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|  | Post Implementation Review |
| **PIR No:** Click here to enter text. | **Date: September 2018** |
| **Original IA/RPC No: DCMS006** | **Type of regulation: Domestic** |
| **Lead department or agency: Department for Digital, Culture, Media and Sport** | **Type of review: Non-statutory** |
| **Other departments or agencies:** | **Date measure came into force:** |
| **NA** | **05/04/2013** |
|  | **Recommendation: Keep** |
| Contact for enquiries: **Colin Gibson** | **RPC Opinion**: Not required as original EANCB was less than £5m [[1]](#footnote-1) |

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| **Questions** |
| **1. What were the policy objectives of the measure?** (Maximum 5 lines) |
| The principal objective is to allow the preservation of non-print publications for future generations; The Legal Deposit Libraries (non-print works) Regulations 2013 extended the legal deposit scheme to non-print works published in the United Kingdom. In addition the following policy objectives have been addressed:   1. To ensure a national collection of non-print publications. 2. To enable an efficient system in which material is archived and preserved in the Legal Deposit Libraries. 3. To govern how the deposited copies may be used, balancing the needs of libraries and researchers with the interests of publishers and rightsholders. 4. To facilitate long-term preservation, so that the material may continue to be accessed in future. 5. To ensure long-term viability by requiring both Legal Deposit Libraries and publishers to share the responsibility for archiving without imposing an unreasonable burden on any institution.   The data presented by the Joint Committee on Legal Deposit (JCLD) as part of the PIR submission will enable the effective assessment of whether the anticipated benefits for publishers, Legal Deposit Libraries, research and scholarship as well as UK society have been realised. This includes an assessment of the number of overall publications which may be subject to legal deposit.  Two other specific aspects to be considered in the review will be: [[2]](#footnote-2)   * The extent to which the Regulations are appropriately compatible with any intervening reforms to copyright legislation and specifically to revisit the issue of restrictions on access to Non-Print Legal Deposit (NPLD) content following the expiry of copyright. * To ensure that the embargo arrangements are working as intended and, where imposed, are fully justified. |
| **2. What evidence has informed the PIR?** (Maximum 5 lines) |
| Based on the Enactment stage impact assessment3 for the Legal Deposit Libraries (Non-Print Works) Regulations 2013 the evidence for this review will include collection of data on actual costs and savings for businesses of all sizes, where such data is available.  An assessment of the benefits and costs to publishers has been carried out through surveying the publishers who have already transitioned to NPLD. These survey results form a large part of the evidence in support of the publisher benefit realisation described in the 2012 Final Impact Assessment[[3]](#footnote-3)(FIA). It must be noted that by surveying publishers who have already transitioned rather than publishers in general it may give a slight bias to early adopters of the NPLD Regulations therefore this has been considered when analysing the results. As anticipated in the FIA, library benefits are not expected to materialise within the first 10 years although some data has been collected to demonstrate the realisation of those benefits which are starting to emerge.  More specifically evidence will also be considered which relates to relevant usage statistics, benefit realisation analysis, success of transition, analysis of ingest, preservation of content, user experience (researcher/reader), librarian experience and publisher experience. This evidence has been gathered since the start of the Regulations by automated or interview based methods or by collecting data as required.  In addition, the views of the Joint Committee on Legal Deposit (JCLD) have been referenced. The committee is composed of representatives from the deposit libraries and the publishing trade associations, with its main purpose to facilitate cooperation between publishers and deposit libraries for the effective implementation of statutory and voluntary deposit arrangements. This includes discussing non-print collecting policies, reaching mutual agreement on questions of interpretation and jointly assessing new developments and future needs. It is therefore well placed to act as a balanced stakeholder group.  Furthermore an intensive audit was carried out in 2017 by the Digital Preservation Coalition (DPC) a membership organisation established in 2002 whose objects include securing the preservation of digital resources in the UK and to work with others internationally to secure an enduring global digital memory. The purpose of the DPC assessment was to determine the digital preservation capability of the Legal Deposit Libraries to deliver the commitments on the Legal Deposit Libraries (non-print works) Regulations 2013, with a particular focus on digital preservation workflows and capabilities at the British Library. The audit was carried out in two parts. The initial assessment in March reported largely satisfactory and in many cases impressive digital preservation capability, while also identifying a number of specific areas requiring attention. The second and final part of the assessment reported in December 2017, examined the action taken to resolve the previous areas of concern identified. The actions were found to be timely and effective and either met or exceeded the review expectations. A significant conclusion of the assessment reported that the expertise of the British Library had been wisely and consistently brought to bear on the preservation of the NPLD collections in fulfilment of the 2013 Regulations.  The practical process of collecting non-print publications is a work in progress. The libraries and publishers are working closely to provide a streamlined approach to the collection of NPLD content and workflows are already in place for standard formats (eBooks, eJournals and websites). However, workflows are still being developed for more complex publications such as hybrid magazines, born-digital sheet music and emergent publishing formats.  For the above reason this PIR is a snap shot in time along the implementation pathway and does not truly reflect a ‘Post’ implementation perspective because implementation is still ongoing. |
| **3. To what extent have the policy objectives been achieved?** (Maximum 5 lines) |
| The policy objectives described in Section 1 above have largely been achieved. However, because implementation is ongoing, the collection of non-print publications is still a work in progress and is currently in a constant phase of research and development. This means that the objectives have not been met for all digital content streams in equal measure.  The libraries and publishers are working closely to provide a streamlined provision of NPLD content and efficient workflows are in place for standard formats (eBooks, eJournals and websites) but workflows are still being developed for the less straight forward publications such magazines, newspapers, born-digital sheet music and emergent publishing formats.  Therefore the JCLD feels that policy objectives have been achieved for collection of eBooks, eJournals, websites and born-digital mapping but that work is still required to achieve these objectives for magazines, newspapers, born-digital sheet music and emergent formats. JCLD accepts that research into emergent formats will be ongoing by its nature.  The extent to which the policy objectives have been achieved are explored further in the two sections following the main evidence base Part3a: The Libraries’ submission and Part3b: The Publishers’ submission where the differing opinions are clearly laid out.  The total material of monographs and articles deposited, processed and archived by the end of Year 4, exceeded the Year 5 targets by approximately 23%. In addition, by the end of Year 4 annual ingest rates are higher than predicted by the original FIA.  By the end of Year 4, 35% of legal deposit serials and 58% of legal deposit monographs are collected digitally, which exceeds the Year 5 figures in the FIA.  In addition to the monographs and periodicals a total of 470TB of Legal Deposit UK Web Archive has been collected. Much of this material has already been removed from the live web and would have been lost to future generations of researchers had it not been collected under the NPLD Regulations.  Independent assessment of the digital processes at the British Library was one of excellence and also noted that the Legal Deposit Libraries respond quickly to recommendations for improvement and the LDLs have demonstrated a firm commitment to continuous quality improvement.  The cost incurred by the publishing industry to set-up NPLD is estimated to be lower than anticipated in the original FIA, at somewhere between £30,000 and £2m. In terms of ongoing administrative costs the issues identified that might drive these costs have not materialised and therefore the predicted costs have not arisen.    For the Legal Deposit Libraries the set–up costs for the first four years are in line with the estimated cost for the first three years of operation, while for the actual ongoing costs for collecting and archiving NPLD material it is lower than the predicted costs over the four-year period.  An assessment of the benefits to publishers indicated that 62% of them had made cost efficiencies in switching to NPLD. The assessment also reported that efficiencies realised by larger publishers arose from reductions in staff time, printing costs, shipping costs and administration. Most publishers found the experience of transition to NPLD a positive one and would recommend transitioning to other publishers.  The benefit of preventing material being lost to future generations has already been demonstrated with evidence showing that web content which has been collected systematically since 2013 has already disappeared from the live web – after only 24 months nearly 50% of the content crawled had gone completely, was missing or had moved. Furthermore only a very small proportion of the web content which was collected in 2004 is still available on the live web.  The benefit of reduced requirement for physical space is already apparent with shelving space already being saved across all Legal Deposit Libraries. While precise cost savings are difficult to calculate, had this material been processed in print, the total cost to the deposit libraries would have been in excess of £5m by the fourth year.  The resources required to implement the Regulations have been extensive, however the British Library and the other Legal Deposit Libraries in particular have worked hard and prioritised to effectively deliver the Regulations within existing budgets. However, it should be acknowledged that the more complex publications which are yet to be ingested are expected to be more costly and the full cost implications are unknown currently. |
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Sign-off for Post Implementation Review: Chief economist/Head of Analysis

***I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.***

Signed: ***Alex Wilkinson*** Date: 30/08/2018

**Further information sheet**

Please provide additional evidence in subsequent sheets, as required.

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| **Questions** |
| **4. What were the original assumptions?** (Maximum 5 lines) |
| The general overall assumptions in respect of works deposited or collected under the new Regulations, include section 8 of the 2003 Act that provides the Legal Deposit Libraries with protection against infringement of copyright and database rights. Section 9 protects publishers against infringement of copyright, publication or database rights any claim for breach of contract, in respect of archived copies. Micro businesses were exempt in financial year 2013—14 from all measures, except those placing no mandatory burden on publishers but have been liable for deposit since April 2014.  In addition, there were estimated costs to both publishers and the Legal Deposit Libraries made in the original FIA. In respect of publishers, the two main costs identified related to initial transition set-up costs associated with adapting IT systems for compatibility; and ongoing running costs that occur as on-line works are deposited. In terms of costs to Legal Deposit Libraries these were associated with harvesting and the initial set-up costs associated with building the harvesting system and ongoing running costs with running and maintenance of the system to collect on-line publications. A comparison to the estimated costs is made. |
| **5. Were there any unintended consequences?** (Maximum 5 lines)  Whilst many practical consequences of the Regulations were foreseen the extent of some of them, plus additional consequences, have only come to light as ingest of NPLD has scaled up.  Those agreed by JCLD include:   * Increased complexity of published content makes it difficult and costly to keep up to date with the rapidly changing technology environment. * Constant phases of R&D mean that the anticipated reduction in system costs has not materialised. * The sheer volume of content places a greater importance on automated integrity checking, but unfortunately not all the required tools exist yet. This requires both increased human intervention to process incoming materials and also increased development effort to design and develop the necessary tools. * The corpus of material is growing at such a rate that some software packages deployed have not been used at this scale and problems are surfacing as the content grows. * Moving a large number of books to eBooks has resulted in a higher than anticipated demand on library terminals at a time when libraries are otherwise reducing library PCs, due to the almost universal tendency of readers to work on their own laptops or devices.   Addressing these unintended consequences is work in progress and JCLD emphasise the importance of adequate funding from DCMS to ensure the practical implementation of the Regulations. |
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| **6. Has the evidence identified any opportunities for reducing the burden on business?** (Maximum 5 lines) |
| There is insufficient evidence to draw any material conclusions regarding reduction of burden upon business.  Given the absence of complaints about the implementation of the Regulations along with the positive responses from the publishers surveyed in the JCLD questionnaire it seems fair to assume that the set-up and implementation costs have not been prohibitive for publishers. However, it should be noted that the respondents reflect a particular selection and that there may be unintended costs and challenges for smaller publishers that have yet to engage with digital deposit. Phases 2 and 3 of implementation may not mirror Phase 1. Potential future opportunities may arise from allowing publishers to deposit digital facsimiles of print-only material where it is in the interest of both the publishers and the libraries. For example magazines and newspapers differ considerably between print and the online version but savings might potentially be made to the cost of deposit if publishers could deposit a digital facsimile which fully represents the final printed version. |
| **7. For EU measures, how does the UK’s implementation compare with that in other EU member states in terms of costs to business?** (Maximum 5 lines) |
| Not applicable |

1. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/683119/better-regulation-framework-interim-guidance-2018.pdf> Better Regulation Framework Manual [↑](#footnote-ref-1)
2. As described on page 41 of the Enactment stage impact assessment for the Legal deposit Libraries (Non-Print works) Regulations 2013 (June 2012) [↑](#footnote-ref-2)
3. The Final Impact assessment is the Enactment stage impact assessment for the Legal deposit Libraries (Non-Print works) Regulations 2013 (June 2012 [↑](#footnote-ref-3)