

# **E-BOOKS : ACCESS TO E-BOOKS, OPPORTUNITIES AND LIMITS – THE CHALLENGE FOR LIBRARIES<sup>1</sup>**

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## *Summary*

This paper describes the present situation and problems concerning e-books in the libraries, especially in Europe. More and more people use e-books which are available through libraries. But the access to e-books is not as easy as it seems – it often collides with the interests of publishers. The market is growing rapidly and in many different directions. If an important new book is published only as an e-book and the publishers do not give the libraries the license to lend it, it can be concluded that the publishers largely determine the library lending policy. Such a procedure does not provide free access to information and it is not in accordance with the democratic concept of library services.

*Keywords:* e-books, e-publishing, free access to information

When the e-book was invented and appeared on the world market at the beginning of the 1990s no one expected that it would become such a dominant

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<sup>1</sup> This article is based on a paper presented at the 38<sup>th</sup> Croatian Library Association General Conference and Assembly (Osijek, 26<sup>th</sup> -28<sup>th</sup> September 2012).

topic, especially for public libraries, at the beginning of the 21<sup>st</sup> century. The 2010s are dominated by this topic but also by the problems which libraries confront in dealing with e-books. Twenty years ago there were hardly any books in e-format, but in the meantime the inexpensive e-book-readers appeared as well as a large number of e-books from various fields, particularly fiction. This led to the situation in which e-format is sometimes cheaper than the printed version of the book. Although the process of acceptance of e-books may vary in different countries one cannot argue about e-books becoming one of the regular library services like many other media before.

Libraries have always changed in response to the changes in the society, adapted their services and adjusted their offer to the development of the media market. Even though the books are still the main object and the nucleus of every library, the new media like games, cassettes, CDs, DVDs, and electronic games have entered the libraries, and the libraries have recognized the needs and demands of their users. The first e-books appeared in the mid-nineties, but they did not become a success until 2010 when e-books and e-book-readers became relatively cheap. The tablet devices and e-books became easily available and sometimes cheaper than the printed books, not only the scientific literature but also fiction and popular books. The publishers immediately recognized the possibilities of the new e-books market. Although the share on the book market may appear low, for instance in Germany it increased from 1 in 2011 to 2 % in the first half of 2012<sup>2</sup>, this is still a double increase. In the same period, the number of digital reading devices more than quadrupled, and, in addition, the number of owners of tablet PCs, who also read e-books, went up to 3.2 million in Germany. As the market and the deals are getting bigger and bigger, new providers and vendors change the publishers and booksellers scene. But the circumstances are very different from country to country. While in the mid of 2012 the e-book-market in Germany was at 2% in the US the figures exceeded over 20%.

Due to the German e-book-platform Libreka<sup>3</sup> now 619.000 digital fiction and nonfiction titles are available, 587.000 titles to borrow, and over 30.000 audio books ready for downloading.

Although we have to consider that nowadays new different behaviors are present in consuming media content, remixing, less differentiation of the

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<sup>2</sup> Brien, Jörn. E-Books : strampeln gegen die Bedeutungslosigkeit [accessed: 2013-01-26]. Available at: <http://t3n.de/news/e-books-strampeln-gegen-375319/>

<sup>3</sup> Libreka! : Bücher und E-Books [accessed: 2013-01-27]. Available at: [http://www.libreka.de/search?\\_\\_fo=2&searchmaincat=1](http://www.libreka.de/search?__fo=2&searchmaincat=1)

information sources (what can be also summarized with the keyword of media convergence), there are two factors important for answering the questions about e-books and public libraries. The first question is how big the e-book-market is on the national level, in the national language, and the second how dependent the publishers are on the libraries as the marketing area. For instance, in France only 1% of the book purchases are made by libraries, but in the smaller countries it can be up to 35 or 40%, so they have very different initial positions.

Why are e-books a problem for libraries? Because an e-book is not actually a book<sup>4</sup>.

The goals of the libraries are quite clear: to promote information by making books available and providing access to books, periodicals, audio books and other materials, such as music, electronic information resources, Internet and multimedia. E-books should be just another information source, a new fantastic format and another service offered by libraries. But in reality it is not that simple.

The works available in libraries are protected by copyright and the copyright legislation regulates how libraries may use the material they acquire. But with electronic publishing the legal basis for the library activities, acquiring and lending, has changed dramatically. It is probably due to the fact that the existing print-books orientated copyright law is not simply transferable to the electronic books, and the legislation, which is behind the technical development, should be changed.

The “first sale doctrine” says that the distribution right is exhausted after the first sale, thus limiting certain rights of a copyright or trademark owner. This means that libraries are free to do what they want with the books they purchased: they are allowed to lend them, delete them, or sell them.

E-books are not physical objects, are not tangible goods – they represent a service which provides access to e-books and the question of exhaustion does not arise in the case of this service. With the printed works the author has given up his rights, but every service is subject to authorization so libraries are dependent on the license agreements with the author, the publisher or to whomever he /she has transferred his copyright.

Here is a small illustrative anecdote: the famous Danish author Jussi Adler-Olsen wanted to wait and publish his new book as an e-book only half a year after the printed version, thus giving a chance to booksellers to share

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<sup>4</sup> Girard, Adam. E-books are not books : the challenges and chances in the new media context [accessed: 2013-01-26]. Available at: <http://express.ifla.org/node/5835>

the financial success. But the readers felt discriminated and protested, so the author ended his e-book-boycott, and let the printed and e-book versions be published simultaneously. In an interview he said he believed that in the near future many authors would publish their books without publishers, and that e-books would kill the booksellers.<sup>5</sup>

There is a legal possibility for providing services concerning e-books, which would be through giving and purchasing licenses. But what if a library does not get a license from the publisher for a certain e-book? There are so many models of licenses, especially on the US market and especially coming from the so-called “big six”, the six biggest publishers: Hachette, Penguin, HarperCollins, Random House, MacMillan, Simon & Schuster. Their attitudes vary from no-license-at-all to an unrestricted e-book lending, which treats the libraries and their users as they should be treated. Here are a few further examples of licensing models:

- 26-loan capacity: after 26 loans the library has to pay another license fee
- Only a limited back-list is available as e-books but not the new titles
- New titles are more expensive than older ones
- Libraries have to pay higher prices than private consumers
- Example: While the consumer’s price for ‘Fifty shades of grey’ was 9.99 USD the library price was 47.85 USD, almost five times as high!<sup>6</sup>
- Libraries have to pay a fee per loan to the publisher
- Libraries pay a license fee for the first 2 years according to the principle ‘one file – one user only’, but get a new second access free after two years

Another difference between print books and e-books is that there are different VAT rates and they vary greatly in Europe. In Denmark the VAT rate is 25%, and for both printed and e-books the rate is also 25%. But in France there is a general VAT rate of 19.6% but both printed and e-books benefit from a reduced VAT rate of 7%, whereas in Germany printed books have

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<sup>5</sup> E-Book-Boycott abgebrochen [accessed: 2013-01-26]. Available at: [http://www.buchreport.de/nachrichten/buecher\\_autoren/buecher\\_autoren\\_nachricht/datum/2012/09/14/e-book-boycott-abgebrochen.htm](http://www.buchreport.de/nachrichten/buecher_autoren/buecher_autoren_nachricht/datum/2012/09/14/e-book-boycott-abgebrochen.htm)

<sup>6</sup> Douglas County Libraries Report : pricing comparison as of October 31, 2012 [accessed: 2013-01-27]. Available at: <http://evoke.cvlisites.org/files/2012/10/DCLPriceReportOct-31-12.pdf>

the reduced rate of 7% but e-books have the general VAT rate of 19%. It is interesting that particularly Amazon and Apple operating in Luxemburg have larger margins with private clients because they pay only 3% VAT.

The additional result to e-offerings and access to e-books by libraries is the appearance of a new market: the publishers as libraries, lending their products to the users. For instance, in Germany there is an internet company [www.skoobe.de](http://www.skoobe.de), run by Bertelsmann in cooperation with 70 other publishers. They claim to be the first mobile library customers can lend e-books inexpensively. But the users have to pay a 10 € fee per month which is not comparable to the fees in libraries. Nevertheless, this business model excludes libraries for the books of these publishers, so the libraries do not get an e-book-license.

Not only the publishers but also Amazon has opened a digital library in autumn 2012. As an Amazon Prime customer (membership costs 29 euros per year in Germany) you can borrow books as frequently as a book a month, with no due dates. So there are several providers with an e-book-flat rate outside the library market.

And it seems that publishers and libraries, in former times working together and helping each other, have now become enemies, or at least have to admit that there are a lot of disturbances because of different interests and divergent perspectives. To put it simply and propagandistically: on one side is the interest in making money with e-books, and on the other side is the interest in giving democratic access to all forms of media and to everyone, regardless of their individual economic frameworks. Or carefully and prudently: the digital lending seems to collide with the interests of publishers.

So libraries and publishers have different requirements concerning the e-books. The requirements of libraries can be brought together under these general guidelines:

- all published e-books must be made available for e-lending
- there must be a protection of user's privacy
- standardized formats are required
- there must be a remote online service
- it is necessary to have inter library loans for e-books, too
- there should be no restriction on out-of-commerce books
- copying should be allowed to a certain extent or for certain purposes
- and annotations should be exportable after expiry of loan period

Understandably, these library views contradict largely to the views and requirements of publishers:

- one file = one user
- one file = only use for limited loan periods
- download to reading devices only on the library premises but no remote online service
- the possibility for publishers to monitor and control the use
- buy button directing to publisher's website
- restrictions on number of pages printed
- retention period after publication

Is not surprising that these contradictions create conflicts between libraries and publishers, but only concerning the growing market of e-books, not all the other materials purchased by the libraries. Therefore, the democratic access to some media and publications is limited. And libraries are not able to offer the access to their users anymore. This means that information is not accessible to everyone anymore, and the only practical sustainable solution for libraries is that it ought to be, regardless of the format.

Being aware of this conflict of interests, many library organizations try to solve these problems negotiating with publishers in order to achieve agreements or memorandums of understanding. Unfortunately, it seems that there is no political awareness of this problem. As one of the first steps of an e-book campaign, EBLIDA has published at the end of October 2012 'key principles on the acquisition of and access to e-books by libraries'.<sup>7</sup> These principles have been developed by the group of experts on information law. "These Key Principles define minimum conditions for libraries when e-books are acquired and made available, whilst maintaining a balance between the interests of the public and those of the right holders." The principles thematize the following main aspects:

**Acquisition** with the important demand that all e-book titles available for sale to the public should be also available to libraries for acquisition and access.

In terms of **Access** it should be possible to download e-books either in the library and by the way of remote access. But the interlibrary loan should not be compromised.

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<sup>7</sup> EBLIDA : EBLIDA key principles on the acquisition and access to e-books by libraries [accessed: 2013-01-26]. Available at: [http://www.eblida.org/Special%20Events/Key-principles-acquisition-eBooks-November2012/GB\\_English%20Version%20Key%20Principles.pdf](http://www.eblida.org/Special%20Events/Key-principles-acquisition-eBooks-November2012/GB_English%20Version%20Key%20Principles.pdf)

For a **continuous access and long term preservation** a library must have the option of a permanent use.

There should be a supply of **Metadata** which can be brought into the library catalogue.

The **Price** of an e-book should not exceed the price of the print version of the same e-book title while payments should decrease with the age of the publication.

Very important is the aspect of **privacy** so that data protection is guaranteed.

Meanwhile, many campaigns have been started which are similar in many aspects, but depend greatly on the specific national situations. For instance there is a rather provocative initiative taken by the Swedish Library Association<sup>8</sup>, as well as some interesting ones in the United States.<sup>9</sup>

The library community hopes that a satisfactory solution, both to the benefit of customers and library users, will be found. Otherwise, there is a big risk that the library access to information will be greatly reduced, that their range of media will be limited, and that they will lend mostly printed materials. So the question of free access, especially to e-books, will become the one about the money – the people who have the money will have the access to the information they want, and those without the money will not have the access to all the sources of information. This concept contradicts the fundamental idea and self-image of libraries.

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<sup>8</sup> Swedish Library Association : Say hello to your new librarian [accessed: 2013-01-26]. Available at: <http://www.biblioteksforeningen.org/wp-content/uploads/2012/08/Folder-Say-hello-120906.pdf>

<sup>9</sup> Goldberg, Beverly. An open letter to America's publishers [accessed: 2013-01-26]. Available at: <http://americanlibrariesmagazine.org/e-content/open-letter-america-s-publishers>