

Article 8 – 11: Turning copyright on its head.

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Text:



Digital Single Market – Where are we now?

- European Parliament voted on the 26th March 2019 to pass the legislation.
- European Council ratification may be 9 April 2019.
- Transposition period of 24 months from approval.

Library and Research Associations Working Together

- LIBER
- IFLA
- European University Association
- Science Europe Art 3
- EBLIDA
- Sparc Europe
- Europeana (Focussed on Art 1-10b)
- CENL (Focussed on Art 5, 7-9 only)

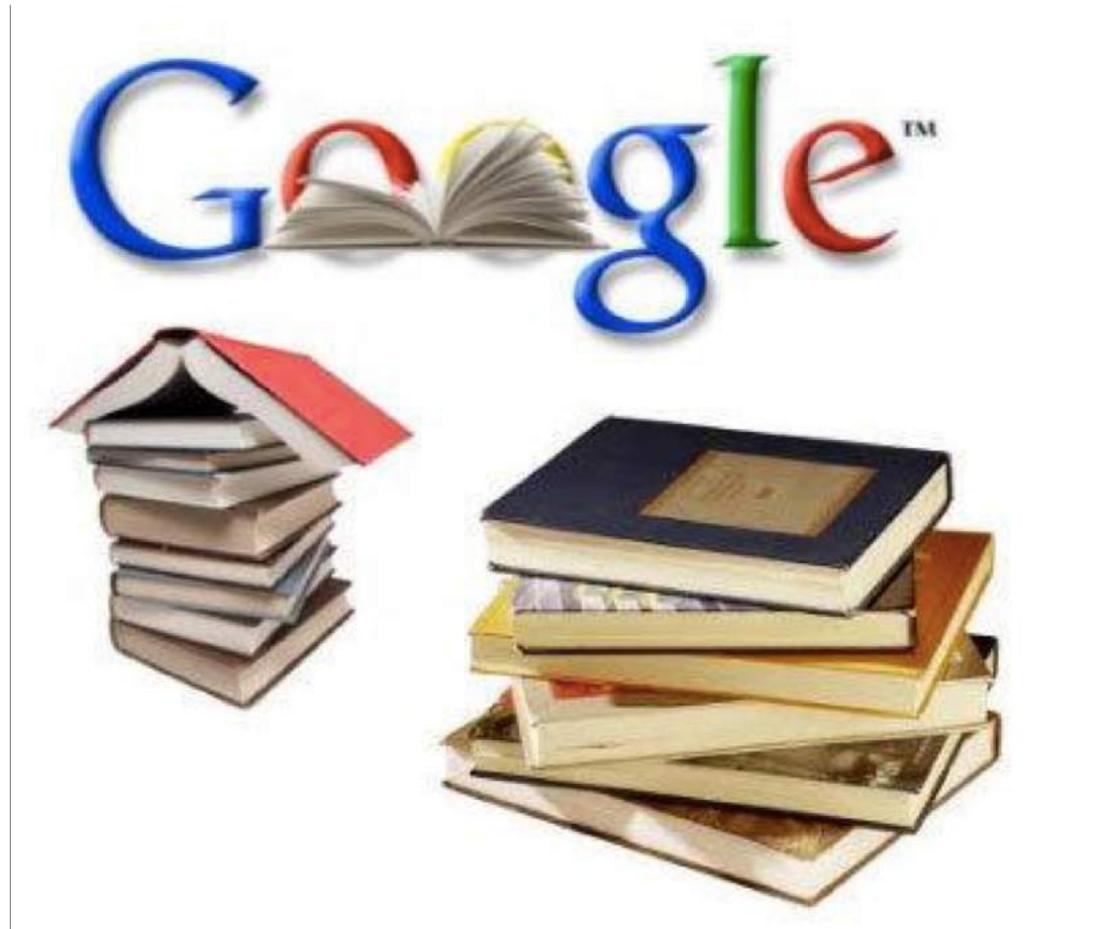
Library Associations Working Together

Library Associations by working together with the various library, research and university groups were able to make important and material improvements for our sectors from the initial Commission draft.

Long Background!

- 2005 i2010 programme → Orphan Works Directive 2012/28/EU
- Google Books Project
- Europeana
- Memorandum of Understanding on Out of Commerce Works 2011

Long Background!



Articles 8-11 Mass Digitisation of OOC Works (before 2016)

- Licensed based solution for the mass digitisation of previously published / made available out of commerce works. (*What if no collecting society or legally they cannot offer a licence?*)
- Excluded the works of non EU / EEA authors and artists. (*Is Jean Mason – French, Belgian, Swiss, Senegalese or Canadian?*)
- Requirement by representative CMOs (Collective Management Organisations) to advertise the materials for a period of at least 6 months before publication on the EU IPO website.
- Can represent the works of non-members, who have the same rights as members.
- Allows opt outs by rights holders.

Articles 8-11 Mass Digitisation of OOC Works (before)

- A work was not out of commerce if still available in foreign languages.
- Accessibility allows access across borders in whole EU and EEA if licence allows it.
- Stakeholder dialogue to *encourage* the availability of licences.

Articles 8-11 Mass Digitisation of OOC Works (after)

Incentivises licences being offered:

Creates an exception for mass digitisation, except where a licence for the same activity exists from a representative CMO.

Articles 7-9 Mass Digitisation of OOC Works (after)

Content improvements:

- Extended to cover unpublished materials also. (*Never in commerce*)
- Unless a CMO is representative of a third country, it excludes works which *predominantly* consist of third party nationals, unless first published /broadcast/ made available in the EU, or for sound and film if they have offices here.
- Translations treated as a different work to the original so can be digitised even if other language versions are available.

Articles 7-9 Mass Digitisation of OOC Works (after)

Scope improvements:

- Allows under the exception cross-border use, and that licences “may” allow cross-border use.
- Clarifies that the copyright law of the uploading institution covers usage.

Articles 9a Collective Licensing with an Extended Effect (no before)

- Allows extended forms of licensing that cover the works of non-members as if they were members, in areas where individual rights clearance is not possible.
- Does not allow cross border uses.
- CMOs must be representative of the rights already that they are licensing.
- CMOs must advertise the works they want to license before licensing them “a reasonable period” in advance.
- Equal treatment must be given to members and non-members.
- Members can opt-out from their works being used.
- Member States can decide which sectors to apply this to.
- The above must be monitored by the Commission and reports submitted on the effects of this new law.

European Library Associations Take a Bow



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Thank you

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