

Digital Economy Bill

E-LENDING AND THE DIGITAL ECONOMY BILL

We are calling for the Digital Economy Bill to be amended to extend Public Lending Right to remote offsite ebook lending.

The way we access books is increasingly changing as technology offers new ways to access written works. Libraries are now lending many ebooks:-2.3 million ebook loans were made in the last year alone but authors are not being remunerated for those loans despite the Government having committed in principle as long ago as March 2013 (in the [Government Response to the Independent Review of E-Lending in Public Libraries in England](#)) to extend PLR payments to ebooks when a suitable opportunity arose.

WHAT IS PUBLIC LENDING RIGHT (PLR)?

Public Lending Right (PLR) allows authors to be fairly paid for each loan when their work is lent through public libraries.

PLR is designed to balance the social need for free public access to books against an author's right to be remunerated for the use of their work. The scheme provides authors with a modest payment (around 7p) each time one of their books (written or audio) is borrowed from a public library. Over 22,000 writers, illustrators, photographers, translators and editors receive PLR payments each year under the Public Lending Right Act 1979 and subsequent amendments. There is a minimum payment threshold of £1 and a maximum of £6,600. Although this does not replace the royalties authors would receive if the books had been purchased by each borrower, PLR provides a significant and much-valued part of many authors' incomes, particularly to authors whose books are sold mainly to libraries and to those whose books are no longer in print but are still being read.

While the Digital Economy Act 2010's extension of PLR to audio-books was a useful and overdue reform, the extension to on-site loans was nugatory as no such loans are made. By contrast, remote e-book lending has increased significantly and is increasing much faster than physical lending, particularly since reduced opening hours and the regrettable extensive library closures that the Government has taken no action to prevent mean that it is more and more difficult for readers to physically visit a local library.

Writers are keen to see the Government develop the Public Lending Right (PLR) to fairly reflect modern media.

E-LENDING AND THE DIGITAL ECONOMY BILL

We therefore propose amending the Digital Economy Act 2010 to ensure remuneration is received by writers for remote e-lending at the same rate per loan as for physical books. We believe it is vital that authors receive remuneration for loans of their works irrespective of format, the principle of remuneration that enables authors to work should not be unfairly obstructed by technical and technological change. A recent opinion of the Advocate General relating to a case on rental and lending in respect of copyright works currently before the Court of Justice of the European Union supports this view:

“The lending of electronic books is the modern equivalent of the lending of printed books”

Opinion of the Advocate General (Vereniging Openbare Bibliotheken v Stichting Leenrecht (Case C-174/15)) delivered on 16 June 2016.

This removes the Government's previously expressed concern that such a change may not be compatible with the Copyright Directive.

The ability to access e-books facilitated by public libraries is a service valued by the public and the remuneration for public lending is a requirement of European law under the Rental and Lending Directive. The current situation where millions of e-book loans receive zero remuneration is unlawful and creates significant prejudice to writers. The current situation also places libraries in the position where works lent on a regular basis may infringe upon authors' rights.

Literature contributes greatly to the richness and diversity of our cultural environment. PLR is a legal right and a keystone of a civilised society in which authors receive acknowledgement for their considerable contribution. While we can all benefit from technological change and new ways of accessing creative works, it is important that the obligation to remunerate authors fairly is honoured. Action is now required to ensure that the new Digital Economy Bill addresses this issue and that authors as right-holders are treated equitably.

WHAT IS THE SOLUTION?

Given the high volume of loans involved and the fact that the Digital Economy Bill is now at second reading, we strongly urge you to recommend that the Government ensures that the appropriate legislative changes to remunerate the lending of e-books are enacted without further delay.

An amendment to the Digital Economy Bill 2016 which would enable PLR for remote e-lending should be considered. This could be achieved very simply by taking measures to amend the Digital Economy Act 2010, removing paragraph (b) under section 43(2) of the Digital Economy Act 2010, which set remote loans outside of the definition of lending under PLR.

The cost of this measure would be negligible (to pay for 2.3 million loans would cost under £200,000) but the principle is extremely important as was recognised by the Government in the [March 2013 Response to the Independent Review of E-Lending in Public Libraries in England](#):

If remote loans are becoming the primary method of E-Lending from public libraries, then a fit for purpose PLR should reflect these habits and recompense authors as for other loans from public libraries. Extending the PLR to incorporate remote lending will require primary legislation, and is an amendment we will seek to pursue in future parliamentary sessions...

For further information, please contact:

Barbara Hayes, Deputy Chief Executive,
ALCS

020 7264 5709, Barbara.hayes@alcs.co.uk

ALCS Ltd, Barnard's Inn, 86 Fetter Lane
London EC4A 1EN

Nicola Solomon, Chief Executive, Society of
Authors

020 7373 6642,
NSolomon@societyofauthors.org

The Society of Authors, 84 Drayton Gardens
London SW10 9SB