THE LEGAL DEPOSIT OF ELECTRONIC PUBLICATIONS

Prepared by a

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On the occasion of its meeting in Beijing in August 1996, the Conference of Directors of National Libraries (CDNL) requested UNESCO to publish this document for wide distribution in its Member States. Other co-operative work with CDNL includes publication of ‘Guidelines for national libraries’, prepared by Guy Sylvestre former National Librarian of Canada (PGI-87/WS/17) and ‘Guidelines for legislation for national library services’ being prepared by Peter Lor, Director of the State Library, Pretoria, South Africa.

The present document, prepared by a CDNL Working Group chaired by Brian Lang, Chief Executive of the British Library, suggests guidelines for national libraries both in developing and developed countries on how to prepare proposals for the legal deposit of electronic publications and on how to house and maintain such publications. It complements the UNESCO ‘Guidelines for legal deposit legislation’, prepared in 1981 by Jean Lunn (PGI-81/WS/23). The main purposes of legal deposit are to create a comprehensive collection of national publications and to compile an authoritative national bibliographic record, in order to ensure their preservation and provide easy access to them. It is just as appropriate that these two essential functions should apply to the electronic publishing environment as they do to the traditional print on paper environment.

While it is unlikely that any one legislation for the legal deposit of electronic publications would be appropriate for all countries, we hope that this text will be a source of inspiration for those responsible for the elaboration or revision of the national legislation which will be conceived in accordance with the particular needs and circumstances of each individual country.

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This text is also available on the Web site of UNESCO under http://www.unesco/cii.
The designations employed and the presentation of the material do not imply however the expression of any opinion whatsoever on the part of UNESCO.
Background

One of the main responsibilities of national libraries is to assemble comprehensive collections of the published outputs of their nations, record and organise them for use, and preserve them for posterity. National libraries have been able to develop their print collections through legal deposit, a statutory provision which places a legal requirement on producers of publications to deposit their works in designated institutions. Governments across the world have shown their support for the legal deposit of print publications on the grounds of ensuring the preservation, availability and recording of the published output of the country for the benefit of the nation.

The development of new carriers for the storage of information, traditionally produced on paper, has brought about a fundamental change in thinking within national libraries about future collection policies and storage requirements and an awareness that in order to maintain comprehensive collections of national publications for present and future generations of users, it will be necessary to obtain an increasing amount of non-print material. The Conference of Directors of National Libraries (CDNL) believes strongly that governments should provide statutory rights to enable national libraries to receive non-print publications through legal deposit. CDNL also believes national libraries have a duty to serve current and future generations of users to support scholarship, research and enterprise.

In 1994, CDNL set up a Working Group to investigate matters associated with the legal deposit of electronic publications. CDNL decided to concentrate its efforts on electronic publications because they offer national libraries the greatest challenges of all of today’s publishing media and therefore provide an appropriate focus for collaboration.

The Working Group’s report contains guidelines to assist national libraries in the preparation of cases for the legal deposit of electronic publications and in the implementation of new legislation.
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CONFEREECE OF DIRECTORS OF NATIONAL LIBRARIES

The legal deposit of electronic publications.

Report of a CDNL Working Group chaired by Dr Brian Lang, Chief Executive of The British Library.

Introduction

This paper is about one of the fundamental principles of a national library. It is about the national library as collector of the historical, literary and cultural record of the nation. It is essential that there is a means of identifying and maintaining recorded information in perpetuity. Without it, there would be no record of the past, and thus no adequate means of identifying, understanding or replicating researches of the past as part of the continuing cycle of experimentation and advancement of knowledge. The national library enables these activities to take place. While the burden of collecting responsibility may be shared among a group of libraries, it is the national library which has over-riding responsibility for ensuring that the nation’s published archive is properly organised, and that publications will be available now and in the future.

Most national libraries have traditionally built up their published collections through legal deposit, a statutory provision which puts a legal requirement on publishers to deposit their works in designated repositories. Legal deposit in most countries has traditionally applied to print publications because for centuries the traditional means of storage and display of publications was as print on paper. As other techniques have developed for the production and delivery of publications, and as the number of publications produced in other formats has increased, some nations have put in place revised legal deposit legislation to take account of the newer publishing media. In France, where legal deposit has its origins, there has been a progressive evolution of legislation, the twentieth century having seen the most significant changes. The most recent changes, which came about in 1992, allow for more or less all types of publication to be deposited: not only are print publications eligible for deposit but so are electronic publications and other forms of non-print publication which make up the nation’s published archive. The same is true in the US where the copyright law has traditionally been modified to require deposit of new formats as they develop. In most other nations, the position is different. Legal deposit legislation generally enables designated repositories to receive print publications and, in some cases, audio-visual material; it does not enable them to receive electronic publications.

In 1994, the Conference of Directors of National Libraries set up a Working Group to assist nations which do not already have legislation in place for electronic publications. Appendix A gives the membership of the Working Group. Electronic publications were chosen as the subject of study because they are increasingly being used for the storage of publications which would have traditionally been printed on paper. It has been suggested that, in some places, within the next five years, reference works will be
published routinely in electronic form alongside their printed versions and within, say, ten years, electronic publications will become dominant in certain sectors of the publishing industry.

This paper contains points of guidance for national libraries on how to prepare proposals for the legal deposit of electronic publications and on how to house and maintain such publications. The paper is supplemented by case studies which appear as appendices. The paper does not cover ground which is adequately covered elsewhere on the general practices and principles of legal deposit. Readers are asked to refer to the UNESCO report published in 1981 on “Guidelines for Legal Deposit Legislation” for information on the objectives of legal deposit, the form of legislation (statute and regulations), the nature of deposit (comprehensive, selective), the number of copies and the time limit for deposit. Readers are asked to refer to the European Commission report published in 1996 of a Workshop held in Luxembourg, on 18 December 1995 - “A study of issues faced by national libraries in the field of deposit collections of electronic publications” for a review of some of the major current issues faced by libraries in the field of legal deposit and electronic publishing. Although there are many possible reasons for establishing legal deposit legislation (e.g. to support the collection of national statistics on publishing, to provide materials for exchange purposes, to protect intellectual property rights), it is assumed that the main purposes of legal deposit are to create an archive of national publications and to create an authoritative national bibliographic record. Virtually all existing legal deposit legislation enables those two essential activities to take place. It is just as appropriate that they should apply to the electronic publishing environment as they do to the print-on-paper environment.

Section 1: Definition of “electronic publications”

The last forty years have witnessed rapid developments in the history of communication with the advent of electronic means of representing and transmitting information. Numbers, texts, sounds and images may all be represented in electronic form.

Electronic publishing may be described as the use of electronic means of communication to make information available to the public. Electronic publications are stored in computers and may be displayed for viewing either on a computer screen or as a print-out. The production process itself need not necessarily involve electronic techniques until the final stages. There is a whole range of possibilities for production from the use of computers for a small part of the production process to the making of the whole process electronic. There are already many types of electronic publication. They include:

- electronic equivalents of print publications such as books, journals, pamphlets etc.
- interactive databases containing, for example, bibliographies, statistics, spatial data, image data or text
- interactive multimedia such as games
- software and expert systems
new publication forms such as bulletin boards, discussion lists and electronic pre-prints which are available through electronic networks.

These may be made available as individual physical items on diskette, CD-ROM or other off-line media, or they may be made available through on-line host systems or directly to the user via computer networks. They may appear in electronic form only or they may be published in electronic form and as print on paper, in parallel. There is also retrospective publication which converts the record of the past to electronic form for better access, preservation of content and the production of new works.

The availability of computers and the growth of electronic networks makes it possible for authors to bypass conventional means of publication and to make their works available over networks. The extent to which this will happen is not clear. Many questions have still to be addressed. Will publications produced in this way be considered to be career enhancing forms of publication? Will they be as readily available as the more traditional forms of publication? How will they be maintained? How will they be paid for? Will users accept them for all types of information or only for certain kinds of knowledge? Any changes to the publication process will be influenced to a great extent by what readers require. There is evidence to suggest that the electronic and print versions of journals each have advantages over one another for certain types of use. For searching for information, electronic systems are generally easier and quicker to use than print. For reading, the print version is usually preferred.

Electronic techniques are increasingly being used not only to represent publications of the form traditionally associated with print on paper but also to represent items traditionally associated with other media. It is now possible to store and transmit videos in electronic form and it has for some time been possible to represent sound recordings in this way. The advent of multi-media electronic publications, where texts, sounds and images are packaged together, shows the capabilities of the new technology.

This paper applies to on-line and off-line publications, including so called “parallel publications” (publications made available on two of more media), and publications made available in electronic form only. It also applies to retrospective publication when this leads to new works but not when it simply replicates what was originally published in print.

Section 2: The path towards legal deposit legislation for electronic publications

The preparation of proposals for new legislation is time consuming and takes a large organisational effort. There are no hard and fast rules that can be given about the steps to be taken. The most the Working Group can do is give advice based upon its Members’ experiences and the experiences of other nations. Advice is given on nine matters which are relevant either generally to the amendment of legislation or specifically to the establishment of legislation for electronic publications. There are also two Appendices, B and C. Appendix B summarises activities in nations which already have legal deposit legislation in place for electronic publications, or which have...
plans to put such legislation in place. Appendix C consists of case studies from Canada, France and the USA, three of the nations represented on the Working Group which are already able to implement legal deposit legislation for electronic publications.

(a) Responsible body for taking the initiative to prepare the proposal

Nations wishing to prepare proposals for the legal deposit of electronic publications are advised to follow the procedures undertaken by nations which have already been through the process. Preparation of the proposal should be the responsibility of a single institution likely to be the beneficiary of the legislation. This is most often the national library because it is usually the body responsible for preparation of the national bibliography and for the maintenance of print collections. It is less common for a government department to take the initiative although there are examples of this.

In Australia, the UK and Spain, national repositories have taken the initiative. In Australia, the National Library and the National Film and Sound Archive made a joint submission in 1995 to the Copyright Law Review Committee for the extension of legal deposit to non-print publications. In the UK, the British Library initiated plans for new legislation and put forward a proposal to the Department of National Heritage recommending the extension of legal deposit to non-print publications. In Spain, the Bibliotheca National prepared a proposal for new legislation to be submitted to Parliament by the Ministry of Culture. In the USA, the Copyright Office mandated deposit of electronic works by issuing regulations on behalf of the Library of Congress, of which the Copyright Office is a part.

In France, Denmark and Finland, a government department took the initiative. In France, the decision to initiate the construction of the new Bibliotheque nationale de France and the evolution of new technology led the Minister of Culture to set the ball rolling. In Denmark, the Ministry of Culture asked for a paper recommending new legislation to encompass print and non-print publications. In Finland, the Ministry of Education set up a working group to prepare revised legislation which will include electronic publications.

(b) Stakeholder involvement

The responsible body for preparing the proposal will need to be able to influence government and should consult all stakeholders in the process of preparing the proposal. Those stakeholders include users, publishers and repositories. Government finding agencies may also need to be consulted.

Current and future users of legal deposit collections are likely to support an initiative to develop the national library’s collecting remit. It is, after all, for the users’ benefit that national libraries have an interest in seeking changes to legal deposit legislation. It is worth encouraging users at an early stage to influence the shape of new legislation. Users may be able to advise on materials to be included within the remit of legislation; they may also be able to advise on appropriate locations for electronic publications and on terms and conditions of access. It is also important to engage publishers at an early stage to establish an acceptable level of understanding and
mutual trust between national libraries and publishers. Publishers are wary of the implications of electronic storage and transmission. They fear the loss of control over material in which they have a commercial interest and the loss of revenue which may result. Libraries must come to an accommodation with publishers to ensure that the maximum benefit from unimpeded access to information can be achieved. Libraries should point out to publishers the benefits of publicity and of long-term maintenance which legal deposit can bring.

The other major stakeholders are repositories which already have the right to receive publications through legal deposit and any other repositories there may be which have begun to collect and maintain archives of electronic publications for the benefit of their nations. Existing legal deposit legislation for print gives an indication of the number of repositories that it may be necessary to consult. In Portugal, as many as 14 copies of print publications are deposited for distribution among repositories. While this is high, it is not uncommon for legislation to stipulate at least six-copy deposit of print publications for six repositories.

(c) Form of legislation

Legal deposit is sometimes established through an Act dedicated to legal deposit, sometimes through a Copyright Act and sometimes through the Act of a national repository. In France, Finland and Sweden, legal deposit is contained within legal deposit legislation. A new Legal Deposit Act in France was passed in 1992 and came into effect in 1994. The new legislation applies to print and non-print materials. In Finland, the Legal Deposit Act of 1980 covers print, sound and image recordings and a separate Legal Deposit Act of 1984 covers motion pictures, films and videos. In Sweden, the Legal Deposit Act of 1978 also established the National Archive of Recorded Sound and Moving Images. A more recent Legal Deposit Act of 1993 enforces the legal deposit of “hand-held” electronic documents and other non-print formats.

In Australia, the UK and the USA, legal deposit is contained within copyright legislation. In Australia, legal deposit legislation for “library materials” is contained within the Copyright Act, 1968, and the National Library is designated as the national repository for deposit materials. The definition of “library materials” is, however, limited to print-on-paper publications only. A joint proposal has been made to extend the range of publications covered by the National Library and the National Film and Sound Archive. The proposal recommends that legal deposit provisions continue to be maintained within the Copyright Act, rather than being moved to the National Library Act or to a separate legal deposit act. Legal deposit in Australia has always been associated with copyright and it was felt that it would be simpler to maintain that link and take advantage of a concurrent review of copyright legislation. Existing UK legal deposit legislation is contained within the Copyright Act of 1911. The British Library has recommended that new legislation for non-print publications be kept quite separate from copyright legislation to make clear the distinctions between legal deposit and copyright. In the US, legal deposit requirements are contained in the Copyright Act of 1976. That Act gives the Copyright Office of the US, in the Library of Congress, the authority to issue regulations to require deposit of the “best edition” of works in all formats.
In Canada and Germany, the National Library Acts enforce legal deposit. In Canada, Section 13 of the National Library Act (RS 1985) enforces legal deposit and the National Library Book Deposit Regulations of 1995 contain further details. In Germany, the Act of 1969 concerning the Deutsche Bibliothek enforces the deposit of printed works, Deposit is controlled by Regulations concerning the delivery of deposit copies. In Spain, the Act of 1971 of the Instituto Bibliografico Hispanico covers legal deposit.

Proposals to introduce or extend legal deposit should be kept as simple as possible in order to ensure ease of interpretation and implementation. In some countries, legal deposit and copyright have been associated because registration of materials is necessary to guarantee copyright protection. Where this is the case, it is likely that electronic publications will fall under the same registration requirement and that the linkage of copyright and legal deposit will continue.

The incorporation of legal deposit legislation within the Act of a national repository will define legal deposit in terms of the functions of the national repository but will leave undefined the role of any other national collecting institution. This will not be a problem if there is only one national collecting institution but may not be the best approach if there are more.

In general, the Working Group suggests that legal deposit provisions for electronic publications be incorporated into any existing provisions for print materials. This may of course differ if local circumstances make it preferable to pursue other options. This may occur in circumstances where legislative opportunities are limited or where the opportunity arises to move ahead more quickly than otherwise would be the case.

(d) **Sphere of application**

Legal deposit regulations traditionally apply to publications of the nation itself. Where the publications of other nations are collected, these can only be collected as imports or as republished material. In the case of electronic publications, the origins of a publication are less easy to define and for this reason it will be necessary to consider what should be collected and how. Electronic publications such as CD-ROMs are similar to print in this regard, but electronically networked publications are more complex and may involve several countries as sites for production and distribution. Legislation may be required to specify in this case how the national boundary is to be applied.

(e) **Categories of electronic publications to be included**

The Working Group recommends that proposals for new legislation should be as inclusive as possible and should enable publications produced only in electronic form and publications produced in parallel forms to come within the remit of legislation.

In putting forward proposals for revisions to the legal deposit system, some nations have avoided making reference to particular formats of publication in order not to exclude items which had not been thought of at the time the proposals were drawn up.
Other nations have chosen to be selective in their approach and to specify the formats required. Although this paper concentrates on electronic publications, it should be recognised that proposals may be made to cover the whole range of publications, including published film recordings, sound recordings, electronic publications, multi-media publications, microfilm and microfiche publications and all other existing and future types of publication. In nations where the legal repository has a responsibility to be the national archive as well as the national library, it may also be necessary to include unpublished materials.

Legal deposit in Norway and the US covers all types of non-print publications. In Australia, current legislation covers print publications. The National Library of Australia is pressing for revised legislation which will cover microforms, audio-visual materials, electronic publications, both static and dynamic, off-line and on-line publications and all formats yet to be developed. In Canada, the National Library Act covers the legal deposit of all types of publications, print and non-print. The British Library has proposed that new UK legislation should cover all types of non-print publications. The Danish proposal recommends that print, microform publications, sound and video recordings, radio and television broadcasts, multi-media publications, and static and dynamic electronic publications be deposited. This is typical of the coverage specified by many countries when they seek new legislation.

Some countries have specifically excluded on-line publications from any new legislation. The Bibliotheca Nazionale Centrale di Firenze, Italy, wishes to include off-line publications and exclude on-line publications. The Legal Deposit Act of 1993 in Sweden covers off-line electronic documents and certain other non-print media such as microforms. It does not include on-line publications. A Bill submitted to Parliament, in 1995, recommends that not only on-line databases, but also software, such as operating systems, compilers and text-processing programmed, be excluded. New French legal deposit legislation of 1992 applies to off-line but not to on-line electronic materials. However, it does apply to, databases, software and expert systems and specifies rules of deposit for each category. The Library of Congress receives CD-ROMS on a more or less comprehensive basis through legal deposit. However, it currently lacks clear authority to collect on-line publications. At such time as the Library wishes to collect such materials, it will ensure that its authority to do so is express clearly in legislation. The White Paper on “Intellectual Property and the National Information Infrastructure”, published in 1995, calls for revisions to the definitions of “publication” and “transmission”.

Some countries include non-print publications within their legislation but their coverage is highly selective. In Italy, the existing law of 1939 (revised in 1945) covers print material and videos produced as integral parts of books. In Spain, the existing law of 1971 covers books, periodicals, sound recordings and cinematographic productions; plans for new legislation recommend much wider coverage and will include computer programs, databases, expert systems and other artificial intelligence products. Current legislation in Germany includes off-line electronic publications and excludes on-line publications. It also excludes film works, filmed records, audio-visual displays and individual photographs.
The Working Group’s advice is to include rather than exclude items if there is any doubt about what should be included. It advises against making a distinction between on-line and off-line forms of electronic publication and recommends both forms be included in nations where there is the possibility of a rapid move towards on-line electronic publications. It is then up to the national repository to determine which items are required for the national collection.

(f) Preservation

Electronic formats tend to have a short life span unless action is taken to ensure that they are maintained in a form which can be reformatted or refreshed. It is important that legal deposit provisions be worded in such a way that repositories have permission to copy, reformat, refresh or migrate deposited publications for preservation purposes. If this permission is not granted, it will not be possible to maintain materials for posterity. In Norway, the Legal Deposit Act of 1989 gives the National Library authority to make preservation copies of materials. In the USA, the Copyright Act of 1976 gives libraries the authority to make preservation copies for use within the Library. The National Library of Australia has requested that revisions to the Copyright Act should permit repositories to re-format material in their collections for preservation purposes. A new Copyright Bill tabled in the Canadian Parliament has a provision in it that would allow libraries to make a copy of a work in its collection in an alternative format if the original format is obsolete or if the technology required to use the original is unavailable. However, such an alternative copy can be made only if it is not commercially available. The British Library seeks revised legislation which will enable copies of electronic publications to be made for preservation purposes.

The Working Group recognises that the preservation of electronic publications is a developing field and an issue which needs to be addressed separately. However, as a basis for any preservation, the right to copy must be assured. Some legal deposit provisions for print publications may already include permission to copy for preservation purposes. It is essential that this be extended to cover electronic formats.

(g) Terminology used in legislation

There is no standardised set of terms used in legal deposit legislation although the new Norwegian legislation which was one of the first to apply comprehensively to non-print as well as to print publications has been used by several countries as a model on which to develop new legislation. The Australian and UK proposals for new legal deposit legislation both refer to the Norwegian legislation as a useful model and Denmark intends to plan reform based upon the Norwegian legislation. The Norwegian legislation contains definitions for medium, document, publisher, producer and importer. A “medium” is “a means of storing information”. A “document” is “one or more identical copies of a medium by which information is stored for subsequent reading, listening, showing or transmission”. A medium can be any form of print or non-print carrier. When information is added to the medium, it becomes a document. A document is made available to the public when “copies of the document are offered for sale, hire, or loan, or when the document is distributed in other ways beyond the private domain”. “Information contained in the document is made available outside the
private domain by means of presentation, showing, broadcasting, on-line transmission and the like.”

The UK proposal for new legislation contains an appendix of terms and definitions taken from various glossaries. The appendix indicates the large number of terms in use and, with some of them, the range of definitions available. However, it does not recommend which definitions to use. Definitions not contained within the UK appendix include the National Library of Canada’s use of the term “deposit of a book” which is deemed to apply to the deposit of a print or a non-print publication. “Book” is defined to be “library matter of every kind, nature or description, and includes any document, paper, record, tape or other thing published by a publisher, on or in which information is written, recorded, stored or reproduced”. In Germany, “deposit of printed works” is interpreted liberally to include electronic and other non-print materials distributed in a physical form, excluding on-line documents. In Bavarian legislation, “text” is used to include spoken sound recordings, music scores and other graphical representations of music, maps, local plans and atlases as well as pictorial presentations.

The Working Group recommends that nations seeking new legislation should attempt to obtain a liberal interpretation of such words as “publication” and “book” and “print” to avoid the need for frequent revisions to legislation. National libraries should be aware that several terms and phrases can have the same meaning and they should be consistent in their choice of vocabulary. Any definitions used should be consistent with any already in use in other legislation in that nation (e.g. “public” as used in libel laws). National libraries would be well advised to consider the Norwegian legislation which has been used by several nations as a model framework.

(h) **Appropriate repositories for electronic publications**

Not every nation has an established home for electronic publications. The Working Group considers it reasonable for the national library to take the lead in identifying appropriate repositories to house electronic publications unless there is another national repository already associated with the collection of electronic publications. The Working Group considers it reasonable to assume that the archive of publications traditionally associated with print on paper and now appearing in electronic form will form part of the collections of the national library or of one or more other repositories which already have the right to receive legally deposited print publications. In making this recommendation, the Working Group points to the UK proposal for new legislation which recommends that an appropriate Government Minister be delegated the responsibility to specify where particular categories of materials should be deposited so that the national library cannot be accused of seeking new legislation intended primarily to develop its own collections. This may be an approach which other nations wish to consider.

While many non-print items will clearly identify themselves as appropriate for a particular repository, there may be problems with the assignation of multi-media productions, which may include sound and video as well as text. The Norwegian legislation contains formulations designed to resolve problem cases, essentially by classifying a multi-media product in terms of the predominant medium.
Implementation of new legislation

In nations which have begun to implement legal deposit legislation for non-print materials, a gradual approach to implementation has been adopted. The Working Group endorses this approach. In Canada, CD-ROMs and CD-I's are collected at present and experiments are taking place on the collection and storage of on-line publications. On-line publications are unlikely to be requested until certain legal and copyright issues have been resolved. The National Library Book Deposit Regulations (1995) define categories of materials which publishers are not required to deposit unless specifically requested (mostly minor or local material, including "on-line deliberations of electronic discussion groups").

In the USA, there is concentrated effort on CD-ROMs. The Library of Congress has established formal agreements with publishers regarding the terms and conditions of use of CD-ROMs. There are four agreements: one specifies two-copy deposit and permits use of the deposit copies at two stand-alone workstations within the Library of Congress. A second agreement specifies single-copy deposit for simultaneous network use within up to five reading rooms of the Library of Congress. There is also a downloading agreement which enables the depositor to decide whether or not to allow downloading and there is a general policy statement on the use of CD-ROMs within the Library of Congress.

In the USA, rules for mandatory deposit of non-print material are covered in the 1993 Code of Federal Regulations. Moves towards expanding the coverage of the legislation are deliberately restrained and incremental rather than radical. The Copyright Office would prefer a period of relative legal stability rather than a host of new legislation.

In Norway, the National Library is entitled to receive all types of non-print publications. In practice, it determines what it will collect according to what it has the technical capability to cope with.

Proposals for expanded legislation in the UK and Australia both recommend that operational details of legal deposit should not be specified in the main body of the statute but that there should be accompanying regulations which would apply to specific media types to bring them within the ambit of the legislation. The British Library has recommended that particular categories of publication be subject to legal deposit when regulations are issued which determine:

- the definition of the category of publication to be deposited.
- the procedure by which publications are to be deposited.
- the person(s) responsible for deposit.
- the designated repository or repositories to receive deposit publications.
- any special conditions attached to the use and/or treatment of the publications which the repository or repositories is/are required to observe.
- any incentives to deposit or sanctions for failure to deposit.
In Spain, when there is any doubt about whether or not a category of material should be included, the Director of the Instituto Bibliografico Hispanico decides. In the UK the British Library has recommended that a body independent of producers and publishers and independent of repositories be responsible for advising in any cases of doubt about the suitability of categories of items for deposit.

Section 3: The handling of electronic publications

As has been demonstrated, the preparation of new legislation is unlikely to be straightforward. But the time and money spent on proposing new legislation is likely to be small compared with that required to equip and operate permanent and long-term facilities for the provision of access to electronic publications received through legal deposit.

Electronic publications received through legal deposit must be identified, acquired, registered, cataloged, stored and maintained. They must also be recorded in the national bibliography, preserved and made available to researchers. These processes also apply to print publications but it would appear as if it will take longer to process electronic publications than it will to process print publications. Moreover, the effects of one process on another are likely to be more pronounced than in the case of print publications. Electronic media do not have the same life expectancy as high quality paper, and so bibliographic records will have to be amended more often to record the transfer of the content to new storage devices. The choice of storage medium and computer environment will need to cater for the way in which access is to be provided and preservation is to be undertaken. The interdependency of the processes should be taken into account in determining how each process is set up and operated.

The potential problems for the national library are significant. Will it have the appropriate equipment (hardware and software) to make electronic publications available to users? Will it have the appropriate expertise to make the publications available? Will it be able to receive all the technical information it requires from publishers in order to make its publications available? This section looks at the processing of electronic publications which will be essential if legal deposit is not to be an end in itself and the materials are to be made available to all who need to use them.

(a) Collection development

Legal deposit should support comprehensive deposit and the national library should be as comprehensive as possible in its approach to collecting materials. However, there should be no compulsion on the national library to take everything and the national library should put in place a collection development policy which enables it to select appropriate items for its collections.

The arrival of non-print media presents options and issues which did not apply to print material. Some electronic publications are electronic equivalents of print publications. In these cases the repository will need to decide whether it wishes to collect both formats. The Working Group recognises that each format presents different options for users and is therefore reluctant to suggest whether both need to be collected. Factors to be considered include the extent to which the contents are identical, the
value of each format in relation to selection and presentation of the content and ease of longer term preservation,

Some national libraries may choose to focus to begin with on publications with no print equivalent while others may choose to focus electronic materials which supplement materials they have long since collected in print. The choice will depend upon local circumstances and preferences. There are many other issues to consider in determining a policy for collection development. See Appendix D for further guidance.

(b) Bibliographic control and record creation

Libraries traditionally have described the contents of their collections through bibliographic records assembled into the library catalogue. Libraries with legal deposit responsibilities not only catalogue their collections but usually take responsibility for creating and maintaining the national bibliography, a listing of the publishing output of a nation.

Institutions which receive electronic publications on legal deposit will need to consider how to catalogue those publications and whether to add them to the national bibliography. The Working Group suggests that electronic publications should be cataloged, and that they be cataloged according to existing international cataloging standards. The Working Group also recognises that electronic publications are part of the national publishing heritage and that, as such, it is appropriate to include them in the national bibliography.

Because of the preservation requirements for electronic publications, it will be necessary to consider the need to record additional information than that normally required for a cataloging record. It will be necessary, for example, to record whether a title has been migrated to another format, and, if so, when this occurred and whether there has been any loss of content or of other qualities. There are as yet no international standards for recording this kind of information.

The national bibliography has traditionally been defined in terms of national geographical boundaries. These may be less clear in the case of electronic publications in which case there will be a need for international collaboration in order to avoid duplication.

Current indications suggest that the cataloging of electronic publications is more time consuming than that of print publications. This may change as catalogers become more familiar with the handling of electronic publications. International developments in metadata standards may also make it possible to collect header information in such a way as to facilitate discovery and description of on-line electronic publications. See Appendix E for further points worthy of consideration.

(c) Registration process and initial checking

Print publications received through legal deposit are logged on arrival at the library. They are normally checked to ensure that they are complete and intact and are
allocated a unique number so that they can be identified later. Legal deposit requires stringent record keeping. On the one hand, publishers wish to be sure that the publications they deposit are traceable and well looked after. On the other hand, the library needs to be able to identify what has arrived so that gaps can be identified and claims can be made for items not deposited.

For electronic publications, the logging of receipt, checking of exterior packaging, assigning of accession numbers and claiming procedures should be the same as for print publications. However, certain additional steps will be required for electronic publications. It will be necessary to check the publications supplied are in the preferred formats, if a format was specified in the first place (e.g. the PC or Apple Mac version of the CD-ROM). It will also be necessary to check that all the application software normally sold with the publication is deposited and that the full set of user and technical documentation is provided.

The library may find that it needs not only to request the normal packaging and manuals which are sold with an electronic publication but also to request additional material which will enable the library to transfer the data from the original electronic medium onto a preservation medium. The documentation supplied will be a resource in its own right. It will be crucial to the long-term availability of electronic publications.

Libraries are advised to do rigorous testing of electronic publications on a sample basis to ensure that they are in working order, not copy-protected and that the software supplied with them contains no computer viruses. It may be advisable to attempt to download small parts of the publication at an early stage to see whether full-scale downloading will be possible at a later stage for preservation purposes. If downloading does not appear to be possible, contact should be made with the depositor to see what provision can be made to provide access to the work for posterity. The results of all technical tests should be recorded so that appropriate information can be added to the catalogue record. See Appendix F for further points to consider.

(d) Storage

A number of preliminary steps take place before publications can be stored in readiness for use. In many libraries, print publications are sorted into categories, size being one of them. Each item is then given a shelf mark and is shelved appropriately. Shelf marks are added to the catalogue records. These processes apply to more or less all publications. However, additional processes will apply to electronic publications received through legal deposit.

Storage options cannot be considered in isolation from the provision of access. A range of storage options should be considered in the context of the arrangements and agreements that are likely to emerge over conditions of use. The conditions and types of use arrived at are likely to influence the technical solutions chosen to store and archive electronic publications. Will it be a system which allows national or international access to any of the institutions which have signed up to a particular network? Or will it be a system which only allows access to users who visit the
premises? In this latter case, would there be a central point of access in the library or would access be permitted at terminals on every desk? One approach national libraries may wish to consider is to develop a system which will provide the means to store all the library’s electronic items acquired by purchase, legal deposit, co-operative partnerships, licence agreements, and digitisation in an integrated fashion. Or it may wish to have several systems, one for each major publishing medium. There are many possibilities for storing and archiving electronic publications. See Appendix G for further details.

(e) Access and retrieval

Access must be provided to electronic publications received through legal deposit although in certain cases there may be a period, agreed with the copyright holder, before which access would not be permitted. Each library should work within its own copyright and fair dealing laws but should otherwise make electronic publications as widely available as possible.

In many nations, there is still a long way to go to establish an acceptable level of understanding and mutual trust between national libraries and publishers especially in so far as legal deposit and electronic transmission of published works are concerned. Libraries cannot proceed without the support of publishers and will need to demonstrate to publishers that publishers will gain from legal deposit through wide publicity of their works and also long-term care and maintenance of them. This will most likely involve not just giving assurances that the content of publications will not be changed in any way, but also that access will only be permitted under very clear and strictly applied circumstances. Documentation will be required to describe the terms of agreement between libraries and publishers. See Appendix H for further points of guidance.

(f) Preservation

National libraries must take steps to preserve the published historical, literary and cultural record. See Section 2 (f) and Appendix I for further details.

(g) Modelling the resource requirement

National libraries granted the right to receive electronic publications through legal deposit will need funds to provide satisfactory storage accommodation, equipment and space and to employ appropriately skilled staff to record, catalogue, shelve, store, preserve and provide access to the publications received. The majority if not all libraries will not be sufficiently well endowed to be able to maintain and provide library and information services from collections of legal deposit electronic publications without additional, ear-marked funding for that purpose. The finding required will depend on many local factors. Moreover, experience is still developing as far as costs are concerned. No guidance on the magnitude of costs can be given. However, national libraries are advised to estimate the likely growth rates of electronic publications within their nations to establish the likely magnitude of the legal deposit intake, and to identify the major elements of library and information service provision, in particular those tasks which are not required, or take less time, for the provision of
services from print collections (e.g. the checking for quality of electronic publications, technical assistance to library users).
Section 4: Conclusions

To undertake preparations for changes to legal deposit legislation requires considerable determination and effort. National libraries in nations which do not currently publish in electronic form may wish to observe the practice and procedures elsewhere but are not advised to make any serious attempt to bring about reform to legal deposit legislation unless or until electronic publishing becomes established and the relevance of updated legislation can be understood and appreciated.

This paper is primarily intended to assist those national libraries situated in parts of the world where there is already electronic publishing activity which looks likely to grow and to become as much a part of the nation’s published heritage as print publications. As this paper has demonstrated, there is no hard and fast advice which can be given on the procedures to follow. Much depends upon the national status afforded to culture and heritage. If there is strong government support, it is probably going to be less difficult to achieve the support required for revised legal deposit legislation than it will be in nations where the cultural heritage does not score highly on the political agenda.

Apart from the government stance, the chances of success may be affected by the level of support obtained from information providers. It is essential to establish contact with information providers at an early stage and keep them informed of progress. The national library may also need to negotiate with publishers appropriate conditions of access to electronic publications received through legal deposit.

The Working Group advises member nations to consider procedures and practices elsewhere before embarking on their own initiatives. This paper shows, however, that there is no standard way of doing things. The legislation itself may be in the form of a Legal Deposit Act. Alternatively, it may be contained within a Copyright Act or the Act of a national repository. The categories of electronic publications included may vary from hand-held electronic publications, only, to all types of electronic publications, including on-line publications. There is no standardised terminology used to define electronic publications. Nor is it necessarily the case that all electronic publications should be deposited with the national library. However, one approach which does appear to be common to nations which already have legislation in place is to establish the primary statute and to have accompanying legislation which applies to particular categories of electronic publications. Only when accompanying legislation has been drawn up can legal deposit be brought into effect.

The Working Group encourages nations which do not have legislation in place to attach top priority to the establishment of revised legislation and not to be daunted to begin with by the tasks which follow the enactment of new legislation.

The Working Group has set out some points of guidance in applying the legislation. It is not able to be prescriptive because so much depends upon existing practices for the legal deposit of print publications, the framework proposed for new legislation for electronic publications, the types of electronic publications to be included, and the annual number of electronic publications likely to be eligible for legal deposit. While the paper concentrates upon electronic publications, the Working Group does not
believe that the day will ever come when electronic publications will supersede print on paper. Print will not disappear. Legislation” for print and legislation for electronic publications should run alongside one another and be as similar as possible to one another so as to simplify the procedures and practices required to apply them.

The Working Group hopes that the points of guidance presented in this paper will stimulate thoughts and ideas and will assist member nations in establishing and applying legal deposit legislation for electronic publications.
Appendix A

Conference of Directors of National Libraries

The legal deposit of electronic publications

**Working Group Membership**

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<tr>
<th>Country</th>
<th>Member</th>
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<tr>
<td>Australia</td>
<td>Mr David Toll (to May 1995)</td>
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<tr>
<td></td>
<td>Mrs Margaret Henty (from May 1995)</td>
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<tr>
<td>Canada</td>
<td>Ms Ingrid Parent</td>
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<tr>
<td>France</td>
<td>Mme Marcelle Beaudiquez</td>
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<td>Norway</td>
<td>Mr Bendik Rugaas</td>
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<td>South Africa</td>
<td>Dr Peter Lor</td>
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<td>United Kingdom</td>
<td>Dr Brian Lang</td>
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Dr Brian Lang chaired the Working Group. Secretarial support was provided by the British Library.
Appendix B

Conference of Directors of National Libraries

The legal deposit of electronic publications

Summary of developments world-wide

Legal deposit in Australia is covered by the Copyright Act, 1968, and at a state level, by legislation incorporated in state library acts. Federal legal deposit provisions are limited to print materials. However, the legislation of some states is broad enough to include electronic publications. In 1995, the National Library of Australia and the National Film and Sound Archive presented a submission to the Copyright Law Review Committee seeking extension of legal deposit provisions to include a wide range of formats previously not included and also to incorporate the principle of legal deposit for all publication formats likely to be devised in the future. The submission is available on the National Library’s web server at <http://www.nla.gov.au/policy/clrcld.html>. As an interim measure, the National Library has been receiving some electronic publications on CD-ROM and floppy disc under a voluntary deposit scheme which has been successful in establishing contact between the Library and publishers in anticipation of the establishment of legal deposit. In association with this scheme, the Library has developed an access policy for deposited material which can be found at <http://www.nla.gov.au/policy/cdrom.html>. During 1996, the Library has commenced pilot projects to preserve Australian on-line publications.

Legal deposit legislation forms a part of the National Library Act of Canada. Deposit of a “book” is deemed to apply to the deposit of a print or of a non-print publication and “book” is defined as “library matter of every kind, nature and description and includes any document, paper, record, tape or other thing published by a publisher, on or in which information is written, recorded, stored or reproduced”. At present CD-ROMs and CD-Is and some electronic journals are being acquired. The National Library has been identifying, through the Internet, Canadian on-line journals, texts and databases and keeping copies, as appropriate. in either printed or electronic form, as part of an Electronic Publications Pilot Project carried out with the co-operation of the publishers. The final report of this major Project is now available and contains a number of recommendations covering the identification, acquisition, storage and handling of electronic materials. It does not appear that deposit of on-line databases will be requested until certain legal and copyright issues have been resolved.

In Denmark whose present Act on Legal Deposit of 1927 (with several subsequent minor modifications) covers printed material only, a report has been produced (June 1995) in response to a request from the Ministry of Culture, recommending extension of the law to include print, microforms, sound and video recordings, radio and television broadcasts, multi-media products, and static and dynamic electronic publications. A number of different types of electronic materials are suggested for inclusion, and it is proposed that the problem of future development of new formats should be resolved by the passage of a broad law updatable by regulations which could take account of new forms of document (in accordance with present Norwegian practice). Works which are continually revised (such as on-line databases) would not be deposited until they ceased to be updated, but deposit libraries should have the right to gain access to them on appropriate terms. Under
present practice, Danish films are deposited in the National Film Museum, in accordance with the Law on Film. Commercially-produced sound recordings are archived by the National Museum, and tapes of radio and television broadcasts are deposited at the National Media Archive. Electronic datasets produced for public administration are deposited in the National Archives, and electronic research results are held by the Danish Data Archive.

Finland’s Act and Statute on Legal Deposit Copies of 1980 covers printed products, sound and image recordings, which are deposited in the National Library. A separate Act of 1984 covers motion pictures, films and videos, which are deposited in the Finnish Film Archive. Neither radio and television broadcasts nor electronic publications are currently covered. The Ministry of Education is setting up a working group to prepare revised legislation to cover electronic publications and new media.

France has had a legal deposit law, the oldest in the world, since 1537. This law, which covered only deposit of books by the printer, has been successively revised to include phonographic and cinematographic works and deposit by publishers (1925) and sound, audio-visual and multimedia documents (1943, 1975 and 1977). The law of 20 June 1992, which came into force on 1 January 1994, provides for collection and conservation of documents defined, preparation and publication of national bibliographies and consultation of the documents under defined conditions. all material being deposited in the Bibliotheque nationale de France, and certain classes of material being held also in other repositories. The material now covered includes printed, graphic, photographic, sound, audio-visual and multimedia documents, whatever the technical means of production, as soon as they are made accessible to the public by the publication of a physical carrier. This effectively implies application to static but not to dynamic electronic materials; off-line databases are included. but not on-line databases. In 1994 some 700 titles were deposited, most being CD-ROMs or similar products, but 25% were on 3½” diskettes; 250 were interactive multi-media documents. Receipts for the first half of 1995 already equal the 1994 total. Access to deposited material, planned for late 1996 in the new Tolbiac building, will be restricted to “research” use and strictly regulated.

In Germany, the Act concerning the Deutsche Bibliothek (1969), as amended following unification, requires deposit of printed works, defined as all representations in writing, illustration or sound, produced by reproduction processes and intended for distribution. Each of the 16 Lander has its own legislation providing for legal deposit. “Printed work” is interpreted liberally to include electronic and other non-print material distributed in a physical form, but apparently excluding dynamic documents. Film, videos and broadcasts are not collected through legal deposit, although there are various specialist archives.

In Italy, the existing law of 1939 (revised 1945) relates only to printed material and to videos produced as integral parts of books. The Bibliotheca Nazionale Centrale is developing a revision of the law, with the intent of preserving “documents intended for public enjoyment through reading, listening or sight”. It will cover microforms, databases other than on-line on whatever form of support, multimedia documents, sound and video recordings, film material and (selectively) radio and television broadcast programmed.

The Netherlands has no legal deposit legislation, but relies instead on voluntary deposit. For printed materials, after 10 years of negotiations, almost 100% of Dutch output is...
received. Negotiations with the Dutch Publishers Association to establish similar arrangements for electronic publications began in 1994. The Royal Library established the Dutch Depository of Electronic Publications in 1993, with the emphasis on acquisition of material, cataloguing for the National Bibliography and storage. Pilot projects are under way, and the Depository is expected to be fully operational by 2001, although 100% coverage is not expected before 5 to 10 years.

Norway has had five years experience of applying legislation, brought into force in 1990, which provides for the deposit of printed materials, sound recordings, films, videos and both static and dynamic electronic documents. The legislation has been framed in such a way that new electronic formats can be accommodated. The provisions implicitly allow the National Library to take its own decisions as to what it will collect, which allows material to be acquired in a limited number of formats which can currently be handled, leaving other types of material to be acquired when the Library feels it has the technical capability to process them. A Working Group on problems related to the legal deposit of electronically-published documents has recently reported. The report discusses preservation, cataloging and other problems, and the organisation of work with electronic documents, based on the National Library’s experience of handling electronic documents under the existing legislation. The volume of Norwegian publication is relatively small, and by July 1994 only 240 electronic titles had been received, each usually containing a number of documents. The preferred storage medium is gold-plated CD-ROM, to which deposited documents are migrated.

Legal deposit in South Africa is covered by the Legal Deposit Act of 1982. It covers print publications and enables five copies to be deposited. The committee of legal deposit libraries has begun work on proposals to amend the existing legislation to eliminate loopholes discovered during a court case. It will also take into account South Africa’s new administrative structure and will attempt to provide for legal deposit of audio-visual and electronic publications.

Spain has legislation dating from 1971 which covers the deposit of books and periodicals, sound recordings and cinematographic productions. The Bibliotheca National has prepared a revision of the law to be submitted to Parliament by the Ministry of Culture, probably in 1996. This will extend coverage to printed, graphic, photographic, sound, audio-visual and multi-media documents, irrespective of the technical means of production publication or diffusion. It will also include computer programs, databases, expert systems and any other artificial intelligence products. “Documents” are defined as comprising all forms of expression of cultural works or products, recorded on whatever type of material support. The responsibility for supplying material for deposit, previously assigned to printers, will be extended to publishers, producers and importers. It is reported that the Bibliotheca National intends to include coverage of dynamic as well as static documents. At present, a small amount of material is being acquired on a voluntary basis.

Legal deposit of printed material has been enforced in Sweden since 1661, the Royal Library and six other libraries being the recipients. Certain video and audio recordings were included by the Statutory Deposit Act of 1978, which also established the National Archive of Recorded Sound and Moving Images. An Act of 1993 on the legal deposit of documents, brought into effect in January 1994, requires deposit of “hand-held” (i.e. static) electronic documents, and other non-print formats such as microforms. Dynamic electronic
documents are not included, and their inclusion is apparently not currently envisaged. At present the responsibility for deposit of most formats (other than films) rests with the producer, but the Royal Library is pressing for the responsibility to be transferred to the distributor/publisher of electronic material. A study by the Royal Library on long-term electronic preservation is expected to be available shortly.

**Switzerland** has no Federal law for legal deposit, although the national library has a statutory responsibility to collect, catalogue and conserve information in any medium concerning Switzerland, and to ensure the widest possible accessibility of such information. The individual Cantons have separate legal deposit legislation, generally covering only printed material. The national library purchases material in a variety of formats, including static electronic formats, catalogues them, and makes them available for consultation in a multi-media room. Films are stored at the Cinematheque Suisse in Lausanne, and musical recordings at the Phonothèque Suisse in Lugano.

Present legal deposit regulations in the **United Kingdom** are based upon Section 15 of the Copyright Act of 1911, which was left unrepealed by the Acts of 1956 and 1988. Materials for deposit covered by the Act include books, journals, magazines, newspapers, pamphlets, plans and maps, and sheet music. None of the three Acts applies to materials not printed on paper. In January 1996, the British Library submitted a proposal to the Department of National Heritage for legal deposit to be extended to all forms of non-print publications, both on-line and off-line, static and dynamic. The proposal recommends that while new legislation should be comprehensive in coverage, implementation should be incremental, starting with well-established publishing media, and generally taking on board the newer media publications.

In the **United States of America**, all works under copyright protection published in the USA are subject to mandatory legal deposit, even if they do not contain a “notice of copyright”. (That is to say that it is no longer the case that if the producer of a work does not wish to register it for copyright, there is no deposit requirement. Now, since copyright exists from the moment of creation of a work, all published works must be deposited, whether registered or not.) Categories of material subject to copyright include “literary works, musical works, dramatic works, pantomimes and choreographic works, pictorial, graphic and sculptural works, motion pictures and other audio-visual works, sound recordings and architectural works”. Computer programs and most “compilations” are viewed as “literary works”. Rules for mandatory deposit of some categories of non-print materials, including machine-readable works and CD-ROMs but not including on-line databases are contained in the 1993 Code of Federal Regulations. The Copyright Office considers that all types of material are subject to mandatory deposit, but lacks legal authority for collecting certain materials because “publication” and “transmission” are not closely defined for on-line publications. A recently published White Paper on Intellectual Property and the National Information Infrastructure discusses the need for revised legislation.

In order to allay the fears of publishers, the Library of Congress and organisations representing the views of publishers have endorsed four documents establishing the ground rules for access to CD-ROMs. One document outlines the general policy at the Library of Congress regarding the use of deposited CD-ROMs. Another is for users of the Library,
and specifies the restrictions on use of materials downloaded or copied in any way from CD-ROMs. The final two are for publishers, who are able to choose whether to permit use of their CD-ROMs at a stand-alone workstation, or on a local area network accessible to users in five reading rooms. These documents came into effect in 1993. Where there is a CD-ROM agreement, the Library and the user comply with its terms. However, the majority of the CD-ROMs in the Library’s collection come in through other means and are subject to general Library policy or license agreements.

A Task Force on Archiving of Digital Information, set up by the Commission of Preservation and Access and the Research Libraries Group, produced a report “Preserving Digital Information”, which sets out the issues, and makes a number of recommendations.
Appendix C

Conference of Directors of National Libraries
The legal deposit of electronic publications
Case studies from Canada, France and the USA.

LEGAL DEPOSIT OF ELECTRONIC PUBLICATIONS IN CANADA

Statutory provisions

At the federal level, legal deposit in Canada is governed by The National Library Act. Section 13 of the Act requires the publishers of a “book” published in Canada to send two copies to the National Librarian. Deposit is at the publisher’s own expense and must be made within one week of the date of publication.

The terms “book” and “published in Canada” are defined in Section 2 of the Act. The term “book” is defined to encompass “library matter of every kind, nature and description and includes any document, paper, record, tape or other thing published by a publisher, on or in which information is written, recorded, stored, or reproduced.” The term “published in Canada” is defined to mean “released in Canada for public distribution or sale...”

Under the provisions of section 13 of the Act, the Minister is authorized to make regulations prescribing those class of publication that are required to be deposited in one copy only, and those classes for which no copy is required unless specifically requested by the National Librarian.

History

There have been only a few changes made to the legal deposit provisions in the Act since it was first proclaimed in 1953. Originally Section 13 of the Act provided for the deposit of only one copy if the total retail value of the two copies normally required for deposit exceeded $25. In 1969 that provision was changed to provide for the deposit of only one copy if the retail value of that one copy exceeded $50. In 1995 the Act was amended to eliminate altogether the exception that was linked to the retail value of the publication.

There has also been a change made to the definition of the term “book.” In the original Act (1953) the term “book” was defined simply as “library matter of every kind, nature and description.” When the Act was revised in 1969 the supplementary wording “and includes any document, paper, record, tape or other thing published by a publisher, on or in which information is written, recorded, stored, or reproduced” was added.

Changes to the Regulations have been somewhat more frequent The National Library Book Deposit Regulations, made by the Minister pursuant to the Act, were first issued in January 1953. They were subsequently revised and reissued in March 1953, October 1954, May 1958, August 1969 and most recently in April 1995. Most of the revisions to the Regulations have involved additions or deletions to the list of classes of publication which are exempted from the deposit requirements.

The mechanics of extending legal deposit to cover new forms of publication has been relatively straightforward. Changes made to the Act itself for that purpose have involved only the addition of supplementary wording to the definition of the term “book.” It could be argued that even without the supplementary wording the original definition was sufficiently broad to cover
all formats and all types of publication. The Regulations are structured in such a way that extending the deposit requirements to new forms of publication normally requires no formal change. Because the Regulations only list exceptions to the requirement for deposit rather than enumerating those classes of publication that must be deposited, extending deposit to a new class of publication requires a formal revision to the Regulations only if that class of publication has previously been listed as an exception.

**Applicability to electronic publications**

Notwithstanding the relatively straightforward nature of the Act and Regulations, the National Library customarily seeks legal advice before exercising its authority to require deposit of a new class of publication. In 1992 the National Library requested a legal opinion as to whether the existing provisions of The National Library Act and The National Library Book Deposit Regulations were sufficient to require publishers to deposit copies of CD-ROM publications. The legal opinion given at the time was that the definition of “book” in the Act was sufficiently broad to encompass publications issued on electronic media such as CD-ROM, that any such products “released for public distribution or sale in Canada” would be subject to the requirements of the Act, and that since CD-ROM was not specified as an exempted class of publication in the Regulations, the Library had the authority to require their deposit without any change being made to the Regulations. Consequently the National Librarian simply followed up with a letter to publishers informing them of the requirement to deposit their new publications under the provision of the Act and the Regulations.

On the question of whether the National Library would be obliged to comply with a publisher’s demand for return of a superseded version of a CD-ROM once an updated version is released (which is sometimes a condition attached to copies acquired through purchase), the advice received from legal counsel was that assuming the updated version could be deemed to be a new publication (in the same way that a revised edition of a printed book is considered a new publication), the legal deposit provisions would apply separately to each release of the publication and the Library is entitled to retain the deposited copies of each successive version.

On a related question as to whether the National Library would be obliged to sign any licensing agreement accompanying a CD-ROM received on legal deposit, the advice of legal counsel was that the National Library was under no obligation to sign a license. Counsel noted, however, that any copy received on legal deposit would still be protected by copyright and that the National Library would be obliged to ensure that any use it made of the deposited copy did not infringe copyright.

The National Library is currently in the process of seeking legal advice on the applicability of the Act and the Regulations to electronic documents that are disseminated only by means of remote on-line access. The key question on which the Library is seeking legal advice in this instance is whether providing remote on-line access can be equated with “publishing.” As defined in the Act, the term “published in Canada” means “released in Canada for public distribution or sale.” In response to a request made a few years ago by the Library for a legal opinion on the applicability of the legal deposit provisions to promotional music videos that are leased to TV stations for broadcast but are not available for purchase by the public, the advice from legal counsel was that it was doubtful such videos would be considered to meet the criteria of being released for public distribution or sale. In the opinion of the legal counsel the phrase “released for public distribution or sale” implies availability to the public in a physical form, which is not the case with promotional videos. In light of the legal opinion given in that instance, the National Library has now posed the question as to whether in the absence of making physical copies available publicly in the form of tape, diskette, or CD-ROM a
publisher would be required to deposit a copy of an electronic document that is disseminated to the public only by means of remote on-line access.

For the National Library the question of whether on-line dissemination can be considered to be publishing is further complicated by Canadian copyright legislation. In The Copyright Act the term “publication” is defined as “the issue of copies of the work to the public.” Explicitly excluded from the scope of the definition are such acts as performance in public of a dramatic work, delivery of a lecture, public exhibition of a work of art, and construction of an architectural work. In 1993 The Copyright Act was amended to reflect changes required by The North American Free Trade Agreement, and with that amendment “the communication of work to the public by telecommunication” was added to the list of acts excluded from the scope of the definition for “publication.” While the term “publication” is defined in The Copyright Act specifically for the purposes of that Act, the definition has no direct bearing on the meaning of the term “published in Canada” as used in The National Library Act. It might well be a factor for consideration by the courts if the application of the legal deposit provisions were ever challenged. Thus the National Library is endeavoring to obtain a legal opinion on the implications of the definition of the term “publication” in The Copyright Act with respect to the definition of the term “published in Canada” in The National Library Act. The application of the legal deposit provisions of the Act to electronic documents that are disseminated only by means of remote on-line access.

The National Library is also in the process of obtaining legal advice on whether the terms and conditions of licenses and other restrictions set by the publisher on access to and use of an on-line electronic document would be applicable to a copy deposited with the National Library under the legal deposit provisions of the Act.

The National Library will not attempt to acquire such documents through legal deposit until it has received a legal opinion on the issues raised.

**Electronic publications pilot project**

Although the National Library has not yet applied legal deposit to on-line electronic publications, in the interim it has contacted the publishers of a number of electronic publications where the publisher has indicated a wish to cooperate with the Library in regards to copying a version of a publication for archiving at the Library, and allowing the Library to make it available in turn through its own servers to the Library’s clientele. In particular, NLC is focusing on acquiring on-line publications produced by the federal government. This arrangement has worked well. It has given the Library an opportunity to learn how to locate, access, copy, archive, and render accessible a wide array of electronic on-line publications. In turn it is preparing the way for the publishing community to accept deposit of on-line publications the same way that any other material is deposited. In the event that legal deposit is extended to on-line publications, other under the current provisions of the Act or through statutory amendment, consultation with publishers prior to introducing any change will be critical. The practical experience gained through the electronic publications pilot project should serve to make that consultation process more meaningful and productive.

The experienced gained by the National Library in acquiring, storing, cataloging, and providing access to on-line publications is described in a summary report now available at the Library’s Web site on the Internet at http://www.nlc-bnc.ca/eplp/ereport.htm
Legal deposit of electronic documents in France

I. Legislation

The extension of legal deposit to electronic publishing is a logical consequence of the inclusion of software protection in the law of 3 July 1985 on copyright. It ensures that electronic documents now fall within the scope of the latest legal disposition concerning legal deposit (law of June 20th. 1992 and decree of December 31st. 1993).

II. Typology of electronic documents subject to legal deposit and legal dispositions

- electronic documents are not mentioned as such in the legislation, which instead mentions the following terms: “computer softwares, databases, expert systems and other documents derived from artificial intelligence”

- electronic documents must be deposited “as long as they are offered to the public by means of a computer-readable medium”, which implies that on-line electronic data is out of scope of the French legislation.

- the legislation dots not mention any type of physical carrier, so that it may evolve more easily. It implies that computer softwares, databases, expert systems and other documents derived from artificial intelligence are subject to deposit whatever the carrier on which they are produced and distributed (computer diskettes, CD-ROMs, CD-I, photo-CDs, magnetic tapes, etc.). For practical reasons, it was decided internally that the titles claimed would be those readable on micro computers (PC, Macintosh, Windows 95, windows NT, Unix etc.). Even so, peripheral equipment and software environments reach a great range of diversity.

- electronic documents submitted to legal deposit are those distributed either on a paying basis, or on lease or even free of charge, to the public in general (those specifically produced for companies or administrations for their internal needs are out of scope).

- documents to be deposited are those published/produced in France. The publisher/producer is the responsible body for legal deposit. Importers who introduce foreign titles by 100 copies at least into France are also liable to deposit those documents.

- every title must be deposited in 2 copies. under its published presentation. together with the appropriate documentation (installation manuals etc.). Every issue or update must be deposited.

- the law distinguish between two broad categories of electronic documents: (although this distinction tends to become obsolete):

  * Databases: which are to be collected on an exhaustive basis.

  * Software products ("progiciels"), and expert systems, which are to be collected on a selective basis. Only those representative of software production will be retained. An ad hoc Commission has been set up and will define official criteria for selection.
Legal deposit of multimedia works

French legislation puts multimedia works into a specific category, distinct from computer softwares and databases.

The requirements for multimedia documents are the same as for databases (deposit in 2 copies, no selection). They are presently deposited with audiovisual material.

However, deposit for multimedia documents differs on two points: it is liable to deposit not only when published for the general public, but also as soon as it is produced for a specific public (i.e. wider than the family circle): this means that the scope of deposit is much wider than that of databases, since it expands to titles produced for internal use in a company or an administration.

The other difference is that imported titles have to be deposited when the number of copies imported reaches 50 or beyond (100 or beyond for databases).

The present legislation on legal deposit distinguishes 3 types of electronic documents, which sometimes generates application problems, especially for titles which may not easily be classified as a database or a software, or are a multimedia software or database.

III. Implementation of the legal deposit for electronic documents

The service in charge of electronic publications was set up in 1993, and became fully operational in January 1994, with the issuing of the decree. For the time being, it only collects databases. Softwares will be collected once the criteria mentioned above are issued (presumably by the end of 1996). As of May 1996, there are 3 members of staff (one computer technician and 2 assistant librarians).

The prior action set up was to inform would-be depositors on the new legislation, especially those publishers/producers new to the profession, and unaware of the legislation on legal deposit.

As of to-day, the holdings reach 1800 titles, including serials (roughly 35 current titles), official publications, reference and dictionaries, and the majority of French on-line databases published on CD-ROMs or diskettes. Education and training, professional applications (accountancy, design etc.), art and leisure represent the most numerous sectors. The service references 800 publishers/producers (300 are active depositors), and records them on an internal database which also maintains titles to be published or claimed.

IV. Cataloging and processing:

● Each title received is systematically installed and checked against the installation notice. A technical slip is established and records the hardware and software configuration on which the document was installed. If the document cannot be installed or run properly (bugs etc.), it is sent back to the producer/publisher.
● Cataloguing is done according to the title screens, and follows the French cataloging rules (AFNOR NF Z 44082 Catalogage des documents électroniques), presently under public survey and soon to become an official standard. It derives from the ISBD (CF), also under revision. Keying is done in INTERMARC format in the bibliographic database BN-OPALE of the BnB (can be searched on the Internet (http://www.bnf.fr). Subject cataloging follows the RAMEAU list of subject headings (the French version of LCHS).
● De-installation of the document.
V. Preservation

For the time being, electronic publications are kept on their original media, in a temporary location. The majority will be kept in dust-free cardboxes and diskettes in antistatic envelopes.

In parallel, data on magnetic media are transferred on CD-ROMs internally. This is a short term storage measure.

In the future, the BnF intends to handle a two-fold preservation procedure:

- preservation of the physical medium (preservation of the original medium, and accompanying material), which involves «classical» preservation and storage techniques (temperature, hygrometry etc.) in the technical centre of the BnF in Maine La Vallée.
- preservation of the contents (data and programmes), according to technical means currently under study (a feasibility study is being carried out to examine the various options for optical storage and retrieval).

VI. Public Access:

As a general rule, documents acquired through legal deposit are not available to the general public, but only to readers earning out research work at the Bibliothèque nationale de France. The same will be true for electronic documents. whose access will in a first stage be organised as follows (opening in 1997):

- access authorised only to named individuals.
- consultation restricted to the Library precincts (no loan).
- documents to be installed beforehand by a library technician (no handling of document by the reader).
- stand alone workstation (no print out or downloading), no networking,
- no public representation (on screens or otherwise).

These provisions have been made in order to ensure author’s and publisher’s rights, but will evolve with software devices applied to copyright (digital encoding of documents).
DEPOSIT OF MACHINE READABLE WORKS WITH THE UNITED STATES
LIBRARY OF CONGRESS
CASE STUDY

Mandatory Deposit Under the U.S. Copyright Law

In the United States deposit of materials for the Library of Congress’s collections is covered under copyright law. This law contains no limitations to print materials; therefore, the Library has traditionally been able to collect in other formats. Recent developments, however, have emphasized the need for the Library to provide safeguards for works that are deposited in electronic format. The Library currently does not lend these materials.

Since January 1, 1978, the mandatory deposit provisions have been located in section 407 of the Copyright Act of 1976. Title 17 U.S.C. This provision requires the owner of copyright or of the exclusive right of publication to deposit with the Copyright Office two copies (or phonorecords) of any work published in the United States. for use or disposition of the Library of Congress. Deposit must be within three months of publication, and the copyright owner may be fined if failure to deposit continues after demand is made by the Register of Copyrights.

The Library of Congress’s Best Edition Statement specifies the required deposit where more than one edition of the work is published. The Register may exempt by regulation any categories of material from the section 407 deposit requirements or require deposit of only one copy or phonorecord for any category. Pertinent Copyright Office regulations are found in Title 37 of the Code of Federal Regulations at §202. 19.

When those regulations were first adopted in 1978, machine readable works were not widely marketed to the public, and the Library exempted from mandatory deposit all works published solely in machine readable form. Such works, however, were subject to copyright and for registration under §408 the applicant could submit identifying material (e.g., the first and last 25 pages of source code for a computer program or of a database).

The Machine Readable Collections

As computer software and databases became widely available, the Library established a Machine Readable Collections Reading Room to provide research access to data and software in machine readable form and to build a national archive of data and program software in microcomputer machine readable form. This collection would provide public access to machine readable data traditionally available only in print form (e.g., encyclopedias and reference works), and to computer software in machine readable form, in a centralized location for future scholars to study the computer revolution. The Library does not currently collect databases.¹

With this new goal of expanding the scope of the Library’s collection, the Office adopted regulations on October 16, 1988, for deposit of certain machine readable works available to the public (i.e., not distributed on a genuinely restricted basis). The Office revoked the exemption from mandatory deposit for machine readable copies, and required deposit of works published

¹ On March 31, 1989, the Office issued regulations concerning registration and deposit of machine readable databases. Automated databases often change with updates that may consist of small increments of information, and the Office examined how best to register the claim. The Office declined the suggestion of some to accept online access in lieu of deposit. For automated databases other than in CD-ROM format, an acceptable deposit is one copy of the first and last 25 pages of equivalent units in visually perceptible form (e.g., a printout).
in IBM or Macintosh formats. The Library’s Best Edition Statement designated IBM and Macintosh as formats desired by the Library (hardware in the Reading Room was equipped for IBM and Macintosh formats). The mandatory deposit regulation, 37 C.F.R. §202.19, would now limit the exemption for machine readable copies to automated databases available only online, while permitting deposit of one machine readable copy rather than two, except where a copy-guard system is used.

To address publishers’ concerns, the Machine Readable Collections Reading Room imposed security restrictions on uses by researchers. The Library did not permit researchers to insert their own disks. Library staff monitored use, special disks could lock disk drive slots, and computer manuals accompanying deposit copies may not be photocopied. There was no capacity for researchers to electronically transmit materials outside the Reading Room. The Machine Readable Collections Reading Room has now been closed and its collections have been dispersed to the various reading rooms. but similar security precautions and procedures are being implemented in those reading rooms.

Registration Deposit of CD-ROMs

As publication of CD-ROM’s became more prevalent, the Library desired to increase its CD-ROM collection not only for the use of patrons, but also for improved storage and preservation. On September 19, 1991, the Office amended its regulations for section 408 copyright registration deposit of works fixed in CD-ROM format. The Office would now require the complete CD-ROM package, the accompanying software and instruction manual, and a printed version of the work if available. The Office previously had simply required deposit of identifying portions in lieu of the machine readable works. This amendment clarified that a CD-ROM package, whenever available, is the preferred deposit for works embodied therein both for registration and mandatory deposit. It did not change deposit requirements for automated databases and compilations for works available only on-line or not available in CD-ROM. (For those works, one copy of identifying material in visually perceptible form is still permissible.)

The CD-ROM Agreements

In 1992, representatives of the information and publishing industries approached the Library with concerns about use of CD-ROM’s by library staff and patrons. The Library also had its own set of concerns. The Library already acquired CD-ROMs under license agreements with publishers, it would now receive such copies through mandatory and permissive deposit. The Library is generally unwilling to agree to license terms for use of deposit copies, which it considers to be the property of the Library of Congress. Moreover the Library desired one uniform set of terms; it did not wish to have different terms for a variety of CD-ROM products.

A series of meetings between representatives of publishers and the Library led to conclusion of the CD-ROM agreements in 1993. There are two versions of the agreement, known as the “LC Stand Alone Version” and the “Central File Server Version.” The Central File Server agreement lets the library use CD-ROMS on local area networks in up to five different reading rooms in any of the Capitol Hill buildings of the Library of Congress. With the Stand Alone agreement, the Library gets two CD-ROMs for use in separate units.

Under the agreement, the publisher deposits within 60 days of first publication. Library patrons may search the work and print copies of their search results, but the Library will not use agreement CD-ROMs to provide fee services (customized products). CD-ROMs are kept
in secure areas and handled under supervision of authorized Library staff. CD-ROMs superseded by later versions need not be returned but must be kept separately, and copies not retained must be rendered unusable.

Depositors can choose whether to permit insubstantial downloading; if downloading is permitted, the depositor can require a Library patron to sign a downloading agreement which the Library retains for at least six years. Depositors also choose means of disposal, should the Library de-select these works at a later date - i.e. depositors determine whether the Library may use the work for exchange or donate it to another institution.

These agreements are voluntary: copyright owners who deposit CD-ROMs without an agreement are subject to normal deposit requirements. This means that for registration, the entire CD-ROM package is submitted (one copy, accompanying software, and a printed version if published in both formats), and for mandatory deposit, one copy of the best edition is submitted (including all documentation accompanying the product).

**Maintain Security of Library Collections in Electronic Format**

Recent discussions of copyright issues associated with electronic deposits for library collections have centered on the development of safeguards that would protect the copyright owner and the integrity of the work.

The 1993 Report of the Advisory Committee on Copyright Registration and Deposit (ACCORD) recommended strengthening the mandatory deposit provisions of section 407 to enhance the Library’s collations. The Report noted this would include works publicly disseminated by any means, including transmission programs and on-line databases. Some members of ACCORD supported the Library’s desire to obtain such works, but acknowledged that, especially for works in electronic format such as on-line databases, careful study and safeguards must precede legislative or administrative changes. Concerning “transmission programs” such as radio and television, there was a recommendation to authorize the Library to record off-the-air under regulated conditions as an alternative to demanding hard copies; and to create a process of study and consultation before establishing regulations controlling these procedures and to include in the studies the implications, if any, for on-line databases.

Such discussions are also part of the ongoing discussion about the National and Global Information Infrastructures².

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Appendix D

Conference of Directors of National Libraries

The legal deposit of electronic publications

Collection development - points to consider.

Apply the saline selection criteria as for print publications received through legal deposit, focusing upon items with a similar content and intellectual value to those liable to deposit in print,

Focus initially on materials which are easy to handle, such as standard media types (CD-ROM, CD-I) and formats (ASCII, Postscript), and gradually expand to other formats as experience develops (e.g. on-line publications) and when resources permit.

Focus initially on electronic publications from new publishers. These are unlikely to have print equivalents and therefore cannot duplicate the print collections.

Focus initially on publications from traditional, long-established publishers and gradually develop relationships with other, newer publishers.

Do not take on electronic products which use new electronic publishing media or formats until it is clear that they have a certain future.

Select only those electronic publications which can be acquired and stored locally by the deposit library. Providing access to publications that reside elsewhere does not constitute deposit.

Do not use the data format or publishing medium or durability of the medium as a selection criterion. If the original is in a form the repository is unable to handle, and if appropriate permissions can be granted, transfer the publication to a medium the repository can handle.

If the geographic sphere of coverage is not described in the legislation, consider whether or not to include:

- publications made available within the nation.
- publications for which the publisher/importer/distributor is based within the nation.
- publications relating to the nation, its people or its culture.
- publications selected according to author’s nationality.
- publications falling within the remit of other nations’ legal deposit collections.

(It should be recognised that legal deposit provisions can only apply within the jurisdiction of the legal system. It is not possible to legislate to cover other nations unless the publications are captured through importation.)
For publications produced in print and electronic forms in parallel, decide whether or not there are sufficient differences between them to make it worth acquiring both. For publications produced in two or more electronic versions (e.g. IBM and Macintosh versions, on-line and off-line versions), do the same.

Publications which are frequently updated should in principle be deposited frequently enough to obtain all information contained in them during their lifetime. If the appropriate resources are not available, try to obtain representative samples.
Appendix E

Conference of Directors of National Libraries

The legal deposit of electronic publications

Bibliographic control and record creation - points to consider

Record electronic publications in the national bibliography.

The inclusion of bibliographic records for electronic publications in the same catalogue as other materials is advisable for the convenience of readers. It is important, however, that these publications can be identified in some way so that listings can be produced for preservation and other purposes.

The creation of records should be based on standardised cataloging rules.

Do not create records from scratch if cost effective records can be obtained from elsewhere.

As the legal deposit of electronic publications is a new area which is still developing, it will be a long time before the national library is able to provide records for the majority of the electronic publications available in the national bibliography using its own collections as the basis for this. The inclusion of electronic publications need not depend on their availability in the deposit collection. Seek additional sources of records if it is possible and appropriate to do so.

Add information to the standard bibliographic record or create a separate technical record to:

- list all items accompanying the original publications
- describe the storage format and medium (for the original and/or archival copy)
- provide any necessary instructions about installation
- describe any differences between the archival copy and the original
- register the storage locations of the accompanying material, if it is different from the storage location of the publication.
- register the location of the archival copy.
- give the original network location if the item is an on-line publication.

Assign and record an international registration number (such as ISSN and ISBN) where appropriate.

When creating records for frequently changing electronic publications, treat them as if they are serial publications. An ‘open’ entry should be created for the publication when it is initially published.
Appendix F

Conference of Directors of National Libraries

The legal deposit of electronic publications

Registration process and initial checking - points to consider

Develop deposit guidelines for publishers which explain that:

- electronic publications should be deposited irrespective of whether they are distributed for sale, as part of a subscription, by licensing or without charge.

- electronic publications should be deposited together with all accompanying materials (packaging, documentation, manuals etc.) with which the product is normally sold and/or which are necessary for use of the product.

- if a publication can only be accessed by proprietary software and/or hardware which is normally provided with the publication, such software and/or hardware should be deposited with the publication.

- in view of the expected need for conversion to other media, electronic publications should be deposited without any form of copy-protection.

- the repository’s right to copy the publication for preservation purposes, and the right to provide access to the publication should be confirmed in writing on deposit by the publisher unless those rights are already included in legislation.

- rights obtained by the publisher from third parties to include materials in the publication should not prevent the deposit library from exercising its rights under deposit regulations (e.g. archival copying and on-site consultation).

- if on receipt or at a later stage the publication proves to be incomplete or inoperable, the repository is entitled to obtain a new copy, free of charge.

Apply the same procedures as for print for the logging of receipt, checking of exterior packaging, assigning of accession numbers and claiming procedures.

For large on-line publications, decide whether to request deposit of the publication in an off-line or an on-line form.

Decide whether to request the deposit of a dynamic on-line database before or after it has been withdrawn from the market, bearing in mind that leaving deposit until after it has been withdrawn may be the simplest approach but may lead to less than comprehensive deposit at all stages in its life cycle.
Request all accompanying materials (packaging, documentation, manuals etc.) normally supplied with the publication and/or which are necessary for providing access to the publication.

Request all proprietary software and/or hardware normally supplied with the publication.

Undertake a thorough quality check and functional test of each publication to ensure:

- the item is in an undamaged physical state.
- the item is complete (content, accompanying materials)
- the item is in the format and on the medium requested
- the item works in the specified technical environment
- the item is not copy-protected
- the item is not encrypted
- the item is not designed for machine-specific use
- the software contains no computer viruses.

If the item is unsatisfactory in any way, report the problem to the depositor.

Request sufficient documentary information to enable the repository to migrate the data for preservation purposes.

Try to download subsets of data to see if full-scale downloading will be possible at a later stage for preservation purposes. If the item is copy-protected or encrypted or designed for machine-specific use, pursue with the depositor ways of preserving the content for future generations.

Create a technical record defining the installation procedures and the technical environment, and listing any defects, or functional problems, and any additional information which could be of use at later stages, e.g. for migration of data for preservation purposes or for user access.

Mark each publication to show ownership and to provide a means for future users to check that the publication available at that time is the publication as originally deposited.

Prepare and sign any appropriate agreements with publishers on access control and conditions of use.

Ensure rights obtained by the publisher from third parties, to include certain materials within publications, do not prevent the repository from exercising its rights to provide access under deposit regulations.
Appendix G

Conference of Directors of National Libraries

The legal deposit of electronic publications

Storage - points to consider

Store the electronic publication within the deposit repository.

Store accompanying materials within the deposit repository.

Conduct small experiments in the first instance to assess the management options and costs of various storage and access options, bearing in mind such factors as:

- the amount of use expected.
- the security arrangements required
  (e.g. will the user be permitted to handle the publications?
   If not, on-line access or staff assistance to load and unload items would be options to consider.)
- any stipulations made by copyright holders
  (e.g. that network access is not permitted,
   that obsolete electronic publications should be stored separately from current publications).

Consider the possibility of converting all the data from deposited publications into one or a small number of standard formats. Factors to be taken into consideration:

- is it possible to encourage publishers to publish a small number of specified formats?
- will publishers permit the conversion of their data into a standard format?
- long-term, it is likely to be more economic to maintain and preserve publications if they are stored in a single format than it is to store them in lots of formats. However, significant initial investment is required to establish a single-format storage system.

Store materials in a stable environment. The preferred ranges for temperature and humidity are as follows:

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<tr>
<td>Magnetic media</td>
<td>18C</td>
<td>35-40%</td>
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<tr>
<td>Optical media</td>
<td>18-22C</td>
<td>40-45%</td>
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</table>
Appendix H

Conference of Directors of National Libraries

The legal deposit of electronic publications

Access and retrieval - points to consider

Ensure use is limited to the use allowable under copyright legislation unless the copyright holder has given express permission for additional types of use.

Consider the amount of user support to be given:
- manuals, instructions to be provided, on-line or off-line.
- help desk facilities.

Establish an access policy which sets out what can and what cannot be done. Set out reasonable limits for downloading of information, whether to paper or disc. Ensure that readers are aware of copying limitations imposed by copyright laws.

Set up a secure environment in the form of a designated area for the use of electronic publications received through legal deposit in order to guarantee compliance with copyright and deposit regulations.

Consider the possibility of arranging for any copying and downloading which take place to be handled by staff at the request of the user.

Ensure the workstations used for on-site consultation do not contain user-accessible drives which could be used for making copies or for downloading if copying or downloading are not permitted.

Ensure no downloading of installation or application software takes place.

Ensure that an adequate catalogue is available for use.

Consider the possibility of making available to the user in downloaded form bibliographic information about the deposit items consulted.

Ensure the conditions which apply to the use of deposit items are made clear to all users. Provide written guidance.
Appendix I

Conference of Directors of National Libraries

The legal deposit of electronic publications

Preservation - points to consider

Accept that in the long term it will not be possible to preserve digital artefacts because the digital publishing media on which they were originally made available will deteriorate. The content is all that can be preserved, except in exceptional circumstances. However, even that will not always be easy. Accept that certain interactive, dynamic and presentational aspects of the original may be lost.

Consider the possibility of transferring the content of electronic publications in “linear” form, which are static and non-interactive, to high quality paper or silver-halide microform until techniques for preserving electronic technology have developed further.

To overcome the physical deterioration of the medium, copy data from time to time to new media (a process known as ‘refreshment’).

To overcome the obsolescence of the hardware and software, transfer the data from time to time to new hardware and software configurations (a process known as ‘migration’).

Alternatively, consider the possibility of establishing a system which runs in a new operating environment but emulates a previous, obsolete environment.

For certain, exceptional items, consider the possibility of maintaining the original technology and employing appropriate expertise to make items available in their original form.

Preserve the documentation along with the publication.

Establish cycles of review to determine whether items should be preserved for ever, preserved for a limited time or discarded.