



Modernisation of EU copyright rules

**Presentation of the copyright
package adopted on 14/09/2016**

Background

- **Digital Single Market Strategy** (May 2015): need to address in the EU copyright framework the key obstacles to the functioning of the DSM
- **Commission's Communication on the modernisation of the EU copyright framework** (December 2015): targeted actions and long-term vision
- **Proposal for a regulation on cross-border portability of online content services** (December 2015) – ongoing discussions in Council and EP
- **Second copyright package** adopted on 14 September 2016

Copyright modernisation package adopted on 14 September

- 4 legislative proposals and an accompanying Communication:
 - ✓ Regulation on online transmissions and retransmissions of TV and radio programmes
 - ✓ **Directive on copyright in the Digital Single Market**
 - ✓ Implementation of the Marrakesh Treaty for people with print disabilities through a Directive and a Regulation

Directive on copyright in the DSM

Main objectives:

- 1) Modernising EU rules on key exceptions and limitations in the areas of research, education, and preservation of cultural heritage**
- 2) Facilitating licences in order to ensure wider access to content
- 3) Introducing fairer rules of the game for a better functioning copyright marketplace**

1 - Modernisation of exceptions

Context

- The beneficiary of the exception is authorised by law to use protected content without the need to seek prior authorisation from right holders
 - Harmonisation of a certain number of exceptions in the existing EU copyright legal framework – but most of them are optional for MS
 - Reform: focus on exceptions which are relevant for access to knowledge and which have a significant cross-border dimension
- **Introduction of new mandatory exceptions**

1 - Modernisation of exceptions

Scope of the new exceptions

- Exception for **digital uses of protected content to illustrate teaching**, including across borders → to provide full legal certainty to educational establishments and teachers
- Exception for **text and data mining** → to allow research organisations to use new automated technologies to analyse large sets of data for scientific research in all legal certainty
- **Preservation** exception → to allow cultural heritage institutions to make copies (including digital) of protected works for preservation purposes
- Scope, conditions and beneficiaries of the new exceptions defined taking account of the impact on the licensing market

2 - Facilitating licences

Out-of-commerce works

- Legal framework to help cultural heritage institutions to digitise and make available across borders **out-of-commerce works**
 - Objective: reduce transaction costs in mass digitisation projects
 - Member States to introduce the possibility of extended collective licensing or presumption of representation for licensing OOC works for non-commercial uses
 - Safeguards for right holders: possibility to opt-out; publicity requirements
 - Cross-border effect
 - Stakeholders' dialogue to facilitate the use of such mechanisms for different categories of works

2 - Facilitating licences

Negotiation mechanism

- Negotiation mechanism to be set up by Member States to facilitate the **licensing of films on VoD platforms**
 - Objective: improve the availability of European audiovisual works on VoD platforms
 - Negotiation mechanism open to parties (VoD platform, producers, distributors) wishing to conclude an agreement, on a voluntary basis
 - Member States to identify or create an impartial body with relevant experience to provide assistance with negotiation and help reaching licensing agreements
- Additional measures in the context of the Creative Europe programme

3 –A better functioning copyright market place

Rights in publications

- Introduction of a **new related right for publishers of press publication** (art. 11)
- Possibility for Member States to consider that transfers of authors' rights or licences allow publishers to receive a share of **the compensation for the uses of works under exceptions** (art. 12)

A new related right for publishers of press publications

- **Background**

- Shift from print to digital: sustainability of publishing industries at stake
 - Publishers of press publications face difficulties in licensing, enforcing, recouping their investments in the digital environment
 - General decline of publisher's revenues stream in the press sector
- Need of a free and pluralist press to ensure quality journalism and citizen's access to information

Impact assessment p.155 – Annex 13 / **Recital 31**

A new related right for publishers of press publications

- **Objectives**

- Recognition of the organisational and financial contribution of press publishers (// with other creative sectors)
- More efficient licensing mechanism
- More efficient enforcement of rights

= Clearer legal framework to test new business model + stronger bargaining power of the press industry in the digital environment

= Ensure viability of an independent and high quality press (media pluralism- democratic debate)

A new related right for publishers of press publications

- **Protected subject matter**
 - "Press publications" – **art. 2 (4) / Recital 33**
- **Exclusive rights granted**
 - Reproduction and making available for the digital use of the press publications (art.2, art. 3(2) Infosoc) – **art. 11 (1) / Recital 34**
- **Exceptions**
 - Same exceptions and limitations as those applicable to the rights (art.2, art. 3(2) Infosoc) - **art. 11 (5) / Recital 34**

A new related right for publishers of press publications

- **Relationship with authors' rights**
 - Authors-Publishers: authors' authorization still needed
 - The right does not affect author's ability to exploit his work independently - **art. 11 (2) / Recital 35**
- **Term of protection**
 - 20 years - **art. 11 (4)**

3 – A better functioning copyright market place

Use of protected content by user uploaded content services

- New rules requiring that **online services providing access to large amounts of content uploaded by users** put in place appropriate measures (such as content recognition technologies) and cooperate with right holders:
 - to ensure the functioning of agreements concluded with right holders
 - or to prevent the upload of works which have been identified by right holders
- Objective: allow right holders to better control the use of their content and to negotiate on a fairer basis with players which have become important content distributors

Use of protected content by UUC services

- The obligation of measures targets online services storing and giving access to large amounts of protected content **uploaded by users without the involvement of right holders**
- **No specific measures or technologies imposed** but need to be appropriate and proportionate - i.e. cannot be unnecessarily complicated and costly, allowing to take into account the nature of specific services
- **Safeguards for uploaders in case of unjustified removals of content:** services to put in place a redress mechanism

No change to the notion of communication to the public, nor to the e-commerce directive.

3 – A better functioning copyright market place

Remuneration of authors and performers

- New rules to ensure **increased transparency to authors and performers** on the exploitation and remuneration of their works and help them to obtain appropriate remuneration
 - Obligation for the direct contractual partner of authors and performers to share information on modes of exploitation and corresponding revenues
 - Contract adjustment mechanism when the agreed remuneration turns out to be disproportionate to the success of a work
 - Dispute resolution mechanism for disputes concerning transparency obligations and contract adjustment mechanism

Thank you for you attention

Questions & Answers

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