



Committee on Copyright and other Legal Matters (CLM)

Country Report Netherlands

Annual report to the IFLA CLM committee
Seoul Korea 2006

Introduction

This report is a short account of the activities of the FOBID legal committee (FJC). The FOBID Legal Committee is one of the permanent committees of the Netherlands Library Forum, the national umbrella organisation for co-operation between Dutch library organisations.

Copyright

InfoSoC Directive or Copyright Directive (2001/29/EC of 22 June 2001)

Although the Copyright Directive has been implemented in Dutch legislation, education remained an important topic in 2005-2006. In the year under review FJC organised several workshops for its target groups: libraries in higher education, public libraries and special libraries.

Also under the auspices of FJC a monthly column about the implications of the Directive for libraries was published in the most important professional journal for librarians.

The Ministry of Justice commissioned a survey about the way in which participation of stakeholders in the implementation process of the Copyright Directive led to more regulation. FJC participated in the survey.

Orphan works

FJC asked the Ministry of Justice and Education to take notice of the problem of orphan works. The Ministry of Justice however believes that this problem should not be regulated by law but that it should be solved by the publishers and libraries themselves. The Dutch government prefers self regulation above regulation by law. The Ministry though is willing to interfere when stakeholders can't find a for the parties acceptable solution.

FJC will issue guidelines for libraries regarding this topic in autumn 2006. Important questions regard defining the terms of 'reasonable effort to try to find the right holder' and 'reasonable remuneration'.

Scope of copyright

In a letter to the Ministry of Justice and the Ministry of Education FJC demanded attention for the continual extension of the scope of copyright. FJC made a strong plea to the Ministries to protect the interests of users of information in international bodies in which topics of intellectual property rights are tabled. FJC requested the government to resist the demands of producers of information which lead to extension of the scope of copyright.

FJC founded its plea on the thesis that the government needs to take care of a balance between the interests of the producers and consumers of information. The extension of copyright hinders the availability of copyright protected material.

Evaluation Database Directive

FJC responded to the consultation of the European Commission of the evaluation of the database Directive. FJC supported the option to amend the 'sui generis' provisions of the Database Directive. FJC does not want to reformulate the 'sui generis' right in order to establish the scope of the database right but merely to amend the exceptions to this right. FJC takes the view that the exceptions to the 'sui generis' right should be the same as the exceptions in the Information Society Directive.

Furthermore FJC suggested to reduce the prospect of infinite protection of a database. This could be done by stating that the lifetime of a database is assumed to be 15 years from date of first publication. Portions of the database can have their lifetime extended only if reliable authenticated date stamping is applied to the revised parts, and in which case those revised parts get 15 years from the date when they were last updated.

i2010 Digital Library

FJC did not take part in the consultation of the European Commission of the European Digital Library. Members of the FJC (UKB and the Royal Library) wrote position papers and responded to the Commission. FJC felt it had not anything new to add but adhered to the reaction of EBLIDA'S Copyright Expert Group.

Authority to require personal data

The Act Authority to require personal data came into effect on January 1st 2006. This Act gives police and the judicature the authority to require personal data from public institutions or companies if deemed necessary for tracing criminal offences.

To assist libraries in dealing with eventual requests FJC published the so called Ten Commandments. These are guidelines for libraries regarding supplying information to judicial authorities. The most important ones advise the librarian always to ask for the identification of the person who requires the information and the rationale behind the request. The librarian is further advised to direct the request immediately to the management and not to act on one's own initiative.

The Ten Commandments attracted a lot of attention. Several national papers and legal web sites picked up the topic and quoted the guidelines.

In April 2006 FOBID organised seminar about the Act. Keynote speaker was Patrice McDermott deputy director of the American Library's Association's Office of Government Relations. She addressed the Patriot Act and its consequences for libraries. At the seminar a booklet 'Library and Privacy' was presented. This booklet lists the rights and duties of libraries regarding the protection of personal data.

A striking detail was that at the day of the seminar FJC received a message from a public library that personal data of library users were requested for tracing a jewel thief.

Contacts

FJC regularly meets with representatives of the Ministry of Justice and the Ministry of Education. Topics on those agenda's were orphan works, the progress of several European Directives, the national copyright policy and scope of copyright.