

Tomada de posição da BAD sobre o projecto de diploma destinado a regulamentar a aplicação da Lei do Depósito Legal, 2002-12-21

No passado dia 11 de Setembro, em reunião do Conselho Superior de Bibliotecas, na qual a BAD esteve representada, foi distribuído pelo Senhor Secretário de Estado da Cultura, um projecto de diploma da responsabilidade do anterior governo, destinado a regulamentar a aplicação da Lei do Depósito Legal.

Pela importância que este assunto reveste e após análise do documento, o Conselho Directivo Nacional da Associação Portuguesa de Bibliotecários, Arquivistas e Documentalistas (BAD), entende tomar uma primeira posição, sem prejuízo de posteriormente apresentar propostas mais específicas. Assim, a BAD considera que:

1. Urge proceder à revisão do diploma que regula actualmente o Depósito Legal, que data de 1982 (DL nº 74/82, de 3 de Março), procurando nela fazer reflectir as mudanças processadas nas duas últimas décadas no mundo da edição;
2. A nova legislação apresenta aspectos inovadores ao consagrar, conforme se pode ler no preâmbulo, "outras categorias patrimoniais, com relevo para o património cinematográfico e audiovisual" e ao considerar "a abstracção do conceito de publicação relativamente aos seus suportes".
3. A fixação em dois do número de exemplares a depositar e, em algumas situações, em apenas um exemplar, carece de fundamentação e põe em causa a preservação e a acessibilidade em todo o território das publicações nacionais.
4. É contraproducente a centralização do Depósito Legal numa única instituição, com tudo o que de grave e inconveniente poderá daí resultar, nomeadamente em situações de catástrofe, acidente ou terrorismo.

Acresce ainda que Lisboa é uma zona de risco, obrigando o bom senso e a precaução a não descartar a possibilidade de poder ocorrer um acidente natural que ponha em causa a salvaguarda da memória colectiva nacional.

5. A concentração do Depósito Legal numa única instituição terá efeitos perniciosos sobre a mesma, nomeadamente a pressão do público para consulta e reprodução de espécies bibliográficas que só aí poderão encontrar-se, elevando os custos em pessoal e equipamentos necessários para satisfazer tais pretensões.

6. Para além da redução do número de exemplares a depositar, o Governo deve encarar outras soluções, tecnicamente viáveis, que, aliviando os encargos da BN, das instituições beneficiárias e de outros agentes envolvidos, equacionem uma política de depósito legal selectiva, segundo critérios temáticos e/ou geográficos que garantam a preservação e a acessibilidade das publicações em todo o território nacional.

O Conselho Directivo Nacional

Declaração do Conselho Directivo Nacional de BAD

O Governo, por intermédio do Secretário de Estado da Cultura, anunciou ao Conselho Superior de Bibliotecas, no passado dia 11 de Setembro, a intenção de proceder, a curto prazo, à revisão da legislação relativa ao depósito legal.

O anúncio da medida foi acompanhado da distribuição do projecto de decreto-lei preparado pelo anterior Governo e que chegou a ser objecto de análise em Conselho de Secretários de Estado em Junho de 2000, sem que, no entanto, aí tenha havido acordo que permitisse a sua aprovação.

O projecto de decreto-lei elaborado pelo anterior Governo foi considerado uma base de trabalho pelo Secretário de Estado da Cultura, razão pela qual aquele membro do Governo propôs ao Conselho Superior de Bibliotecas e às instituições e pessoas que o integram que apresentassem propostas de alteração ao referido texto.

Enquanto associação profissional e mesmo independentemente da sua qualidade de membro do Conselho Superior de Bibliotecas, a BAD não pode deixar de se pronunciar sobre uma matéria de tão grande importância nem, por outro lado, deveria deixar de ser ouvida sobre a mesma.

A formulação da posição da BAD não pode, no entanto, ser obtida sem prévio debate interno. Nesse sentido, convida-se os colegas interessados a (1) pronunciarem-se desde já sobre a matéria, fazendo chegar ao Conselho Directivo Nacional a sua opinião (Formulário) e a (2) manifestarem o seu eventual interesse em integrar um grupo de trabalho temporário dedicado exclusivamente ao mesmo assunto (Formulário).

Com o objectivo de facilitar a tomada de posições individuais, anexa-se cópia do projecto de decreto-lei acima referido. Por outro lado, com vista a proporcionar a participação no debate de um elevado número de colegas e a elaboração de posições tão fundamentadas quanto possível, recomenda-se a consulta da bibliografia que igualmente se anexa.

O Conselho Directivo Nacional

Anexo

Depósito legal: Bibliografía de apoio

Guidelines for Legal Deposit Legislation Lariviere, Jules (Date Created: 2000) (France)

These guidelines are the revised, enlarged and updated edition of the 1981 publication of the same name by Dr Jean Lunn. Chapter 6, entitled 'Legal Deposit of Electronic Formats', recommends that national libraries be responsible for archiving digital information, rather than the publisher.

<http://www.ifla.org/VII/s1/gnl/legaldep1.htm>

Also at <http://www.unesco.org/webworld/index.shtml>

ECDL 2001 Workshop - What's next for Digital Deposit Libraries? Preserving Online Content for Future Generations – Papers

Lupovici, Catherine; Masanès, Julien (Date Created: 26 Sep 2001)

This web site contains links to presentations given at the ECDL 2001 Workshop on September 8, 2001 in Darmstadt, Germany. Topics focus on legal deposit and the internet, web harvesting and archiving.

http://www.bnf.fr/pages/infopro/dli_ECDL2001.htm

The legal deposit of electronic publications

Working Group of the Conference of Directors of National Libraries (CDNL) (Last Updated: 6 Mar 1997)

This paper suggests guidelines for National Libraries on how to prepare proposals for the legal deposit of electronic publications and how to store and maintain such publications. Included is a summary of developments worldwide and case studies from Canada, France and the USA.

<http://www.unesco.org/webworld/memory/legaldep.htm>

A standard for the legal deposit of online publications

Bergamin, Giovanni (Date Created: 4 Jun 1999)

Abstract in English; abstract in Italian available at: <http://www.aib.it/aib/commiss/cnur/dleberga.htm>

<http://www.aib.it/aib/commiss/cnur/dleberga.htm>

State of Legal Deposit Legislation

Deanna Marcum (Date Created: Jan 2000)

This paper, presented at Digital Archiving: Bringing Issues and Stakeholders Together Workshop, Paris, 30-31 January 2000, examines the legal deposit challenges of the digital environment. The need for a new legal mechanism for capturing and preserving electronic information is emphasised, and the issues of intellectual property rights, digital preservation, distributed repositories, authenticity and the changing relationships between publishers and libraries are addressed.

<http://www.icsti.org/2000workshop/marcum.html>

Statement on the Development and Establishment of Codes of Practice for the Voluntary Deposit of Electronic Publications

Conference of European National Librarians (Date Created: 2000)

Official joint statement by the Conference of European National Librarians and the Federation of European publishers on the development of voluntary deposit arrangements for electronic publications. A draft Code of Practice, to facilitate the drafting of locally-endorsed voluntary deposit arrangements, is included in the paper.

<http://minos.bl.uk/gabriel/fep/>

Workshop on issues in the field of national deposit collections of electronic publications

Telematics for Libraries, European Commission (Date Created: 18 Dec 1995)

The establishment of deposit collections of electronic publications is a keystone in the strategy of long-term availability. This workshop brought together European national libraries, publishers and experts to discuss deposit collections of electronic publications. It was recognised that pilot projects need to develop practical solutions to the many questions remaining to be resolved in all areas of electronic deposit.

<http://www.cordis.lu/libraries/en/depo-rpt.html>

Management and Preservation of Physical-Format Digital Publications: A National Library Position Paper on the Role of Australian Legal Deposit Libraries DRAFT, February 1998

National Library of Australia (Last Updated: 18 Feb 1998) (Australia)

This is a National Library of Australia position paper on the role of Australian legal deposit libraries in the management and preservation of physical format digital materials. The paper suggests ways the National Library of Australia can work with other stakeholders to find practical, cost effective ways of ensuring preservation for this category of publication. Emphasising the need for coordination and cooperation, this paper contains nineteen recommendations for preserving access to physical format digital publications.

<http://www.nla.gov.au/policy/physform.html>

National strategy for provision of access to Australian electronic publications : a National Library of Australia position paper

National Library of Australia (Last Updated: 21 Dec 1998) (Australia)

This paper proposes a national strategy to provide access to Australian electronic publications. Its purpose is to invite comment which may lead to collaborative approaches to resolving the many challenges associated with providing current and longer-term access to electronic material.

<http://www.nla.gov.au/policy/paep.html>

Legal Deposit : Preserving Canada's Published Heritage

Legal Deposit, National Library of Canada (Regularly Updated) (Canada)

This web page provides an overview of Canadian legal deposit legislation, which includes amongst its provisions the obligatory deposit of CD-ROM and other physical format electronic materials. Links are made within the text to relevant Canadian Acts.

<http://www.nlc-bnc.ca/6/25/s25-200-e.html>

Legal Deposit from the Internet in Denmark : Experiences with the Law from 1997 and the Need for Adjustments

Henriksen, Birgit (Date Created: Jun 2001) (Denmark)

This paper, presented at the Preserving the Present for the Future : Strategies for the Internet conference, reviews the 1997 amendments to Danish legal deposit legislation to include static internet publications. The author examines the limitations of the updated statute for the collection of dynamic web resources, and argues for the further extension of the law to allow for harvesting of a broader representation of the Danish web.

http://www.deflink.dk/docalle/696_bnh-19062001-uk.doc

Legal Deposit in Denmark

Statsbiblioteket (Date Created: 10 Jun 1997) (Denmark)

This article describes the main features of Denmark's previous legal deposit law which dated back to 1927. It then outlines the new legislation, which came into effect in 1998, highlighting the differences between the old and new versions of the law. At the end of the article is the full text of the new Act on Copyright Deposit of Published Works.

http://www.sb.aau.dk/english/legal_deposit.html

Legal Deposit In Denmark : The New Law and Electronic Products

Dupont, Henrik, Det Kongelige Bibliotek (Date Created: 1999) (Denmark)

This article, originally published in LIBER Quarterly, details the provisions of the Act on Copyright Deposit of Published Works, which came into effect in Denmark on 1 January 1998. The amendments change the emphasis of the legislation from printed to published works, regardless of the medium in which they are produced. Importantly, the law extends to physical format digital materials, and to those published Internet materials which are issued in a static and final form.

<http://www.kb.nl/infolev/liber/articles/dupont11.htm>

Electronic Publications as Legal Deposit Copies

Hakala, Juha; Helsinki University Library In: Tietolinja News (Date Created: 15 Jan 1999) (Finland)

This article is a detailed discussion of the proposals made by the Working Group that conducted the revision of the Finnish Legal Deposit Act. The discussion includes: freely accessible online publications and the decision not to make their deposit compulsory; specific deposit requirements for physical format and online electronic documents; delivery methods of electronic documents to be deposited; the treatment of electronic articles; and the use of electronic legal deposit copies.

ISSN: 1239-9132

<http://www.lib.helsinki.fi/tietolinja/0199/legaldep.html>

Tietolinja News : Electronic Newsletter of the Library Network Services, Helsinki University Library, 1/1999

Reform of the Finnish Legal Deposit Act

Hakli, Esko; Helsinki University Library In: Tietolinja News (Date Created: 15 Jan 1999) (Finland)

This article outlines the requirements of the current Finnish Legal Deposit Act and describes the proposed revisions to the Act, in particular the proposals relating to electronic publications.

<http://www.lib.helsinki.fi/tietolinja/0199/reform.html#eng>

Tietolinja News : Electronic Newsletter of the Library Network Services, Helsinki University Library, 1/1999

Le depot legal

National Library of France (Last Updated: 1997) (France)

This site includes the text of the 1992 legislation and the decree of 31 December 1993, which together extended legal deposit to cover physical format digital material from 1 January 1994.

<http://www.bnf.fr/web-bnf/infopro/editeurs/index.htm>

Project Deposit of Dutch Electronic Publications (DNEP)

Nieuwenburg, Betty (Regularly Updated) (Netherlands)

The Web page of the Depot van Nederlandse Elektronische Publicaties (DNEP) or Deposit of Dutch Electronic Publications Project. Initiated by the National Library of the Netherlands, and based on

agreement forged with Dutch publishers, the DNEP is being built as a long-term storage and preservation system for the voluntary deposit of electronic publications. Since 1996 the system has received physical format digital material, and in 2001 enhancements are underway to allow for the full deposit and storage of Dutch online publications

<http://www.kb.nl/kb/ict/dea/index-en.html>

Dutch version available at http://www.kb.nl/kb/resources/frameset_kb.html?/kb/ict/dea/index-en.html

Legal Deposits

Royal Library of Sweden (Regularly Updated) (Sweden)

The legal deposit web pages of the Royal Library of Sweden contains a list of the categories of materials subject to statutory deposit, as well as links to the Acts of 1993 and 1995 (the latter of which extended the scope of the legislation to include certain electronic documents).

<http://www.kb.se/Ple/ld.htm>

Swedish version available at <http://www.kb.se/Ple/LD.htm>

New Decree for Kulturarw3

Lidman, Tomas; Pearman, Jonathan (Last Updated: 10 Jun 2002) (Sweden)

A special decree by the Swedish government, accepted on May 8, 2002, authorises the Royal Library of Sweden to collect Swedish web sites on the Internet and to allow the public access to the archive within the library premises.

http://www.kb.se/Info/Pressmed/Arkiv/2002/020605_eng.htm

Also available in Swedish at <http://www.kb.se/Info/Pressmed/Arkiv/2002/020605.htm>

Code of Practice for the Voluntary Deposit of Non-Print Publications

The British Library (Last Updated: 04 May 2001) (United Kingdom)

This code sets out the agreed practice for the voluntary deposit of non-print physical format publications in the United Kingdom. The arrangement, which came into effect in January 2000, received the endorsement of the various UK publisher trade bodies and legal deposit libraries, and is intended to guide interim practice before new legislation is drafted. The code also recognises the challenges for the deposit of static and dynamic online publications, and examines some of the issues associated with long term access and preservation.

<http://www.bl.uk/about/policies/codeprac.html>

1999 Revised Version available at National Library of Scotland website
<http://www.nls.uk/professional/legaldeposit/nonprint/code.html>

Report of the working party on legal deposit

Secretary of State for Culture, Media and Sport (Date Created: 15 Dec 1998) (United Kingdom)

This is the report of the (UK) Working Party on Legal Deposit set up by the Secretary of State for Culture, Media and Sport in January 1998. One of its recommendations is that a code of practice for voluntary deposit of electronic publications be drawn up, but that, in the longer term, statutory deposit would be required in order to secure a comprehensive national published archive.

<http://www.bl.uk/about/policies/workreplegdep.html>

Mandatory Deposit of Copies or Phonorecords for the Library of Congress

U.S. Copyright Office, Library of Congress (Last Updated: 2000) (United States of America)

Revised in 2000, this US Copyright Office circular sets out the regulations for the mandatory lodgement of deposit materials in the Library of Congress. Certain publications in machine readable formats, such as CD-ROMs and microfilms, are encompassed by the legislation, but automatic databases and other dynamic electronic materials are specifically exempted from the deposit obligation.

<http://www.loc.gov/copyright/circs/circ07d.htm>

U.S. Copyright Office Circular 7d