



COPYRIGHT for CREATIVITY
A Declaration for Europe

Mr Andrus Ansip
Vice-President, Digital Single Market
European Commission
Rue de la Loi 200
1049 Brussels

Brussels, 29 April 2015

Open letter on modernising copyright in the Digital Single Market

Dear Vice-President Ansip,

As the European Commission is preparing its Digital Single Market Strategy, including its review of the copyright legislative framework, Copyright for Creativity (C4C) would like to share the views and concerns of its stakeholders, which include libraries, scientific and research institutions, consumers, digital rights groups, technology businesses and educational institutions:

- **Preserving the Freedom to Link:**

Hyperlinking is one of the most fundamental and basic activities of Internet use (by sharing a link on social media, making comments, writing a blog, etc.). The provision of a link pointing to a work or other subject matter protected by copyright should under no circumstances be subject to the authorisation of the rightholder, nor should it induce liability, as the content to which a link points can be changed at all times.

- **Ensuring Rights granted through Exceptions & Limitations are not taken away by contracts or technical measures:**

Exceptions and limitations are fundamental components of the copyright framework: not only are they crucial for innovation, but also for ensuring copyright complies with the European fundamental rights, including freedom of speech. This balanced approach to copyright is in danger if private companies can deny the benefit of these rights to users through contractual terms or technical measures.

- **Ensuring the Exceptions and Limitations list is future-proof by adding an Open Norm:**

By adding an open norm based for example on the three-step test of the Berne Convention and by allowing the list of exceptions to be applied to 'similar uses' the legislator will create sufficient flexibility for a judge to interpret these exceptions and future behaviours in light of technological developments.

- **Creating a Harmonised Framework in the Digital Single Market:**

Establishing mandatory exceptions and limitations is crucial to create a true Digital Single Market, where the same rules apply to all citizens and market participants in the Union. Not doing so makes it harder for companies to launch Europe-wide services, deprives citizens in some member states of access to services that are available elsewhere in the EU and hampers collaboration across borders. In the field of science, research and scholarship this means that researchers have difficulties working together and sharing knowledge across borders and inter-library document supply services in

support of science and culture are hindered across borders. All of this puts Europe at a **competitive disadvantage** compared to other economies.

- **Adopting a Meaningful Exception for Text and Data Mining:**

A harmonized exception on text and data mining for commercial and non-commercial purposes will ensure a level playing field for European researchers (amongst Member States as well as in a global context), make Europe more competitive, and maximise the return on investment of public money.

- **Adapting Exceptions in order to allow Science, Education, Libraries and Cultural Heritage institutions to enter fully into the 21st Century:**

These institutions are tasked with a public interest mission, but are currently facing multiple barriers in fulfilling their tasks using new technologies. Digitisation of archives, lending of e-books (e-lending), digital teaching and massive open online courses (MOOCs), are only some of the initiatives which need to be enabled and promoted through the adoption of clear and harmonised exceptions. In particular, the existing outdated system of exceptions in favour of education and science should be replaced by a single comprehensive clause in favour of free (not necessarily cost-free) access to and use of the published knowledge. In addition the existing exceptions benefitting cultural heritage institutions should be updated to enable online access to out of commerce works held by such institutions.

- **No further extensions of the scope of copyright:**

Extensions, such as the so-called ‘ancillary copyright’ are causing legal uncertainty for digital innovators and publishers alike, and the European institutions should stop them.

We thank you in advance for taking our views into consideration and remain at your disposal for further discussion on this important issue.

Kind regards,

Caroline De Cock, Copyright for Creativity

cc:

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Commissioner Elżbieta Bieńkowska
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