



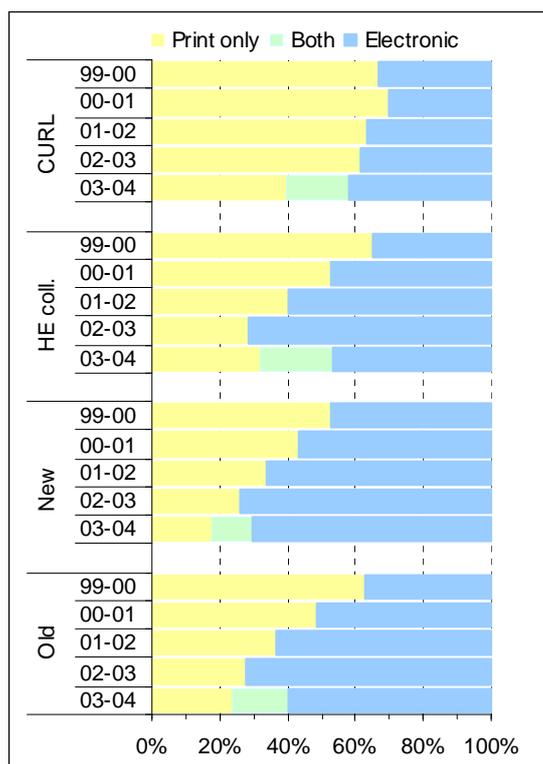
## EBLIDA Response to the Open Consultation on “Copyright levies in a converging world”

EBLIDA, the European Bureau of Library, Information and Documentation Associations, is an independent, non-profit umbrella organisation of national library, information, documentation and archive associations in Europe. Subjects on which EBLIDA concentrates are European information society issues, including copyright & licensing, culture & education and EU enlargement. We promote access to information in the digital age and the role of archives and libraries in achieving this goal. We represent the interests of our members to the European institutions, such as the European Commission, European Parliament and the Council of Europe

We recognise that copyright levies are a complex and sometimes contentious issue. We believe it will be helpful to address certain areas of broad principle.

- 1 Copyright levies are a form of compensation. Some legislatures which have permitted acts of private copying, have acknowledged that this statutory permission is in effect a limitation of the rights of the copyright-holder, and have accordingly introduced levies in order to compensate right-holders for their (notional) loss of income.
- 2 It follows that levies are not justified when the right-holder receives remuneration by other means, for example through the payment of licence fees. The justification for levies is seriously weakened now that DRM systems protect much valuable copyright material. The levy in such cases ‘compensates’ for private copying that cannot actually take place. Nor can levies be justified in Member States where private copying is not lawful.
- 3 EBLIDA represents libraries in the majority of Member States. We notice an increasing tendency for policymakers to assume that levies are intended to compensate rightholders for illegal copies of various kinds, and for policies to be proposed on the basis of that assumption. This view seems to have its origins in the fallacy that every private copy is an illegal copy despite the exceptions provided to copyright in the Information Society Directive (2001/29/EC). If public policy is to have a sound logical and ethical base, it needs to be clear about the justification of levies expressed in paragraphs 1 and 2 above (and indeed outlined in section 1 of the consultation document.)
- 4 Libraries in many Member States are already paying rightholders twice in respect of a significant – and growing – corpus of material. An increasing proportion of the text-based materials available in libraries is leased from rightholders through the payment of subscription fees. In Member States where levies apply, when users of libraries legitimately download text from these materials, the library has paid for the download not only through the subscription fee, but also through a levy relating to the statutory exception for private copying, which in the circumstances is irrelevant.

- 5 We include the following table for illustrative purposes only (since the data is readily available to us). It shows the growth in electronic journals available in UK university libraries under subscription to the rightholder, and the corresponding decline in printed journals. Although copyright levies do not exist in the UK, we have every reason to believe that this evidence is matched in university libraries in virtually all Member States. It indicates that the justification for levies is diminishing, so that the rate of the levy should in fact be reduced.



*Serial titles by format in UK higher education libraries (universities and similar institutions) CURL, HE coll, New, Old: different types of university*

- 6 We strongly recommend that levies should be frequently reviewed by the Commission in order to ensure reduction where appropriate.
- 7 We believe that it is self-evident that the scope and rate of any levies will tend to increase if they are left entirely in the hands of private entities. Thus we strongly suggest that the governments of Member States should control any levies, subject to the direction of the Commission.
- 8 We see merit in mechanisms to ensure that when levies are in operation they are based on the likely proportion of private copying that may be carried out using the device concerned, always bearing in mind the likely use of the device for other legitimate purposes. We foresee evidence-based regimes where different customer groups (such as libraries, as against domestic customers) pay reduced or zero levies on the basis of their reduced or negligible level of private copying.