

Copyright for Creativity – A Declaration for Europe

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British Library

LAW

REGULATES

MUCH

OF WHAT

LIBRARIES

DO



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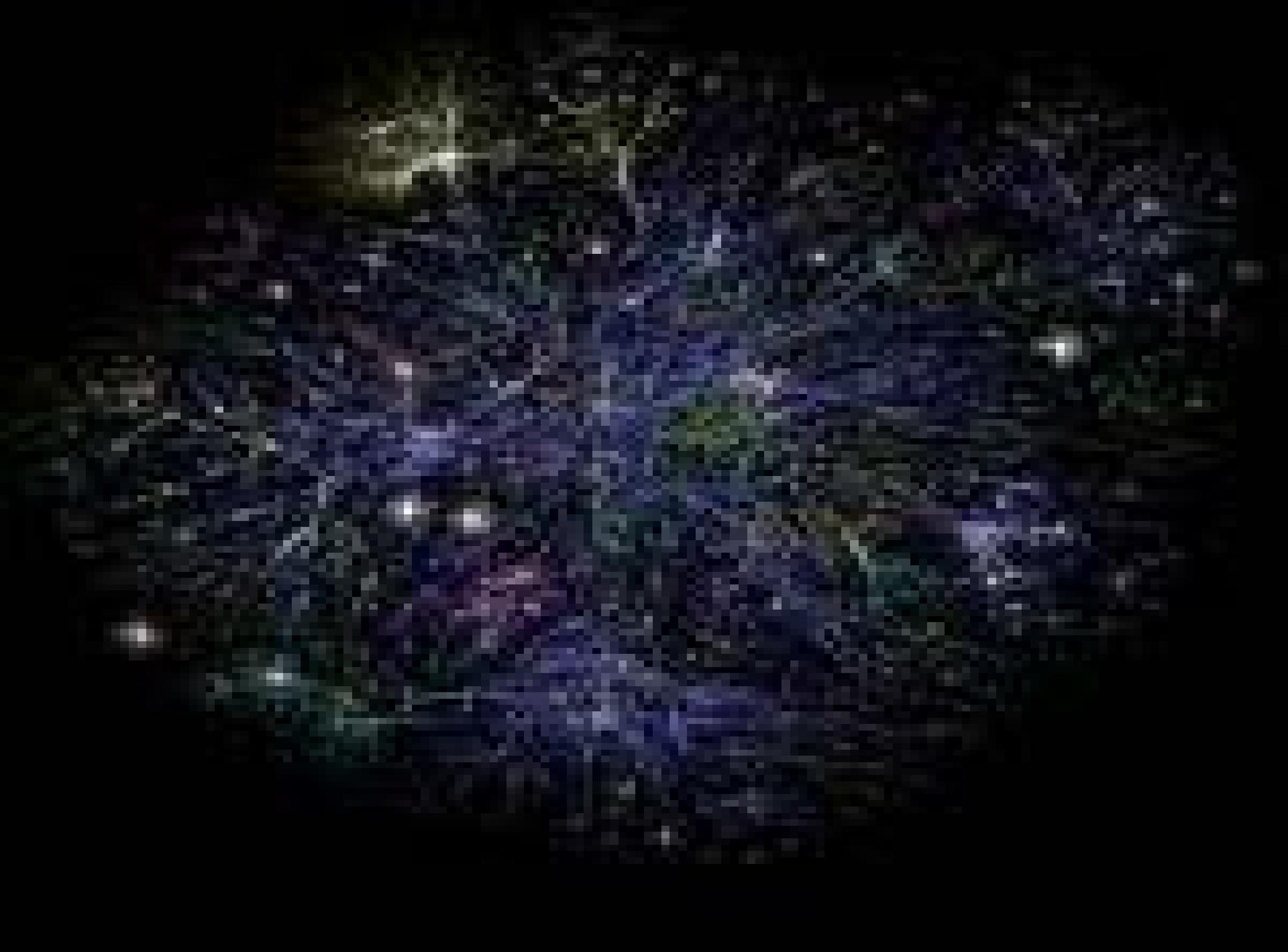
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Inter Library Loans Public Lending Right



e Journals

e books

CD Roms

Preservation copying
Research copying
Digital Libraries
Copying for the visually impaired

Legal Deposit Legislation

even

Internet Access

(Hadopi / 3 strikes)

Not Libraries

but

LIPRARIES?

© creates monopolies

But balanced by “Permitted Acts” or “exceptions”

Information Society Directive 2001

Database Directive 1996

Term Directive 1993

Only 1 mandatory exception

15 non-mandatory exceptions

Cemented national differences in the
single market

There can be no more exceptions under
the Directive

Exceptions across borders in the single market?

EU Directive wording quite wide and media neutral.

EU level agenda setting can promote better limitations and exceptions in each member state.

Does it matter?

Role of Limitations and Exceptions

- Market failure
- Freedom of speech
- Access to knowledge
- Private copying
- Collective Management of Rights
- Judiciary / Parliamentary Copying
- Computing technology

Computer Communications Industry Association - Study on Economic Value of Fair Use

16% of US economy dependent on Fair Use
exceptions.

Double that of the Entertainment Industries

EU – IPR Dialogue

- i2010
- Orphan Works
- Google Books
- Out of Commerce Works
- Green Paper on Copyright on the Knowledge Economy

- Digital Agenda

Commercial Break

THANK YOU INFORMATION SOCIETY

From European Libraries



EU – IPR Legal Activity Agenda

- ACTA
- Revised IPR Enforcement Directive
- Term Extension
- Blocking of a treaty for the visually impaired

Copyright for Creativity

- Library Groups – LIBER, GLA, NLA, EBLIDA etc
- Education Groups – ENCES
- Technology Groups – EuroISPA, Free Software Foundation Europe
- Creators – International Music Managers Forum
- Civil Society Groups – EFF, KEI, ORG

The development of new technologies underpinning the knowledge economy calls for a **review of the copyright aquis.** Together, we need to create greater incentives to **maximise creativity, innovation, education and access to culture, and secure Europe's competitiveness.**

Exclusive rights stimulate investment and the production of cultural and knowledge based goods. Simultaneously, exceptions to those rights create a balanced system that allow for the use of creative works to support innovation, creation, competition and the public interest. **Well-crafted exceptions can serve both goals: preserving rewards and incentives for creators while also encouraging innovative re-uses that benefit the public.**

While exclusive rights have been adapted and harmonised to meet the challenges of the knowledge economy, copyright's exceptions are radically out of line with the needs of the modern information society. The lack of harmonisation of exceptions **hinders the circulation of knowledge based goods** and services across Europe. The lack of flexibility within the current European exceptions regime also **prevents us from adapting to a constantly changing technological environment.**

Europe requires a balanced, flexible and harmonised system of exceptions that is in step with the 21st Century knowledge economy. The European Commission took a first step with the publication of the Green Paper, “Copyright in the Knowledge Economy.” The signatories of this declaration call upon the European Commission, the European Parliament and Member States to take this Declaration into account and **engage in policy and norm-setting on copyright exceptions to:**

- **Harmonise Exceptions Across Europe**
- Copyright regulates the flow of consumer as well as knowledge goods in the single market. For European citizens and industry alike, the harmonisation of exceptions is a necessary step in order to facilitate cross-border trade, and create equality and clarity before the law.

Pan-European Licensing Requires knowledge of 27 Member States Laws – only part of the issue limitations and exceptions.

Research exceptions – students travel across borders / ILL?

- Act as a Spur to Innovation
- New technologies make it possible to expand users' access to vast quantities of relevant knowledge and content. Copyright exceptions must support the development and usage of these innovative services, improving European users' access to content.

- Google Translate – unlawful?
- Indexing services – Meltwater v NLA, Infopaq
- Snippets (a la Google Books)
- Google Books / Europeana – mass digitisation

British Library – 19th Century Digitisation Project

865 Books excluded as in-copyright

British Library – 19th Century Digitisation Project

How many available in bookshops?

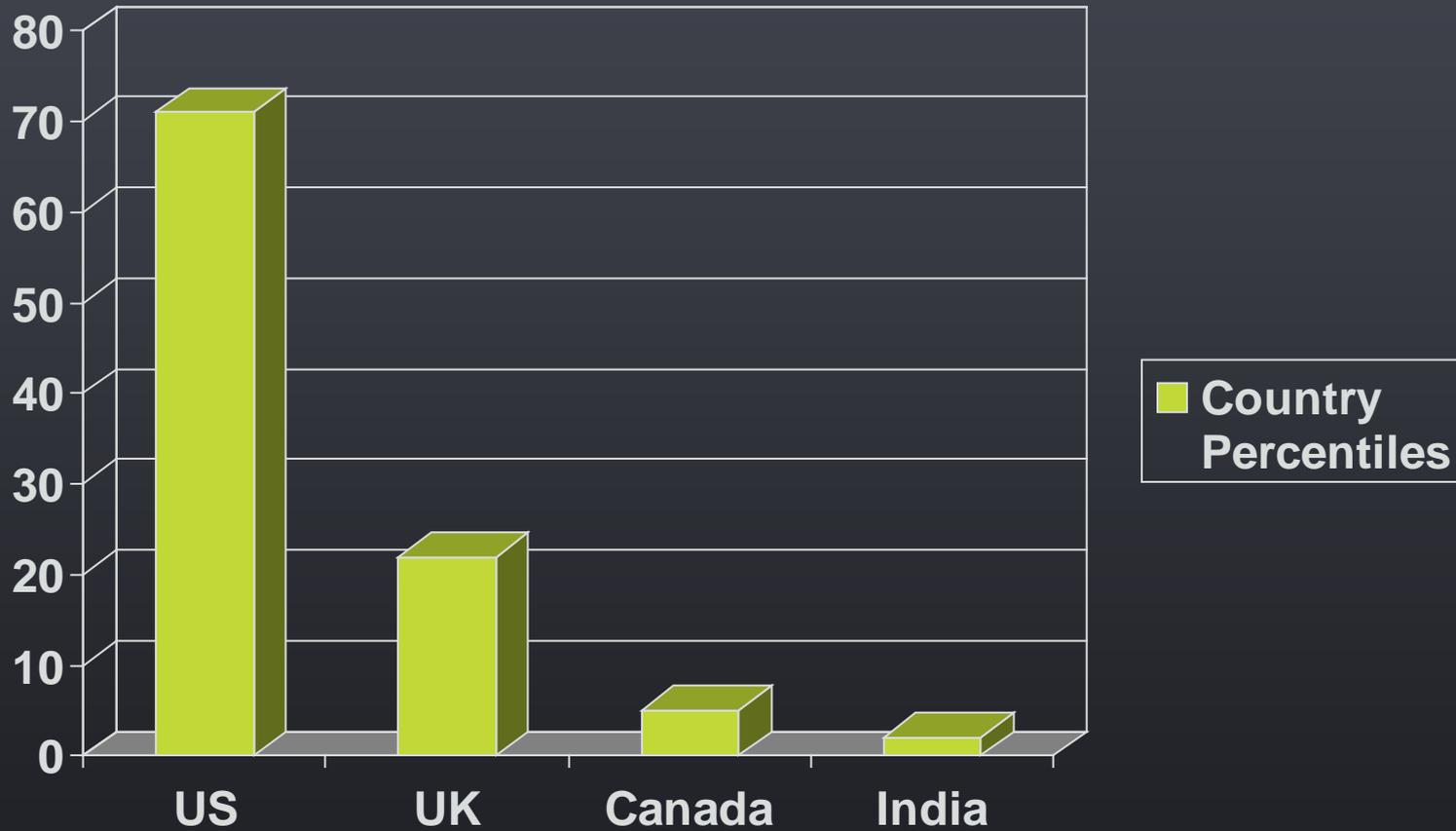
British Library – 19th Century Digitisation Project

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British Library – 19th Century Digitisation Project

140 Print on Demand

Location of POD Publishers



- Support User Creativity and Wider Participation
- The Internet has facilitated an unprecedented shift for citizens, from being passive consumers of "broadcast" culture to active creators and participants. Individual users are increasingly involved in content and knowledge creation. The European copyright framework needs to reflect this new interactivity which encourages creativity, cultural diversity and self-expression.

- User Generated Content – much produced for no commercial value?
- Does it make sense to regulate copies anymore – shouldn't be about distribution?
- Parody exceptions – protect economic investment in audiovisual works.
- Lack of private copying exceptions inhibiting technical innovations around private copying services.

- Ensure Accessibility by all Europeans
- Exceptions must balance the protection of the creators' rights with the public interest and must fully support improving access to knowledge and content for people with disabilities – most notably through the use of new technologies.

Uses for the benefit of people with a disability, which are directly related to the disability and of a non-commercial nature, to the extent required by the disability.

- **Support for Education and Research**
- Information and communication technologies offer new collaborative ways to develop and share educational and research materials. Copyright exceptions that facilitate new technology-based research and education will propel science and learning, and therefore the knowledge economy, exponentially forward.

- Text and Data Mining (*aka* finding a cure for cancer sooner rather than later)
- Digital research copying
- Abstract and indexing
- Orphan Works
- Research copying being limited to text in many member states

- Facilitate Preservation and Archiving
- Digitisation of content is offering new opportunities not only to preserve but also extend the accessibility of Europe's knowledge and cultural heritage with wide-reaching and long-term benefits for society as a whole. The copyright framework must support this.

Media Silent

Belgium, Bulgaria, Cyprus, Denmark, Finland, France, Ireland, Luxembourg, Netherlands, Poland, Portugal, Slovakia, Sweden (computer programmes excluded)

Digital

Austria, Cyprus, Czech, Estonia, Hungary, Malta (computer programmes, artistic and musical works excluded), Slovenia (musical works by hand only), Spain, UK

Paper

Italy (broadcast copies allowed), Lithuania (text works)

Copy restrictions

Greece 1, Hungary 1 (not entire newspaper), Germany 8, Latvia 1 (not a computer programme), Poland 1, Slovenia 3, UK 1 (not sound, film or broadcast)

* Source WIPO: Study on Copyright Limitations and Exceptions for Libraries and Archives

- Ensure Monopoly Rights are Regulated in the Online Environment
- Limitations and exceptions act to counter-balance the lack of competition that is created by the granting of monopoly rights in copyright law. In order to protect creativity and innovation we must ensure that these monopoly rights are also regulated in the online environment.

- Artists signing unfair contracts
- Moral Rights can be assigned (UK)
- Licences making limitations and exceptions irrelevant.

British Library Study of 100 Contracts

- 2 allowed copying for the visually impaired
- 23 allowed preservation copying and archiving
- 14 allowed ILL
- 47 more restrictive than fair dealing

NEXT STEPS

C4C Brussels Events

Hargreaves Review

C4C Brussels Events

Libraries must **invest** in this if they want a meaningful digital future

Tool Kit

- Dedicated resource aimed at Brussels (not a part-time job)
- Statistics and case studies
- Short, simple position papers for Parliamentarians
- Create MEP Friends / advocates for education, research and access to knowledge.

Dank U Wel

