

Government response to the public consultation on the draft regulations and guidance for non-print legal deposit 2011

1. The Government would like to thank everyone who took the time to respond to the [public consultation on draft regulations and guidance for non-print legal deposit](#). We received a good response to this consultation and the [consultation responses](#) can be found on the DCMS website.
2. There was general support for the need to ensure that the nation's non-print published output (and thereby its intellectual record and future published heritage) is preserved as an archive for research purposes and the use of future generations. However opinion was divided on the support for these Regulations as drafted.
3. The Legal Deposit Libraries¹ were broadly supportive of the draft Regulations. However they did have concerns with:
 - a. the inclusion of embargoes in the draft Regulations;
 - b. publishers having the overriding say on the format of the content deposited;
 - c. Copyright restrictions;
 - d. the definition of published in the UK;
 - e. restrictions on access to content following the expiry of copyright; and
 - f. the inclusion of the Sunset Clause.
4. Other libraries, archivists and researchers generally mirrored the issues raised by the Deposit Libraries while also calling for:
 - a. wider access to content; and
 - b. the inclusion of audio and video content.
5. All of the above were in favour of the Regulations being extended to Trinity College Dublin, providing the Secretary of State is satisfied that restrictions on the use of the deposited material under Irish law are not substantially less than in the UK.
6. The publishing sector recognised that the Government had listened to them and had gone a long way to try and meet the concerns they had with non-print legal deposit. However, they still had significant concerns about:
 - a. access to content
 - b. cost
 - c. data security
 - d. definitions
 - e. duplication of archives
 - f. governance
 - g. long term access and use
 - h. technical implications
 - i. the inclusion of Trinity College Dublin
7. One of the key objectives of the consultation was to try and clarify the costs to business of the Regulations as drafted. We needed this information to meet the test in the Legal Deposit Act 2003 that the cost of deposit to publishers should not be disproportionate to the public benefit of deposit. Unfortunately we were not able to get this information.
8. In the light of the overall responses, and the lack of evidence from both libraries and publishers to support the requirement that the Regulations do not impose a disproportionate burden, we do not believe that it is viable to go forward with the Regulations as currently drafted unless we can find evidence of proportionality.

9. The Government is committed to delivering Regulations that cover non-print content and therefore propose to develop the draft Regulations to include only off-line content, and on-line content that can be obtained through a harvesting process.² We would also look to include on-line content that is substantially the same as a printed work, removing the need to deposit print and reducing the costs to the publishing Sector.
10. Over the next few months we will work with Legal Deposit Libraries and publishers to identify costs for these proposals and work through the other issues raised in the consultation and develop the draft Regulations.
11. Going forward we will also expect to see the Legal Deposit Libraries and publishers working together to identify the true costs and overcoming the technical barriers for the delivery of more complex content.

Footnotes

1 British Library, National Library of Scotland; National Library of Wales; Bodleian Library Oxford; Cambridge University Library and Trinity College Dublin

2 This includes content that is freely available or has access restrictions (this could include paid for content) and which has been published in the UK.

These documents are available online in Adobe Acrobat (.pdf) format.