Copyright in the digital single market

2016/0280(COD) - 12/09/2018 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted by 428 votes to 226, with 39 abstentions, **amendments** to the proposal for a directive of the European Parliament and of the Council on copyright in the Digital Single Market.

The issue was referred back to the committee responsible for institutional negotiations.

The main amendments adopted in plenary concerned the following issues:

Protection of press publications concerning digital uses: the Directive shall create new rights to provide publishers of press publications so that they may obtain fair and proportionate remuneration for the digital use of their press publications by information society service providers. The rights shall not prevent legitimate private and non-commercial use of press publications by individual users.

The rights shall not extend to **mere hyperlinks which are accompanied by individual words**. These rights shall expire 5 years after the publication of the press publication.

The amended text stipulates that Member States shall ensure that **authors** receive an appropriate share of the additional revenues press publishers receive for the use of a press publication by information society service providers.

Use of protected content by online content sharing service providers: online sharing platforms perform an act of communication to the public and shall be responsible for the content and shall therefore conclude **fair and appropriate licensing agreements** with rightholders.

Member States shall also ensure that users have access to an **independent body** for the resolution of disputes as well as to a court or another relevant judicial authority to assert the use of an exception or limitation to copyright rules.

As of the date of entry into force of this directive, the Commission and the Member States shall **organise dialogues** between stakeholders to harmonise and to define best practices and issue guidance to ensure the functioning of licensing agreements and on cooperation between online content sharing service providers and right holders for the use of their works or other subject matter within the meaning of this Directive. When defining best practices, special account shall be taken of fundamental rights, the use of exceptions and limitations as well as ensuring that the burden on SMEs remains appropriate and that automated blocking of content is avoided.

Member States shall establish or designate an impartial body with the necessary expertise, with the aim of helping the parties to settle their disputes under this system.

Principle of fair and proportionate remuneration: Member States shall ensure that authors and performers receive fair and proportionate remuneration for the exploitation of their works and other subject matter, including for their online exploitation. This may be achieved in each sector through a combination of agreements, including collective bargaining agreements, and statutory remuneration mechanisms. Contracts shall specify the remuneration applicable to each mode of exploitation.

Member States shall ensure that authors and performers receive on a regular basis, **not less than once a year**, **timely, accurate, relevant and comprehensive information** on the exploitation of their works and performances from those to whom they have licensed or transferred their rights, notably as regards modes of exploitation, direct and indirect revenues generated, and remuneration due.

Negotiation rights of authors and performers: the amended text strengthens the negotiation rights of authors and performers. It allows them to claim **additional remuneration** from the party with whom they entered into a contract for the exploitation of the rights when the remuneration originally agreed is disproportionately low compared to the subsequent relevant **direct or indirect revenues** and benefits derived from the exploitation of the works or performances.

Member States shall ensure that where parties wishing to conclude an agreement for the purpose of making available **audiovisual works on video-on-demand platforms** face difficulties relating to the licensing of audiovisual rights, they may rely on the assistance of an impartial body with relevant experience. The impartial body created or designated by the Member State for the purpose of this Article shall provide assistance to the parties with negotiation and help them to reach agreement.

To encourage the availability of audiovisual works on video-on-demand platforms, Member States shall foster dialogue between representative organisations of authors, producers, video-on-demand platforms and other relevant stakeholders.

Adapt exceptions and limitations to the digital and cross-border environment: the measures provided for would oblige Member States to provide for exceptions to the general copyright rules for reproductions and extractions of works or other subject-matter to which research organisations have lawful access and made in order to carry out text and **data mining for the purposes of scientific research by such organisations**.

Educational establishments and cultural heritage institutions that conduct scientific research should also be covered by the text and data mining exception, provided that the results of the research do not benefit an undertaking exercising a decisive influence upon such organisations in particular.

Access to Union publications: any electronic publication dealing with Union-related matters such as Union law, Union history and integration, Union policy and Union democracy, institutional and parliamentary affairs, and politics, that is made available to the public in the Union shall be subject to a Union Legal Deposit.