Introduction

On April the 20th, 2017, the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs, on behalf of the National Library of Ireland, published a consultation paper with regard to Legal Deposit of published digital material in the 21st century in the context of Copyright legislation.

The consultation was concerned with obtaining stakeholder views in regard to whether or not the policy in relation to Legal Deposit should include the collecting, preserving and making available of all contemporary publication formats, including online digital formats such as websites. The Department sought views from stakeholders in the library and archives community, publishers and members of the public in the context of the review of the Copyright and Related Rights Act 2000, underway at the Department of Business, Enterprise and Innovation. The consultation asked respondents to respond to three questions as part of the process, in order to obtain views in relation to the policy extension, and related issues.

The closing date of the consultation was the 11th May 2017. The Department received 42 responses to the consultation, which it considers a very substantial response rate. A summary of the key points arising in response to the consultation are provided below.

Extension of Legal Deposit Policy to include all contemporary publication formats

The first question asked by the Consultation was whether or not to extend the policy in relation to legal deposit as it is articulated in legislation at present, to include all contemporary publication formats of Irish interest, including online digital formats. These formats could include websites for example.

93% of responses to this question were strongly supportive, with respondents highlighting the ephemeral nature of online digital material, and the huge threat of its loss, unless institutions such as the National Library of Ireland operating in the cultural heritage area are legally mandated to preserve it. Many respondents also referred to the fact that the history of the 21st century is recorded online, and how the loss of this online information will lead to the loss of ‘significant national documentation’ as well as the loss to researchers of the outputs of research.

A number of responses received from National Libraries in other European countries highlighted the fact that this legislation was already in situ in their own countries, and was in effect a best international practice requirement in this area.

Issues arising if policy extension not provided for.
There was overwhelming agreement that the failure to provide for the policy extension would have serious consequences for academic research and access to information for Irish citizens, and would only lead to an increasing digital black hole. A number of submissions referred to the specific threat to the loss of Irish language publications and the implications of this for the language itself, and another common theme in responses received to this question was the threat to creativity and innovation stemming from our failure to preserve in accordance with best practice the digital content that acts as a driver for these activities.

Overall, 93% of responses specifically highlighted the serious consequences for academic research and access to information for the Irish Citizen if we fail to provide for the policy extension.

**Benefits accruing if the policy extension is provided for**

The provision of ongoing access to information in digital form that facilitates research and understanding of life in the 21st century was overwhelmingly cited by respondents, in response to the third question. The opportunities to innovate and explore new ways of interrogating data as well as recognition of the fundamental principle of the provision of continuing access to information as part of a fully functioning society were also mentioned. There was also reference to the potential for our diaspora to avail of these benefits, as well as specific mention given to the case of government publications and the benefit of systematic preservation of the outputs of government. Submissions received also highlighted the potential benefits to small publishers, if the policy extension were provided for, and also highlighted the fact that digital publishing is now an established publication medium for many.

**Other**

A number of points were raised as part of the submissions process. Respondents mentioned the role of institutions such as libraries as organisations who could continue to collect the cultural heritage of the nation without bias as they do in the print world. There was also recognition of the huge task involved in collecting, preserving and making available contemporary publication formats, and the need for broad consultation across all sectors including publishers and those already engaged in collecting, preserving and making available the published record of Ireland in its various forms.

A number of respondents highlighted the issue of access to material under copyright, and the need for balance between respecting privacy of the individual, the rights of the content creators, and those publishers for whom their content is their economic livelihood. Respondents representing publishers expressed reservations and referred to the need for protection of their member’s copyright and commercial operations, including subscription content, and the need for broad consultation between all stakeholders (e.g. Publishers, Libraries, etc.) in relation to how their digital content would be made available. These two responses out of the forty two received could be considered as being negative responses. However, their objection was not to the principle of enacting legislation for Digital deposit,
but rather how it may affect their commercial interests (i.e. Newspapers operating behind paywalls).