

Controlled Digital Lending: Unlocking the Library’s Full Potential



EXECUTIVE SUMMARY

For many, libraries are a more trusted source of information than government, news, and social media.¹ As physical spaces closed in response to the pandemic and communities turned more to digital resources to access knowledge, libraries moved to meet the challenge with new digital initiatives. Through a process called “controlled digital lending” (CDL), libraries can amplify what they do best by meeting communities where they are—both physically and digitally.

Controlled digital lending works exactly as the name implies: it is a controlled, digital form of the traditional library lending system. Under CDL, libraries generally lend digitized versions of print materials from their collections, strictly limiting them to a single digital copy per physical copy owned—a one-to-one “owned-to-loaned” ratio. If a library owns two physical copies of *The Giving Tree*, it only loans out two copies at any time, whether physically or digitally. This maintains the same limits as traditional book lending but enables access digitally. Digital access is especially important for those who live or work far from their closest library or whose work, childcare, or school schedules make physical access during business hours challenging.

Communities rely on libraries to serve as a hub for education and knowledge. CDL (1) drives economic efficiency by maximizing returns on tax dollars, (2) expands reliable and equitable education, (3) promotes civil rights for marginalized communities, and (4) improves access through digitization.

Congress should support their communities by empowering libraries to serve as a meaningful access point for these publicly funded collections by:

- Supporting legislation that codifies the practice of CDL by libraries.²
- Encouraging funding through grant programs and other incentives to facilitate CDL.
- Promoting the development of a federal, centralized set of digital materials for use in CDL programs.³

BACKGROUND

CDL amplifies libraries’ role as an important community resource. While some libraries allow digital access through CDL programs,⁴ others face roadblocks that impede digital access. These roadblocks include publishers’ opposition, uncertainty from pending litigation,⁵ burdensome licensing terms, and a lack of funding to create the infrastructure needed to implement CDL.

¹ Next Libraries, [In Libraries We Trust](#) (2018).

² Congressional Research Service, [COVID-19 and Libraries: E-Books and Intellectual Property Issues](#) (2020).

³ Wu, Michelle M., "[Shared Collection Development, Digitization, and Owned Digital Collections](#)" (2019).

⁴ EveryLibrary, [How CDL Makes an Entire College Library Available to Everyone Everywhere](#) (2020); Caralee Adams, [Howard University Joins Open Libraries](#) (2021).

⁵ Hachette Book Group Inc. v. Internet Archive, [Complaint](#) and [Answer](#) (2020).

Some authors and publishers are not on board with CDL and obstruct libraries' ability to provide digital content in the way they have always provided print content. Relying on mischaracterizations about CDL, some stakeholders in these communities oppose CDL.⁶ This misplaced opposition can deter implementation because of libraries' need for a continued relationship with publishers and desire to be perceived as supportive to authors.

Libraries, like most organizations, understandably fear litigation because rightsholders have demonstrated a willingness to go to court using long-drawn-out litigation against reasonable library functions.⁷ It is worth noting that libraires have historically won these challenges, and this helps solidify the continuance of the library mission in the digital environment. However, it takes a long time and substantial resources to win. Although many libraries understand the benefits of CDL for their patrons as well as the strong legal arguments supporting it,⁸ there is a pending lawsuit focused on CDL presently. Codifying CDL allows libraries to redirect resources that would otherwise be spent fighting challenges to providing better services for their communities.

At its core, CDL allows libraries to preserve the significant fiscal and legal value in the collections they have built over the decades. CDL increases access to the works that libraries have already acquired and control. In this way, libraires continue to provide access to these materials that they own without any restrictions or limitations, utilizing their limited resources for increasing access for their communities in the digital space.

Finally, CDL increases libraries' efficiency, but not all libraries have the assets to get started. Some libraries do not have the funds required to independently implement CDL, let alone defend a multiyear lawsuit if they did. These libraries need additional funding to implement CDL and bring the benefits of digitization to their communities.

A bill codifying CDL addresses libraries' hesitation to move forward with CDL against opposition from publishers and allows libraries to avoid sinking resources into the burdensome licensing system. Further, funding initiatives and a centralized set of digitized resources both work to resolve the hurdle of the initial investment required to capitalize on CDL's benefits.

BENEFITS OF CONTROLLED DIGITAL LENDING

CDL Maximizes **ECONOMIC Efficiency and Opportunity for Communities**

Libraries are well-established community investments that promote economic development, improve literacy, and support small businesses.⁹ CDL gives taxpayers an excellent return on their dollars by supporting efficient and equity-promoting digital services without disrupting the business relationship that currently exists between libraries, publishers, and authors.

- **Delivers a Better Return on Investment for Taxpayers.** Libraries are consistent bulk book purchasers. A substantial portion of library budgets is spent on collection

⁶ Internet Archive, [Mythbusting Controlled Digital Lending](#) (2021).

⁷ [Authors Guild, Inc. v. Hathi Trust](#) (2d Cir. 2014); [Cambridge University Press v. Becker](#) (N.D. Ga.2020);

⁸ David Hansen & Kyle K. Courtney, [A White Paper on Controlled Digital Lending of Library Books](#) (2018).

⁹ Urban Libraries Council, [Public Library Contributions to Local Economic Development](#) (2007).

development.¹⁰ CDL makes these collections—which taxpayers have already paid for—available digitally.¹¹ Giving patrons the option to choose between a print and digital version maximizes the value of their initial investment.

- **Promotes Equity Through Efficient Digital Services.** For many communities, libraries are critical access points for digital resources.¹² CDL levels the field by allowing libraries in under-served communities to tap into the resources of libraries in wealthier communities.¹³ Further, libraries that lack resources to digitize materials they own can leverage digitized versions from well-resourced libraries mirroring physical copies in their own collections. Through this resource sharing, CDL brings the economic benefits of libraries to the communities most in need.
- **Maintains Traditional Business Relationship between Libraries and Publishers.** Historically, libraries have been major book purchasers. This remains true for libraries who use CDL.¹⁴ CDL does not replace the need to maintain current physical collections or to continue purchasing new works but rather serves to make existing collections available to more readers. Research suggests that print sales increase for books that are digitally available,¹⁵ so impact on publishers and authors is likely to be positive.

CDL Promotes Equitable and Dependable EDUCATION

Promoting education is at the heart of every library’s mission. From children getting their first books, to students exploring their coursework, to adults learning new skills, libraries play an essential role in education and development for people of all ages. CDL better positions libraries as powerful educational resources even when physical access to the library is unavailable or impractical while also solidifying the library’s role as an essential steward of knowledge.

- **Positions Local Libraries as a Resource for Schools Without Libraries.** Libraries provide resources that help young people hone reading and critical thinking skills.¹⁶ However, students attending schools that lack a well-resourced library¹⁷ miss out on these benefits.¹⁸ CDL presents local libraries the opportunity to support under-served schools by making books more easily available to students—in and beyond the classroom.¹⁹
- **Mitigates Inequity in Education During a Pandemic or Natural Disaster.** The COVID-19 pandemic revealed and exacerbated class inequalities related to access to

¹⁰ Institute of Museum and Library Services, [Minnesota Public Libraries’ Return on Investment](#) (2011).

¹¹ ALA, [Library Operating Expenditures: A Selected Annotated Bibliography](#) (2015).

¹² ALA Report, [After Access: Libraries & Digital Empowerment](#) (2015).

¹³ Joanna Sei Ching, [Disparities in Public Libraries’ Service Levels Based on Neighborhood Income...](#) (2009).

¹⁴ Kyle K. Courtney & David Hansen, [A White Paper on Controlled Digital Lending of Library Books](#) (2018).

¹⁵ Abhishek Nagaraj, [Digitization and the Demand for Physical Works](#) (2019).

¹⁶ Jaqueline Mancall, [Educating Students to Think: The Role of the School Library Media Program](#) (1986).

¹⁷ American Library Association, [School Libraries](#) (2019).

¹⁸ Debra Kachel, [The Calamity of the Disappearing School Libraries](#) (2015); Cayla Bamberger, [As COVID-19 Budget Cuts Loom, Relevance of School Librarians Put to the Test](#) (2020).

¹⁹ Lisa Petrides, [Why Controlled Digital Lending Matters to Schools](#) (2018).

education.²⁰ With many students learning remotely, access to resources at home became even more essential for academic success. Students most in need often rely heavily on libraries but are unable to access physical resources. CDL makes these resources accessible digitally and mitigates inequalities that arise from learning remotely.

- **Improves Reading Outcomes Through Digital Books.** Studies show that digital reading materials have positive effects on reading skills, enjoyment of reading, and frequency of reading.²¹ CDL makes digital reading easier by helping young readers discover avenues to engage with existing library resources and build fundamental skills.

CDL Improves the **CIVIL RIGHTS Function of Libraries**

Libraries protect civil rights and promote democratic values by ensuring that reliable information is accessible to all and preserving community voices so that available knowledge reflects a diversity of experiences. CDL solves challenges facing these functions by securing robust access for disabled people, allowing broad access to reputable information, and protecting the culture and history of underrepresented communities, all while safeguarding patron privacy.

- **Combats Misinformation and Ahistoricism.** Libraries support democratic society as longstanding keepers of reputable information.²² Libraries house important cultural, historical, and empirical information, and CDL allows the public to access this reliable information more easily by using the same medium that is used for misinformation. In recent years, online misinformation has become rampant,²³ and it is more essential than ever for everyone to have access to reliable sources of information.
- **Strengthens Accessibility for People with Disabilities.** Books are not always accessible to people with disabilities.²⁴ Print resources present challenges for people with print disabilities,²⁵ and licensed digital content is often tied up by terms limiting libraries' ability to provide an accessible version.²⁶ Would-be library users with physical disabilities may also find it prohibitive to travel to the library or hold a print book, and those who are neurodiverse may be sensitive to the bright lights of a library environment.²⁷ CDL accommodates print disabilities with assistive technology to remove readability barriers and removes the need to travel to a physical library.
- **Protects Culture and History of Marginalized Groups.** Libraries play an important role in preserving historical and cultural works of marginalized groups, such as Native communities.²⁸ CDL does so more effectively by protecting resources while amplifying content. For example, Jamestown S'Klallam Tribal Library in Washington worked to

²⁰ Economic Policy Institute, [COVID-19 and Student Performance, Equity, and U.S. Education Policy](#) (2020).

²¹ Irene Picton, [The Impact of ebooks on the Reading Motivation and Reading Skills of Children...](#) (2014).

²² Argyri Panezi, [A Public Service Role For Digital Libraries...](#) (2021).

²³ Data & Society, [Media Manipulation and Disinformation Online](#) (2017).

²⁴ We use this terminology consistent with guidance from the [American with Disabilities Act National Network](#).

²⁵ Laura C. Wood et al., [Libraries Take Aim! Accessible Instructional Materials and Higher Education](#) (2017).

²⁶ ARL, [Report of the ARL Joint Task Force on Services to Patrons with Print Disabilities](#) (2012).

²⁷ Joanne Kaeding, [Public Libraries and Access for Children with Disabilities and Their Families](#) (2017).

²⁸ Caralee Adams, [Digitization Saves Marygrove College Library After Closure](#) (2020).

preserve the history of Native American tribes of the Pacific Northwest through a digital collection the tribal community can access from anywhere.²⁹

- **Safeguards Patron Privacy.** Protecting patron privacy is a core value of libraries.³⁰ Each state has a law that protects the confidentiality of a patron’s library records.³¹ However, the statutes are specific to libraries and do not apply to third parties. So, when libraries license books through third-party vendors, the ability for librarians to protect the patron data is taken out of their hands. The vendors frequently employ technology that collects patron data when the patron accesses a book or other material.³² Through CDL, libraries regain control of digital lending and can implement policies to ensure patron’s privacy is always protected.

CDL Democratizes Knowledge By Expanding ACCESS

Libraries are an access point for knowledge. Building capacity through a flexible physical-digital approach realized by CDL expands the reach of libraries without sacrificing existing services. This approach enables libraries to provide more titles in a digital format to a greater geographic area while working to preserve materials even if physical copies are damaged.

- **Circulates More Titles Digitally.** Even in the age of the Internet, many resources can be difficult or impossible to access digitally. Some books that are out-of-print, old, or rare can only be accessed in the library because these books are often not circulated.³³ As long as books remain accessible only in physical form, the audience is limited.³⁴ CDL makes these books available digitally and allows a broader audience to access resources.
- **Expands Community Access to Library Collections.** Not every community is fortunate to have access to a nearby library. For Native, rural, and low-income communities, the nearest library may be too far away to serve as a practical resource.³⁵ By removing the physical barriers to access, the geographical impact of every library can be more widespread and more people can have access to a local library—digitally.
- **Preserves Access to Books and Knowledge.** All library materials, old and new, should be preserved to prevent the loss of knowledge. Libraries have historically served that role with physical books, but those books can still be lost, weathered or destroyed.³⁶ Through the process of digitizing books for CDL, libraries create digital archives of books so patrons can access knowledge, even if the books are physically destroyed.³⁷

²⁹ Derek Kilmer, [Jamestown S’Klallam Library Wins National Medal for Museum and Library Service](#) (2019).

³⁰ ALA, [Privacy and Confidentiality: Library Core Values](#) (2017)

³¹ ALA [State Privacy Laws Regarding Library Records](#) (2020)

³² Laura Hautala, [What e-books at the library mean for your privacy](#) (2019).

³³ Paul Heald, [How Copyright Keeps Works Disappeared](#) (2013).

³⁴ Every Library, [What CDL does to Make Every Book Available](#) (2019); Dan Cohen, [The Books of College Libraries Are Turning Into Wallpaper](#) (2019); Richard Edwards, [High Cost of Scholarly Journals](#) (2009).

³⁵ Margaret Barthel, [D.C. Public Library Wants To Build Bigger Neighborhood Branches In Communities Without Easy Access](#) (2020), Susan K Burke, [The Use of Public Libraries by Native Americans](#) (2007), Debby Warren, [Rural Libraries Take on Growing Role of Agents of Inclusion and Change](#) (2019).

³⁶ Roy Rosenzweig, [Scarcity and Abundance? Preserving the Past in a Digital Era](#) (2003).

³⁷ FEMA, [University Of Houston O’Quinn Law Library Eligible For \\$21.4 Million In FEMA](#) (2001).

CONCLUSION

CDL takes what libraries do well and makes them even better. Libraries are an economic boost to communities, and CDL maximizes that by making the lending system more efficient and equitable. CDL also bolsters education by supporting learning from anywhere. With CDL, knowledge is accessible, and our sources of knowledge reflect all experiences. Quite simply, CDL ensures that more people have access to more books, all while respecting the authors' rights. For these reasons, we ask that you support legislation that codifies CDL and programs that facilitate CDL through funding and a centralized set of digital resources.

Library Futures Foundation (LFF) is a non-profit 501(c)(4) organization focusing on increasing equitable access to knowledge by championing legislative change and policy that empowers the modern library mission.