Piero Attanasio

ARROW: The European Rights Information Infrastructure

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Orphan Works & Mass Digitization. Obstacle and Opportunities

www.arrow-net.eu

ICTPSP

ICT POLICY SUPPORT PROGRAMME

Rationale for Arrow

- Initial concept (2005)
  - Book trade enjoy a good, standard based "**book data infrastructure**"
    - Books in Print, Library catalogue, Authority files, ISBN, ONIX and MARC, etc.
  - Moving from print to digital we also need to manage "rights information"
  - Need for a "**rights information infrastructure**"
    - Similar function than commercial data ("price and availability") in the book trade
- Digital library projects as perfect use-case of the concept (2006-7)
  - Transaction costs are very high
  - Use cases emerging

Who we are
Partners and *liaison organisations (in italic)*

- **Libraries**
  - **TEL and *Europeana Foundation***
  - National libraries in France, Germany, Spain, The Netherlands, UK, Norway, Slovenia, Italy, *Finland, Poland*
  - University library of Innsbruck

- **Publishers**
  - **Federation of European Publishers**
  - Publishers associations in Italy, Spain, Germany, Hungary, Portugal, Lithuania, Latvia, *France, UK, Poland, Bulgaria, Romania*

- **Authors**
  - **European Writers Council**
  - *ALCS* in UK

- **Collective management organisations**
  - **IFRRO**
  - **EVA (European Visual Artists)**
  - RROs in Poland, Greece, Spain, Ireland, UK, *France, Germany, Italy, Norway, Denmark, Finland*

- **Technology developers**
  - Cineca (Italy)
  - Di-Tech (Romania)

- **Standard organisations**
  - **Editeur, *ISBN International Agency***
  - ISBN agencies in Italy, Slovenia, Norway, Germany, Portugal, *Finland, France, Poland*
  - *European DOI agency (mEDRA)*
  - Editeur members
  - ISTC consortium members

How Arrow works

- ARROW is a (i) **distributed system** for (ii) **facilitating** (iii) **rights information management** in (iv) **any digitisation programme**, scalable to (v) **further applications**

i. **A distributed system**: a network of data sources made interoperable through use of standards

ii. **Facilitating** implies time saving

- Data from validation survey: Arrow allows 90%+ time saving
- **British Library** survey: using Arrow reduces the search from 4h to 5m per title

iii. **Rights information management**: conceived as a separate function from (though linked to) "rights management"

iv. **Any digitisation programme**: ARROW is conceived to be neutral to legal frameworks and business models

v. **Future applications**: Rights information may be crucial in new digital markets

The Arrow workflow

- A library provides a bibliographic record + the type of use required
- We query four categories of data sources
  - Library catalogues (mainly through TEL)
  - Library authoritative files (mainly through VIAF)
  - Books in print
  - CMO repertoires
- We look for metadata useful to identify:
  - The *book* concerned (matching against authoritative records)
  - The *work* concerned
  - All other books containing the same *work* (clustering phase)
  - The *contributors* that may have rights in the work (author, translator, illustrator, etc.)
  - The *right status* (if in public domain or still copyrighted)
  - The *publisher(s)* that may have rights in the work
  - The *right-ownership* and presence of agents who manage the rights
  - *Contact details* of rightholders or their agents (including collective societies)

Use cases 1 - UK

- A digitization project launched by a private foundation (Wellcome Trust)
  - Not so large (some 10K books)
  - Specialized in one discipline / multinational and multilingual
  - No particular legal background
  - An existing CMO (CLA) provides a license for digitization and make available
- Arrow is a tool used by the CMO to better administer its process
- We provide value as far as we are able to:
  - Reduce the search time
  - Find the rightholders so to ask authorizations
- At the end of the workflow
  - Identification of orphan works

Use cases 2 - France

- New law (Feb 2012) on out of commerce
  - On the basis of a stakeholders agreement (Feb 2011)
  - Very large digitization programme (2M records to be managed by Arrow)
- The National Library (BNF) is called to establish an "out of commerce database"
- A representative CMO (to be appointed) will license OOC works
  - First option to publishers who own the "print" rights
  - Then to third parties
  - Last resort: libraries may make available the work
- Mandatory licensing scheme where rightholders may opt out
- Arrow is here the tool to:
  - Create the out of commerce database (registry)
  - Manage rights claiming and opt out
  - Notifying registered users
  - Identifying publishers to first offer the rights

Transaction costs and role of Arrow in the European debate

- We were born to approach a typical transaction cost problem

- Costs are related to:

  - Search of commercial status

  - Search of rightholders

  - Negotiation with individual rightholders

Solution 1: the EU Directive on orphan works

- In term of transaction costs any regulation on orphan works may be seen as fixing: **Search costs ≤ α**

- The challenge is: determining α as a combination between "diligent" and "reasonable", acceptable by stakeholders

  - Users claim for lower α to decrease costs
  - Rightholders claim higher α to increase certainty ("don't kill the parents")

- The European draft Directive states that concrete search criteria should be established at member state level, after consultation of stakeholders

- Arrow may help through reducing search cost without reducing accuracy

  - Arrow as a consensus facilitator

- N.B.: any law about orphan works only deals with part of the transaction cost issue For this reason, libraries often claim that the Directive is not enough

Solution 2: Memorandum of Understanding on Out of commerce works

- The MoU, signed on Sept 2011, promotes "stakeholders agreements" to deal with rights on out of commerce works, to be included in digital library projects

- It states some key principles:
  - Criteria for determination of out of commerce status
  - Free negotiation with rightholders representatives
  - Presumption of representation for non registered rightholders
  - Best endeavors to inform individual rightholders
  - Opt out allowed

- Arrow may serve this type of agreements
  - Determination of out of commerce status
  - Notification programme to rightholders and management of rightholders' claiming and opt out

- Similar to ECL but includes a search
  - Limited to commercial status and notification to registered rightholders
  - S is lower than with the Directive - S(CS) does not change, but S(RH) decreases

- The scheme reduces the transaction cost due to individual negotiation (N)

Solution 3 - ECL without search

- To avoid search you must include also in commerce works
  - Example: the BokHylla pilot in Norway
- Rationale: search cost = 0, so that 100% of library payment goes to rightholders remuneration
  - Or, said from the opposite viewpoint: costs for libraries are lower at the same level of rightholders remuneration
- Uses must be very limited, in order not to compete with normal exploitation of the work
  - in BokHylla: access only online, no download, no print, only from Norway, etc
  - It is not a matter of respecting the three steps test: no representative CMO will sign an agreement against its members' interest
- No value from Arrow (or alike)
- Is it valuable for users?
  - End users have limited access, though to a broader repertoire
  - Many rightholders may be prepared to license their works for broader uses and at lower prices (also = 0, in CC)

Conclusions

- Voluntary stakeholders agreements (something like an "ECL with search" scheme) may be a way
  - And I think it will be <u>THE</u> European way
- We don't need to make the registration mandatory
  - We started designing the RII as similar to books in print database
  - The countries with mandatory ISBN registration were historically the worst in serving the trade starting from ISBN data

FURTHER INFORMATION

Piero Attanasio
piero.attanasio@aie.it

AIE - Associazione Italiana Editori
Corso di Porta Romana 108
20122 Milano MI
Italy

THANK YOU