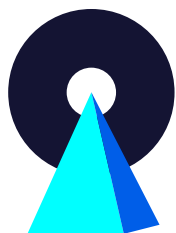


L'essentiel



Access to digital books for individuals with disabilities within the framework of the Copyright Exception : legal obligations for file depositing largely met, special attention required for schoolbooks

The French Intellectual Property Code (CPI) entrusted Arcom in 2022 with the task of facilitating access for disabled individuals to digital books protected by copyright or related rights.

In this context, Arcom drafted a report outlining the state of the copyright exception mechanism in favor of disabled individuals.

Additionally, the Authority established the first assessment of publishers' compliance with the obligation to deposit digital files on the PLATON platform, covering the period from 2010-2022. Out of approximately 1 700 publishers, only twelve failed to meet this obligation during these thirteen years.

The mechanism of the Copyright Exception in favor of disabled individuals

The copyright exception in favor of disabled individuals, as provided in Article L.122-5, paragraph 7, of the CPI, **deviates from the general principle of non-reproducibility of a work without the author's agreement. It allows individuals hindered by their disabilities** (visual impairment, motor disabilities, Dys disorders, etc.) **to consult the work in its original form or to access a book adapted to their specific needs.**

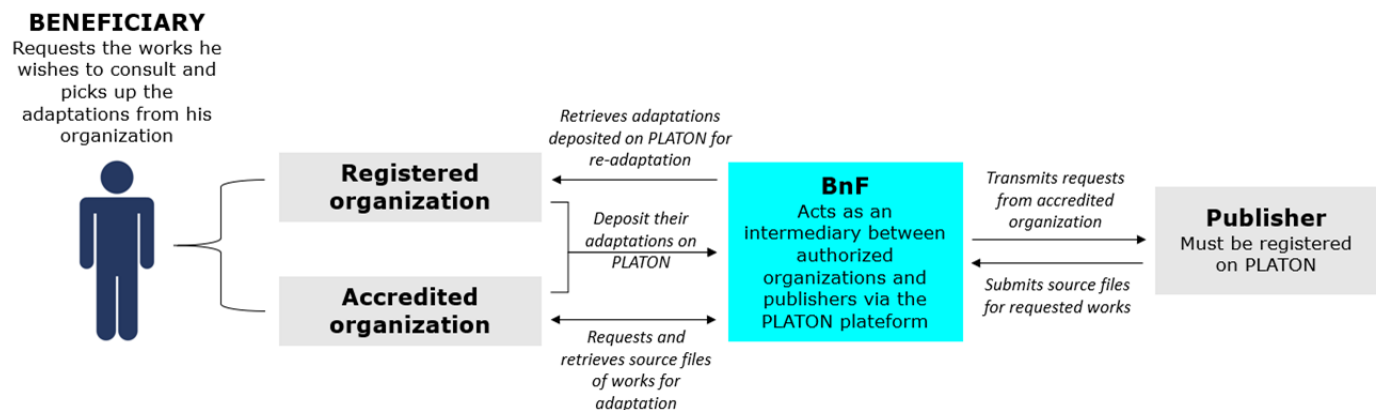
At the heart of this mechanism is **the Digital Works Transfer Platform (PLATON)**, which connects requesters, namely authorized organizations, and publishers. PLATON was developed and is managed by the French national Library (BnF)

In practice, disabled individuals must contact **organizations authorized by the Ministry of Culture and the Ministry of Solidarities and Families** to initiate the copyright exception mechanism and thus access works adapted to their situations.

Two types of authorized organizations are distinguished:

- **Accredited organizations can request the provision of the original digital file** used for the publication of the work through PLATON.
- **«Registered» organizations can only recover adaptations already made by accredited organizations** through PLATON or proceed with adaptations that do not require approval.

Figure 1 : Application of article L.112-5-1 of the CPI



In the case of a request for access to a work not yet adapted to the specific needs of the beneficiary made by an accredited organization, the BnF, through PLATON, turns to the publisher of the work. The publisher must then, **within 45 days following the request, provide a «digital file in a format that facilitates the production of adapted documents» on the platform.**

This obligation to deposit applies to printed works whose legal deposit is after August 4, 2006, and whose request is made within ten years following the date of the legal deposit, as well as all works published in digital book format. The files of schoolbooks published since January 1, 2016, must be automatically and prior to any request deposited on PLATON.

Once the digital file is recovered, the requesting organization performs the adaptation of the work. All adaptations made by the organizations, whether accredited or registered, must be deposited on PLATON.

The consultation of adaptations made by authorized organizations is **strictly personal and reserved for beneficiaries only.**

Mission and role of Arcom

Article L.331-31 of the CPI provides :

- on the one hand, the possibility for legal entities and establishments open to the public referred to in paragraph 7 of Article L.122-5 of the CPI to **refer any dispute relating to the transmission of printed texts in the form of a digital file to Arcom.**
- on the other hand, the possibility to collect from publishers, the BnF and the legal entities and establishments mentioned in paragraph 7 of Article L.122-5 of the CPI any useful documents and information

and, if necessary, to formally notify publishers if it appears they are not respecting their obligations and possibly to make these notifications public.

In 2022, the Authority was not approached with requests for dispute resolution.

Adapting files does not necessarily mean accessibility

According to Article L. 122-5-1 of the CPI, publishers are required to provide files « *in a format that facilitates the production of adapted documents* ». In 2017, the Minister of Culture, through an order, specified the list of accepted formats, **giving preference to the XML format.** In practice, **publishers mainly provide requested files in PDF, XML, InDesign, or EPUB formats.**

However, some of these formats can present difficulties for organizations responsible for making adaptations. **The EPUB 3 format, being easier to adapt, is preferred by these organizations.**

File formats can also prevent the reading of digital books on some reading devices that do not support all file

formats. Furthermore, **digital rights management (DRM) attached to digital files can block the reading of digital books on reading devices.** Thus, the

use of the DRM Radium LCP developed by EDRlab, which ensures the interoperability and accessibility of digital books, is encouraged.

Focus on forms of adaptation

Adaptations made by authorized organisations can take various forms to meet the needs of different disabilities :

- **Data structuring** : files are arranged to facilitate reading, such as enabling enlargement of font size, modifying line spacing, using color codes, highlighting syllables, or searching within the text file. This form of adaptation is particularly appreciated by beneficiaries with Dys disorders.
- **Braille adaptation (paper or digital)** : the sense of touch is used for reading and writing through raised dots representing the alphabet, punctuation, numbers, and other textual characters of a book. In recent years, it has become possible to display text in braille in real-time on the screen of an electronic device using braille displays.
- **Audio adaptation in human voice** : this adaptation mode requires skilled readers (as the narration must be structured and regular) and follows high-quality recording standards. It becomes more complex with dialogues.
- **Audio adaptation in synthetic voice** : this mode allows for large-scale production but has limitations, especially concerning the expression of intonations and emotions.
- **Audio adaptation with text synchronization** : these adaptations contain both an audio version and a textual version of the work, which are synchronized. The text can be displayed on a screen or a braille display. This format is highly appreciated by the DYS community.

About 90% of requests from accredited organizations are satisfied...

Since 2019, the number of authorized organizations to implement the Copyright Exception in favor of people with disabilities has continued to grow. In 2022, there will be 195, compared with 107 in 2019.

The operation of the PLATON system has been increasingly successful : 126 238 requests for digital files were submitted on PLATON from 2010 to 2020, nearly

1 700 publishers are registered on the platform, and the « fund » of available files provided by publishers reached 67 000 in 2022.

Furthermore, in 2022, 90% of the requests submitted to publishers led to the effective delivery of files within an average period of 13 days from the request made by an accredited organization.

Table 1 : Number of files request on PLATON

	Number of requests sent to publishers	Number of titles submitted by publishers	Reply rate
2017	9 754	8 807	90,3%
2018	12 144	10 179	83,8%
2019	11 150	10 183	91,3%
2020	7 976	7 116	89,2%
2021	8 353	7 569	90,6%
2022	6 083	5 483	90,1%

Sources : Activity reports 2017 to 2020 from BnF's Centre Exception handicap, interview with BnF.

Arcom notes, however, that source files for school books, the most popular type of work, are not automatically deposited by their publishers on the PLATON platform, as required by law. Nevertheless, when requested by an ac-

credited organization, publishers promptly upload the digital files of these books to PLATON.

... however, some publishers fail to meet their obligation to deposit digital files on PLATON

About **10% of the requests submitted on PLATON each year remain unanswered** (including refusals, undelivered requests, and certain delays for very old requests).

Publishers invoke various reasons for their non-compliance:

- **Clauses in publishing contracts** with authors of requested works that contradict the obligation to deposit digital files ;

- **Fear of making their files available on illegal sites ;**
- **Internal organizational dysfunctions**, primarily affecting very small and medium-sized enterprises facing a staff shortage to meet requests;
- **Lack of awareness** of the Copyright Exception for disabled individuals or the PLATON platform mechanism.

Initial assessment of publishers' obligations

Arcom conducted the first assessment of its mission to facilitate access for individuals with disabilities to digital books protected by copyright or related rights. From 2010 to 2022, twelve publishers failed to meet their obligation to deposit digital files on the PLATON platform.

After a phase of exchanges and hearings with some of them, Arcom, convened in a plenary session on December 20, 2023, decided:

- To send a **firm reminder letter to one publisher ;**
- To **formally notify one publisher** to comply with the obligation to deposit files on the PLATON platform.

Arcom will pay **particular attention to the situation of the twelve publishers identified as failing to meet their obligation for the year 2023.**

Key points to remember :


- The Copyright Exception in favor of individuals with disabilities allows for **deviation from the general principle of non-reproducibility of a work without the author's consent**, enabling **individuals hindered by their disabilities to consult the work in its original form or access a book adapted to their specific needs.**
- The **PLATON platform**, managed by the BnF, **acts as a relay between authorized organizations and publishers**, who must deposit the digital files of the requested works within 45 days.
- Adapters of files **favor the EPUB 3 format**, which is easier to adapt.
- In 2022, **90% of requests were honored**, and 5,483 files were deposited on PLATON by publishers. ARCOM identified only **12 publishers who failed to meet their obligation to deposit digital files.**

For further reading: www.arcom.fr

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