

**COOPERACIÓN BIBLIOTECARIA:  
PRESERVATION OF DIGITAL HERITAGE CONFERENCE  
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**Legal Deposit and Digital  
Preservation at the British  
Library**

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# OVERVIEW

- Legal Deposit in the UK: Context since 1662
- The Build-up to Legislation
- The Legal Deposit Libraries Act 2003
- Relationships between Voluntary and Legal Frameworks
- The Voluntary Route
- Conclusions

# LEGAL DEPOSIT IN THE UK: the context since 1662

- 1662 - Press Licensing Act grants Royal Library one copy of all new publications
- 1709 - Copyright Act accords Legal Deposit library status to nine libraries - Royal Library, Bodleian Library, Cambridge University Library and six others (five in Scotland)
- 1757 - Royal Library's right passes to British Museum (and thus, in 1972, to British Library)
- 1836 - Copyright Act reduces Legal Deposit libraries to five - British Museum, Bodleian Library, Cambridge University Library, Faculty of Advocates (Edinburgh), Trinity College Dublin
- 1911 - Copyright Act adds National Library of Wales
- 1925 - National Library of Scotland Act adds National Library of Scotland for Faculty of Advocates
- 1927 - reciprocal deposit of UK and Irish publications introduced following creation of Irish Republic

# BUILD-UP TO LEGISLATION: First Research and Proposal

- January 1996 - British Library and other Legal Deposit libraries present *Proposal for the Legal Deposit of Non-Print Publications to the Department of National Heritage*, seeking new primary legislation and subsidiary legislation through Regulations
- 1996 - British Library Research and Development commissions and publishes studies looking at extension, especially in digital world (BL R&D Reports 6242, 6243, 6244, 6245)
- February 1997 - Government publishes *Legal Deposit of Publications: A Consultation Paper*, affirming commitment to legislation and inviting views on options for extending Legal Deposit, and including compliance cost assessment by Deloitte and Touche

# BUILD-UP TO LEGISLATION: First Sign of Political Practicalities

- November 1997 – Secretary of State for Culture, Media and Sport announces that pressure of Parliamentary timetabling made **extension of Legal Deposit non-print media impossible in short term**
- January 1998 - **Secretary of State establishes working party**, chaired by BL Chairman and including libraries and publishers, to investigate how Legal Deposit could be extended, while minimising burdens on publishers
- July 1998 - *Report of the Working Party on Legal Deposit* concluded that, in longer term, **only statutory scheme, through enabling legislation, would be adequate to secure comprehensive national published archive** and set out general principles for such a system
- December 1998 - Secretary of State responds to working party's report in Parliamentary answer, **accepting case for moving towards legislation** but requesting Voluntary Code of Practice and pilot scheme as interim measure

# BUILD-UP TO LEGISLATION: The Voluntary Scheme Underway

- January 1999 - publishers and libraries commence work on drafting of voluntary scheme
- July 1999 - publishers and libraries agree to establish Joint Committee on Voluntary Deposit
- September 1999 - Voluntary Code of Practice issued for ratification
- January 2000 - Voluntary Code of Practice for handheld (offline) publications commences – still in operation
- January 2000 - first formal meeting of Joint Committee on Voluntary Deposit (JCVD)
- Relatively good rates of deposit of offline material and, increasingly, willingness of some publishers to deposit e-serial publications on voluntary basis, especially with British Library

# BUILD-UP TO LEGISLATION: Pilots and the Parliamentary Timetable

- 2001 – Domain Uk: a BL pilot study to investigate feasibility of harvesting UK websites
- March 2002 - *Domain UK* internal report recommends **web archiving programme**.
- April - Government informs British Library of its intention to move towards legislation via “Handout Bill “; JCVD issues tender for study to assess costs and other quantifiable impacts
- June - British Library and Oxford University Library Services demonstrate proof of concept secure network to publishers to illustrate how offline material could be securely networked with restricted access from single-copy deposit offline material
- October - publication of EPS report on *The Impact of the Extension of Legal Deposit to Non-Print Publications* - covers outputs to 2005 and develops models for calculating publisher and library costs, focusing mainly on electronic monographs and serials and microform - draws upon industry data, library data, and publisher questionnaires
- 21 November - outcome of Commons ballot for Private Members’ Bills
- 11 December - House of Commons presentation and first reading

# BUILD-UP TO LEGISLATION: Lobbying in Earnest

- 6 January 2003 - first meeting of British Library campaign team, supported by Portcullis Research
- Manic March :
  - 7 March - Bill published; Routine meeting of JCVD brings to light publisher concerns
  - 11 March - Regulatory Impact Assessment published
  - Mid-March-August - extensive shuttle diplomacy between British Library, Government and publishers (DCF) to resolve publisher concerns as Parliamentary process moves through various committee, report and reading stages.
- September-October. Final parliamentary stages: importance of there being no debate in House of Lords. 30 October 2003 - Royal Assent given as Legal Deposit Libraries Act 2003
- December - British Library reception to thank publishers for support; British Library reception at House of Commons to thank parliamentarians for support
- **1 February 2004** – Statute in force

# THE LEGAL DEPOSIT LIBRARIES ACT: Implications for Digital

- Duty on publishers to deposit (s. 1); New and alternative editions (s. 2)
- Enforcement (s. 3)
- Restrictions on activities by libraries and readers in relation to non-print publications (s. 7)
- New exceptions to Copyright Designs and Patents Act 1988 and Copyright and Rights in Databases Regulations 1997 to protect Legal Deposit libraries copying work (s. 8)
- Exemptions from liability for publishers in respect of breach of contract (s. 9)
- Exemptions from liability for publishers and libraries for defamation and provision for Web harvesting (s. 10)
- Restrictions on making of Regulations including publisher safeguards (s. 11)
- Constitutional arrangements with devolved and separate sovereign powers
- Secretary of State enabled to make Regulations to extend to other non-print formats, offline and online (s. 6)

# RELATIONSHIPS BETWEEN VOLUNTARY AND LEGAL FRAMEWORKS

- 17 November 2003 - first tripartite meeting of Government, libraries and publishers on implementation, with special reference to establishment of Advisory Panel
- 3 February 2004 - joint submission of libraries and publishers to Government on composition and terms of reference of Advisory Panel
- **Voluntary scheme for offline continues** throughout whole Parliamentary process **and is still ongoing**
- JCVD not formally convened after 7 March 2003 meeting although continued to exist as online reporting and consultation group
- June-October 2003 - **libraries and publishers discuss and agree expanded JCVD as interim body** - membership enlarged to include eight publisher groupings and all legal deposit libraries
- 13 January 2004 - first meeting of Joint Committee on Legal Deposit (JCLD) –
- Sept 2005 – **Legal Deposit Advisory Panel (LDAP)** appointed by Secretary of State

# THE VOLUNTARY ROUTE: Offline, E-newsletters and E-Journals

- Voluntary Deposit of Electronic Publications, 2000-
  - designed for offline, but already more than 100,000 online items, often e-newsletters
  - development of guidelines for selection
  - growing obsolescence of certain formats has already meant migration for preservation
- E-journals pilot
  - under auspices of JCLD
  - collaboration with University College London (UCL) as part of Life Cycle Information for E-Literature (LIFE) project
  - <http://www.ucl.ac.uk/ls/lifeproject/>

# THE VOLUNTARY ROUTE: Web Archiving

1. Internal Organisation
  1. Technical & Project Management Team
  2. Curatorial Team, including Permissions; Collection Development Policy
  3. Performance Indicators & Other Evaluation Processes
2. National & International Co-operation:
  1. Technical – e.g.
    1. United Kingdom Web Archiving Consortium
    2. International Internet Preservation Consortium
  2. Selector Expertise – e.g.
    1. United Kingdom Web Archiving Consortium
    2. Women’s Library
  3. Policy
    1. Joint Committee on Legal Deposit (JCLD); Legal Deposit Libraries Committee (LDLC);
    2. Legal Deposit Advisory Panel (LDAP);
    3. Digital Preservation Coalition (DPC)
3. Direct Public Access:

[webarchive.org.uk](http://webarchive.org.uk)
4. Integration within Digital Object Management System

# CONCLUSIONS

- Historic piece of legislation, especially for so large a publishing nation as UK
- Publishers were concerned about: burden, degree of access, and perceived inadequacy of consultation by Government
- Drafting and publication schedules for legislation were tight, for both publishers and libraries, and the process has been lengthy
- Complex piece of legislation for Government, requiring consultation between Department for Culture, Media and Sport (principal owner of Act), Department for Trade and Industry, Patent Office and Department for Constitutional Affairs - also consultation with devolved administrations, Northern Ireland Office and with Irish Government
- Interfaces with existing copyright and database legislation especially complicated
- Ministerial assurances to publishers, on Parliamentary record, were important
- Sensitivities around future roles of National Library of Scotland, National Library of Wales and needs of Northern Ireland
- Despite inevitable different viewpoints, good working relations between publishers and libraries were maintained
- Sustained and well-orchestrated lobbying / diplomacy by British Library on behalf of legal deposit libraries were critical to success
- Need to extend legislation never disputed by publishers nor by parliamentarians of all parties - genuine cross-party support