



## Committee on Copyright and other Legal Matters (CLM)

### Country Report Netherlands

Annual report to the IFLA CLM committee  
Durban South Africa 2007

#### 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

##### *Orphan works*

In February 2007 FJC organised a successful seminar about orphan works. Representatives of the Ministry of Justice and Education were invited as were representatives of important cultural and archival organisations. The goal of the seminar was to formulate explore possibilities for a national solution for orphan works and to lay out the contours for an arrangement with right holders. The participants of the seminar came to the conclusion that a diligent search is far too expensive for mass digitisation projects. A possible consequence might be that a diligent search will increase the gap of 20<sup>th</sup> century publications in the digital library. FJC will seek a licence with the right holders creating the possibility of mass digitisation by paying a lump sum. This theme was further explored in a meeting with EBLIDA and the Federation of European publishers.

##### *Out of print works*

The case of the orphan works has attracted a lot of attention lately. The case of out of print works however is not essentially different from that of the orphan works: often it will prove to be difficult to identify the rights holders and laborious to contact them for acquiring permission to digitise and publish the works. FJC decided to address the issue of both orphan works and out of print works together in its above mentioned efforts to establish a sort of collective licence arrangement.

#### Legal matters

##### ***New legislation***

*Directive of the European Parliament and of the Council on criminal measures aimed at ensuring the enforcement of intellectual property rights 2005  
0127(COD)*

FJC has followed the developments of the Directive on criminal measures aimed at ensuring the enforcement of intellectual property rights (IPRED2) with interest. FJC responded to a request of the Dutch consumer organisation and Stichting Vrijchrift to address the Ministry of Justice about the amended proposal by the European Parliament. FJC voiced its worries about the possible consequences of the amended Directive. FJC expressed its opinion that the core activities of libraries and archives will be hampered because of the vague definitions and the unprecedented scope of secondary liabilities for a range of legitimate organisations and business activities. FJC called upon the Minister of Justice and the Legislature to reject the amended proposal in its entirety. In case rejection would not be possible FJC requested the Minister to define the elements of key concepts and definitions exactly to safeguard legal certainty and proportionality.

### **Other legal matters**

#### *RFID and privacy*

FJC tracks the developments of RFID and RFID chips closely. The Dutch public library organisation (VOB) uses RFID chips. VOB places as little objects as possible on the chip. Books and persons are given a number which only can be converted to a title or individual using special library systems.

#### *DRM*

FJC is initiating a study which will investigate the consequences of DRM for libraries. FJC would like to be able to support its claims that DRM influences the business of libraries as it stands. So far FJC could not back up its judgment and tries to gather more information on this.

### **Educational activities**

#### *Amsterdam World Book City 2008*

The chairperson of FJC (CLM member Nol Verhagen) is a member of the organizing committee for Amsterdam World Book City 2008. Mass digitisation and orphan works are the main topics for the part FJC is organising. James Boyle is the key note speaker. Mrs. Elisabeth Niggemann, director of the German National Library and member of the High Level Group i2010 will speak about mass digitisation

### **Strategic plans for future**

#### *Manifesto*

After the Manifesto of the British Library FJC drafted its own position policy. FJC expresses the worries of the cultural and scientific institutions about the incompleteness of the legislation. Although the Dutch Copyright Act is rather balanced FJC feels the balance in copyright is still endangered.

FJC raises six key points in its manifesto: no extension of the term and scope of copyright or related rights; more flexibility for new uses of information; protection of existing exceptions and exemptions; no unnecessary restrictions; possibilities for digitising cultural heritage; and tying up technical protection measures.

### **Contact**

FJC keeps up regular contacts with relevant organisations like the Ministry of Justice and Education, the Dutch consumer organisation, the Dutch Publishers Association and the national UNESCO Committee.

Issues in the meetings with the ministries are most of the time privacy, the scope of copyright, Digital Rights Management (DRM), public lending right and orphan works.

FJC participates in several working groups. FJC also has a representative in the Copyright Expert group of EBLIDA.

For every meeting the FJC secretariat prepares a collection of paper cuttings giving an overview of news items and articles on the field of libraries and archives.