perception that publishers have a lack of understanding that library and municipalities have poor finances.

### **These are the proposals for enhancement made by suppliers:**

- A common model for the two e-media (books and audiobooks), and in addition, an integrated system rather than a two-option system (license + pay-per-loan); this would contribute to predictability which helps suppliers to save money on development and on customisation;
- Mechanisms that ensure a greater degree of predictability, both for suppliers and libraries;
- Lower prices for e-books.



## 12. E-LENDING IN ROMANIA, BY OLIMPIA BRATU

### *GENERAL DATA AND THE LEGAL FRAMEWORK*

No national e-lending policy has been established, publishers have only started producing e-books in the past few years, mainly for sale. In Romania, public libraries do not offer e-lending services. There are e-book access services through cloud library systems, but lending and access policies are not set by libraries.

Since e-lending is not practiced, there is neither general data available nor a regulated framework for e-lending. No entity is collecting any form of royalty so far. E-lending regulation is not on the public agenda, and the e-books market is underdeveloped. Publishers offering digital products have their own DRM systems, which they manage (Adobe DRM is generally used). There are DRM policies in public libraries, through the Integrated Library Systems used by them in terms of access to digital objects managed through online catalogues.

Law 291/2021 reduces the VAT rate to 5% for “the delivery of textbooks, books, newspapers and magazines, on physical and / or electronic means, except for those that have, in whole or in part, video content or audio and music content exclusively or primarily for advertising purposes.”

### *INTERACTION BETWEEN AUTHORS/PUBLISHERS/LIBRARIES*

Applying a unique filter that establishes access to only one type of work, those in the public domain, would certainly improve the situation not only in public libraries but in the progress of digitisation in Romania.

The real problem for publishers and authors in becoming digital is related to the language in which books are put into circulation - in Romanian. Although there is a market for e-books in Romanian offered by publishers, it is not as diverse as that of printed products.

Romanian libraries do not purchase e-books. There are several public libraries that offer access to book clouds, but that doesn't mean they can effectively cover the real information and documentation needs of the community. Moreover, it is difficult to associate in consortia, according to Romanian legislation.

In public libraries we cannot talk about e-lending due to the lack of regulation of this service. In the case of university libraries there are consortia for access to electronic resources for the use of students and teachers (Anelis Plus). In order to establish common principles, standardise practices, university libraries through the Anelis Plus service can negotiate electronic publication packages with a real financial advantage. Its implementation in public libraries can be a beneficial experience for both parties, in the sense that libraries would also provide information about the genres / titles / authors searched by users.

Publishing policies can be influenced by the need for profit, and this can lead to the restriction of the diversity of publishing products. The costs of developing digital products could be prohibitive for small, niche publishers - they can disappear from the market.

Through public libraries, users consult traditional books and digital books in the public domain. The need for financing specifically for the purchase of electronic documents and electronic equipment / software required for the provision of electronic lending services.

## 13. E-LENDING IN SPAIN, BY CIRO LLUECA

### INTRODUCTION

Spain has a system of 3.697 public libraries distributed in different public administrations, with different coordination agencies. First, the Ministry of Culture and the 53 state-owned libraries (normally one for each administrative province). Then, the 17 regions (autonomous communities, in Spanish terminology) may have their own library coordination systems. Finally, the municipalities are the main managers for the majority of the 3.697 public libraries (2019), including small, middle and large libraries. Spanish laws makes public libraries mandatory for cities with populations over 5.000 citizens (3.000 in Catalonia), and public library services (as mobile libraries) for the rest of the country. In practice, there are important differences in the territorial implementation of public libraries for historical and political reasons (10,20€ average investment for inhabitant in 2018; with a wide range, from 16,42€ in Catalonia to 5,78€ in Canary Islands).

Information was provided by Ms. Alicia Sellés (FESABID, Spanish Federation of Associations of Librarians and Archivists), Ms. Clara Ortega (Ministry of Culture and Sports. Directorate-General of Books and Promotion of Reading. SDG Librarian Cooperation), Ms. Asunción Cuadrado (Ministry of Culture and Sports. Directorate-General of Books and Promotion of Reading. SDG Librarian Cooperation) , Ms. Elena Sánchez Muñoz (Galician Ministry of Culture, Education and Universities. Service of Librarian System), Mr. Ciro Lluca (EGIL, Expert Group on Information Law).

### GENERAL DATA AND THE LEGAL FRAMEWORK

Country: Spain (2020)

Number transactions: 3.746.853 (only public libraries)

Turnover: 1,5 M€

Coverage: 33.265 items (31.326 ebooks + 1.628 audiobooks + 83 journals + 52 newspapers + 176 other)

Users: 257.315 (loans for 1.000 citizen: 82,83)

	2018	2019	2020	2021
Public libraries	1,029,232	1,711,330	3,746,853	2.078.978 (loans in Catalonia –ca 1M were not provided)
E-lending in PLs (percentage)		3,8%	Growing	Growing (statistics not available)

**E-loans in public libraries (except Basque region):**

Region	2020	2021
Andalucía	296.802	180.561
Aragón	74.893	54.549
Canarias	105.310	92.128
Cantabria	51.327	69.088
Castilla y León	247.851	265.439
Castilla-La Mancha	111.209	62.521
Cataluña	947.438	Not provided
Ceuta	1.205	775
C de Madrid	1.115.102	782.730
CF Navarra	47.856	20.506
C Valenciana	142.828	85.593
Extremadura	105.203	77.473
Galicia	151.851	118.415
Illes Balears	47.056	28.118
La Rioja	88.929	80.578
Melilla	403	284
Principado de Asturias	45.602	29.553
Región de Murcia	192.661	147.469
<b>TOTAL</b>	<b>3.746.853</b>	<b>2.078.978</b>

Suppliers of digital lending are not sharing this data, because technical limits and also, perhaps, commercial strategy.

**Some other reports:**

([https://www.bookwire.de/fileadmin/customer/documents/Whitepapers/Informe\\_Bookwire\\_Dosdoce\\_Evolucion\\_Digital\\_2021.pdf](https://www.bookwire.de/fileadmin/customer/documents/Whitepapers/Informe_Bookwire_Dosdoce_Evolucion_Digital_2021.pdf)) could be useful to improve data collecting.

There are two possible forms of e-lending: digital lending of native e-books and digital lending of books digitalized in librarian holdings. The legal framework is therefore different. The first is mainly regulated by contractual agreements, while the second is regulated by the Spanish Copyright law and its limitations and exception (<https://www.boe.es/buscar/act.php?id=BOE-A-1996-8930>).

There are no intermediate actors negotiating the e-lending of digital publications, but arrangements are made with regional agencies and the national public administrations. The largest project in Spain is eBiblio (national public administration + all regions, except Catalonia and Basque country). Regional projects are present in Catalonia (eBiblioCat), the Basque Country (Liburutegia), and “Galicia Lee” (Galicia, only for books in Galician). Other minor experiences are also enacted, thanks to the support provided by public administrations. No data is provided by university and academic libraries or school libraries.

The entity collecting royalties on the basis of e-lending is CEDRO (Centro Español de Derechos Reprográficos (CEDRO)), a non-profit organisation collecting royalties for authors and publishers, whatever its format. Libraries exert very little influence on the policy of CEDRO.

A better legal framework is needed for the lending of non-native e-books (i.e. books digitised by libraries (CDL, Controlled Digital Lending) that are digitised from librarian holdings (also within the framework of the law case 174-15 of the Court of Justice of the European Union C174/15 Vereniging Openbare Bibliotheken vs Stichting Leenrecht). Controlled Digital lending is hard to implement in Spanish libraries, for instance in relation to the IFLA manifesto for CDL: [https://www.ifla.org/wp-content/uploads/2019/05/assets/clm/statements/ifla\\_position\\_-\\_es\\_-\\_prestamo\\_digital\\_controlado.pdf](https://www.ifla.org/wp-content/uploads/2019/05/assets/clm/statements/ifla_position_-_es_-_prestamo_digital_controlado.pdf).

The decision taken by the Court of Justice, however, does not concern published e-books or e-books stored on platforms, for which libraries must sign agreements with providers. A better framework should be needed since negotiations with publishers undertaken by consortia and national / regional administrations are not easy. For native e-books, there is mistrust between publishers and libraries, even when supported by public administration and mechanisms are not easy to implement. The CMO system is not responding to the library demand and Spanish libraries do not often have budget to pay for royalties. At the same time, the private sector is setting in place platforms providing e-lending together with licences to use e-publications and, through agreements and license package, they are improving the system.

## *INTERACTION BETWEEN AUTHORS/PUBLISHERS/LIBRARIES*

Libraries and e-publishers interact mainly through individual agreements and licenses. Direct acquisitions are also possible where a publisher makes an agreement with a local library for school publications or with an academic library for technical text books and publications. These agreements often provide for windowing practices in time where access to digital collections is restricted.

In addition, epub/mobi/pdf have different prices whether they are accessed by individual buyers or by a library and/or an institutional buyer. Normally, the latter pay a higher price. Purchases to public administrations entail DRM system which are normally controlled by private vendors within a licensing framework. Exchange of content between reading/access platforms is limited since they have different DRM systems and this is a form to control and decrease piracy practices.

## THE ROLE OF LIBRARIES AND OF PUBLIC POWERS

Libraries acquire e-books on an individual basis or through platforms. Access to e-publications is restricted both in time and in terms of usage (downloads are not permitted, publications are not printable and can be accessed only through the private DRM system).

ON the other hand, public libraries have been so far unable to set up consortia to negotiate with publishers; consortia are in existence only in university/academic libraries, which have a more advanced level of management of e-lending transactions. The main difference lies in the audiences reached by the digital offer of publications: a close and well identified community of students, lecturers and staff in academic libraries; open to all citizens in public libraries.

Consortia are only present within the university library system and this does not facilitate the development of e-lending. Exchange of information and negotiations based on economies of scale could certainly facilitate the development of e-lending practices in libraries, the modernisation of the library system and a wider diffusion of e-reading. Even more so, that the central administration invests a large amount of money in the acquisition of e-books, not only through libraries, but also through marketing campaigns at national, regional and local level. For instance, a national website supported by the Spanish Ministry of Culture provides access to e-lending in the public library system of the 17 comunidades autónomas (the Spanish regional administrations).

<https://www.culturaydeporte.gob.es/cultura/areas/bibliotecas/mc/eBiblio/inicio.html>