



[NEW] Article 5bis – Document Delivery

Inter-library document supply or “document delivery” is a managed system of cooperation between libraries that enables an individual end user to access specific resources that are not otherwise available to them. Inter-library requests are generally made on a non-commercial basis taking into account any copyright or licensing conditions. International requests are made when the item is not available nationally. [Background information overleaf](#)

Our Ask:

- Create an EU-wide exception to copyright allowing libraries to supply copies of works to individuals on request, including across borders. This should be on an ad hoc basis, and for private study and scientific research purposes only.
- This provision should both be protected from override by contract terms or technological protection measures.
- Such a measure will facilitate cross-border research collaboration. Given the ad hoc and non-commercial nature of this proposal, it does not conflict with normal markets (such as for subscriptions). In the case of works which cannot be licensed (because there is no clarity as to the rightholders), it can be the only way of avoiding users having to travel to access a work.

Draft Opinions/Reports – Our Views

In **IMCO**: support the new Recital 21a and the new Article 5bis by the Rapporteur.

In **ITRE**: we recommend the incorporation of the new Recital 21a and the new Article 5a.

In **JURI**: we recommend the incorporation of the new Recital 21a and the new Article 5a.

In **CULT**: support new Recital 21a by Yana Toom, Dita Charanzova and Catherine Stihler and new Article 5a by Yana Toom, Dita Charanzova and Jasenko Selimovic.

What does the Commission’s Proposal Say? The Commission did not make any proposals on this question, despite requests from library organisations.

What’s Missing? A provision allowing for cross-border document supply. The need for this is illustrated by the fate of the British Library’s international document supply service, which was replaced by a licence-based scheme in 2011. The change immediately saw about a third of the previous catalogue become unavailable. With increased costs for users, there were major falls in the number of documents supplied (down 92% in the first year alone), with the decision taken in 2016 to terminate the service.

Background information on Document Delivery

Libraries and other cultural heritage institutions, research organisations and educational establishments have long used document supply provisions in Member State laws to respond to requests from individuals, on an ad hoc basis, for works for the purposes of scientific research or private study.

This allows for wider access to the many unique works held in the collections of cultural heritage institutions, research organisations and educational establishments since no single institution can



possibly hold all of the world's knowledge, and therefore supports the innovation and cultural objectives of the European Union. It also serves to support and enrich an individual's scientific research, as a researcher who cannot travel to where a work or related subject matter is held is able to request a reproduction is made for them in compliance with current EU rules on exceptions and limitations.

Research, education and learning is increasingly taking place in a cross-border environment. Yet currently, in many cases librarians can legally only source articles or book chapters for a patron in their own country. There is a lack of clarity as to whether the existing exceptions or limitations in Member States provide for a cross-border effect.

This legal uncertainty should be addressed, and researchers and other library patrons provided with a clear framework that allows them to request a library, cultural heritage institution, research organisation, or educational establishment to make and supply them with a reproduction of a work or other subject matter for the purposes of their research, including across borders. A Belgian librarian, on behalf of an individual, should be able to source a copy of a chapter or article that isn't available locally, not just from libraries in Belgium, but from any library in the EU, EEA or beyond that has a copy.

By introducing a clear exception for the making and sharing of individual copies of works, in any format, on an *ad hoc* basis and upon request, for scientific research or private study purposes, the EU will support the development of a single European Research Area.

Alternative Fact-Check

If libraries can share books and copies of articles with each other, why would they ever buy their own?

Why this isn't true: It is important to distinguish between commercial and non-commercial document supply. Where supply is performed on a commercial basis, then it is logical that the requester should pay a copyright fee for it. This is already the case in most countries. However, where document supply is for non-commercial purposes, and performed by request on an *ad hoc* basis, it does not cause unjustifiable prejudice to the interests of rightholders, but rather fills in the gaps where market solutions are ill-suited to needs.

The market already offers an adequate solution

Why this isn't true: Only libraries can provide access to years of published output, in the case of national libraries in perpetuity. Researchers' and other patrons' needs for document supply are *ad hoc* and across a wide range and type of publications that they will only find in libraries, which hold materials long beyond their market availability. Libraries, not individuals, are the main subscribers to reference works, academic books, journals, newspapers and magazines. Only libraries can afford the very expensive scientific journal subscriptions and hold back runs, so patrons have to source material there. Additionally, for many older publications are out-of-commerce or orphaned with no clear rightholder. Publishers themselves are often not in a position to offer a licence for these works.