



**International
Federation of
Library
Associations and Institutions**

International Federation of Library Associations (IFLA)

Response to WIPO report “The impact of the COVID-19 pandemic on creative industries, cultural institutions, education and research” (2022)

IFLA wishes to thank the authors of the report on this important topic, and to highlight the extent to which the pandemic revealed longstanding issues that existed well before COVID. For libraires, this included access challenges to digital content which were only partially mitigated by publishers’ offers of expanded access to content which were largely limited to the chaotic early months of the pandemic. We affirm the report’s attention to the challenges copyright posed for sharing materials outside of library buildings and in online educational settings, in a period when online access went from being a major way of access to being the primary one for many library patrons.

A key theme of WIPO’s COVID-19 report was disruption. The pandemic was disruptive to established business models of production and distribution, creating challenges for rightsholders and those supporting use, and (sometimes) prompting innovation. The report notes: “The COVID-19 pandemic is likely to have profound and lasting structural effects on how culture is produced and enjoyed as well as how education and research are undertaken.” (p.47)

IFLA underlines that in addition to being ‘disruptive’, the pandemic highlighted existing structural challenges – particularly around digital content. As described in IFLA’s own report, “How well did copyright serve libraries during COVID-19?”¹, the pandemic exacerbated longstanding issues with digital demand outpacing offerings by publishers, and contracts that charge libraires significantly more for digital licenses (often for single users and time-limited) than are offered to consumers².

We would also caution against over-relying on one quote concerning librarians’ experience of the pandemic. As our report describes, “83% of responding library professionals - 114 from 29 countries - said they had copyright related challenges providing materials during pandemic-related facility closures.” While the WIPO report cites LIBER’s 2020 study on libraries during COVID-19³ to say that “more than half of surveyed libraries did not experience difficulties in providing online material due to copyright infringement,” we also note the LIBER report ultimately reaches the conclusion that “action needs to be taken regarding licensing and copyright legislation... Although the majority of participants (nearly 60%) reported that their relationship with publishers remains the same, we don’t have further insight in what this exactly means.” (p.20)

¹ IFLA, 2022. How well did copyright serve libraries during COVID-19?”

Executive summary:

<https://www.ifla.org/news/covid-19-copyright-and-libraries-report-executive-summary-released/>

Full report:

<https://repository.ifla.org/handle/123456789/1915>

² #eBookSOS, 2020. EbookSOS campaign examples (IFLA/WIPO).

<https://docs.google.com/spreadsheets/d/1Y2F9v6gitV4fGgh1PFWmMYOI3WZIUOXyepIPGnDo3Bk/edit?usp=sharing>

³ Association of European Research Libraries (LIBER) ‘Covid-19 Survey Report: How Have Academic Libraries Responded to the Covid-19 Crisis?’, 2020, Available at: <https://libereurope.eu/wp-content/uploads/2020/12/Covid-19-Report-December-2020.pdf>.

The WIPO report notes that "some experts suggest that the COVID-19 pandemic will incentivize libraries to take more proactive steps in facilitating online uses," (p.39). Many libraries wish to provide expanded digital access. These issues, however, have been ongoing, with a frequent topic of conversation the recent legislative pushes in the US that attempt to address the situation, but which have faced fierce opposition. In short, the pandemic was not just 'disruptive', but revealed problems with existing norms that we could no longer ignore. It should not be characterized as a 'blip', and its (hopeful) passing should not be seen as a justification for returning to an unsatisfactory status quo.

While the WIPO report notes that "Globally, publishers responded to the different digital trends by diversifying their products to include e-books, audiobooks, and interactive books" (p.20), offerings did not keep up with demand. Notably, while the report discusses expanded access offers made by publishers to libraries for content access (p.21-23), the IFLA report extensively explains how most publishers' offers lasted only for the pandemic's first few months, a chaotic period during which libraries were working to provide access to existing services. The expanded offers didn't last long enough to be meaningfully implemented. Finally, there is the concern among many libraries that the temporary provision of free content served primarily as a marketing tool, and created further problems when they were withdrawn.

Libraries offer vital services to individuals accessing information and entertainment, including info about the pandemic and much-needed entertainment for respite from it. They provide access to peer-reviewed journals for researchers whose jobs depend on access to timely, broad and specialist content. Our constituents deliver services, not for profit. They weren't looking to 'stimulate new business opportunities', rather to identify new opportunities and options for users.

Overall, the pandemic demonstrated the importance of strong limitations and exceptions to copyright for libraries and individuals, to ensure that content is accessible in times of crisis and calm alike. Libraries require access to affordable content; rights to distribute digital and digitized text; and licensing agreements that allow for remote access where appropriate – implemented with broad flexibility so that, in everyday and emergency situations, users can access material. Education and research rights cannot depend solely on the goodwill and discretionary measures of publishers.

We appreciate and affirm the report's attention to these matters, and its discussion of copyright challenges for libraries, policies and agreements that are ill-equipped for online access (p.33-42, especially 36-7). As the report describes, "copyright licensing regimes for the use of physical materials in online environments left libraries in an uneasy situation and the absence of licenses prevented them from providing digital services in many countries." (p. 36). We also appreciate the report highlighting copyright challenges related to teachers sharing material in online settings as they would in in-person classrooms (p.43-44).

Regarding the second section of the report ("Cultural Heritage Institutions, Education and Research"), we object to the paragraph arguing that "the struggle of some libraries in providing e-services must be contrasted with authors and publishers' perspectives", describing an "existential problem for authors and publishers" (p.37-38). This is not only highly dramatic language, appearing to support some of the more extreme claims made about purported negative effects of libraries, but also seems unbalanced in the context of the report's entirety. The report's first section ("Creators and the Creative Industries") does not contain equivalent language regarding balancing consumer, researcher, and institutional interests, let alone describe their stakes as "existential". We also believe it is unhelpful to imply that the interests of libraires' are opposed to those of publishers in the long term, where in fact there is a shared interest in promoting a healthy reading society.