

**May 2017**

Digital technologies have radically changed the way creative content is accessed, produced and distributed. EU internet users increasingly listen to music, watch videos and play games online. The new digital environment has an impact on both users and the creative industries, and represents a challenge to the implementation of coherent copyright legislation throughout the EU. On 14 September 2016, in line with the [Digital Single Market strategy](#), the European Commission presented a legislative package for the [modernisation of the EU copyright rules](#) including a new [directive on copyright in the Digital Single Market](#), a new [regulation on copyright and related rights for online transmissions and retransmissions of television and radio programmes](#) and two texts relating to the [implementation of the Marrakesh Treaty](#) and its [cross-border effect](#). Copyright issues are also addressed in the new [regulation on Geo-blocking and other forms of discrimination](#) published on 25 May 2016 and in the new [regulation on Cross-border portability of online content services](#) published on 9 December 2015.

### [Copyright in the digital single market - EU Legislation in progress](#)

*EU Legislation in Progress Briefing, Madiaga T., November 2016*

On 14 September 2016, the European Commission presented a legislative package for the modernisation of the EU copyright rules, including a new directive on copyright in the digital single market. The proposal aims at further harmonising the EU copyright framework taking into account the increasing digital and cross-border uses of protected content. Stakeholders and commentators are strongly divided on the proposal. Much of the debate focuses on the creation of a new neighbouring right for press publishers, the measures imposed on platforms storing and giving access to user-uploaded content, and the scope of the new text- and data-mining exception.

### [Modernisation of EU copyright rules: Initial Appraisal of a European Commission Impact Assessment](#)

*Briefing, Eisele K., Tack N., December 2016*

This briefing concludes that the impact assessment (IA) accompanying the Commission proposals for the modernisation of the EU copyright rules clearly defines the underlying problems and the objectives of the proposed initiatives. The Commission consulted widely and the IA appears to have analysed a broad range of options and their impacts on all relevant stakeholders. However, the IA, which is very dense, is based on limited quantitative data, which the Commission openly acknowledges. Also, the IA could have given more guidance on the coherence of the proposed acts with the E-Commerce Directive.

### [EU Legislation in Progress: Geo-blocking and discrimination among customers in the EU](#)

*Briefing, Madiaga T., July 2016*

The Commission has proposed a regulation which would prohibit traders from blocking access to their online interfaces to customers in another Member State or from automatically re-routing them to a different website for reasons related to the customers' nationality, place of residence or place of establishment. Foreign customers should be offered the same terms and conditions as local customers. However, audiovisual services would not be covered, with the Commission proposing to address them under the forthcoming copyright reform. While the proposal has been broadly welcomed, a number of specific issues have been raised by stakeholders and scholars.

### [Cross-border portability of online content services in the internal market: Initial Appraisal of a European Commission Impact Assessment](#)

*Briefing, Eisele K., March 2016*

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This briefing seeks to provide an initial analysis of the strengths and weaknesses of the European Commission's Impact Assessment (IA) accompanying the proposal for a Regulation to ensure the cross-border portability of online content services in the internal market, adopted on 9 December 2015. Further legislative proposals in the field of copyright are expected in 2016. Thus, rather than proposing a comprehensive reform of copyright legislation, which has long been on its agenda, the Commission is pursuing a somewhat piecemeal approach to the exercise.

### **Cross-border portability of online content services**

*EU Legislation in Progress Briefing, Madiaga T., April 2017*

The provision of copyright-protected online content services is still largely characterised by territorial and exclusive licensing practices which result in a lack of cross-border portability in the EU. To remedy this, the Commission proposed a regulation on the cross-border portability of online content services. According to the proposed regulation the provision of online content services would be deemed to take place only in the country in which the subscriber is a permanent resident. This would require online content service providers to offer cross-border portability to their customers when they are temporarily present in other Member States.

### **EU copyright reform: revisiting the principle of territoriality**

*Briefing, Madiaga T., September 2015*

Copyright protection is territorial since rights are normally acquired and enforced on a country-by-country basis. However, the new digital environment increasingly characterised by the use of the internet to deliver content across borders has an impact on both users and the creative industries, and represents a challenge to the implementation of coherent copyright legislation throughout the EU. A key issue for policy-makers to address is how to mitigate the hindrance to the internal market caused by territorial protection of copyright. This briefing presents the several approaches that have been discussed in this respect with regard to tackling geo-blocking practices, extending the scope of the Satellite and Cable Directive, and further harmonising throughout the EU the exceptions and limitations.

### **Review of the EU Copyright Framework: European Implementation Assessment**

*European Implementation Assessment Study, Reynolds S., October 2015*

This European Implementation Assessment is divided into an Ex-Post Impact Assessment study and three EU Added Value briefing papers, which are included as annexes. The former focuses on the implementation, application and effects of the information society Directive 2001/29/EC (InfoSoc), and of its related instruments. The three additional briefing papers investigate the EU Added Value of modernising the InfoSoc Directive and its related instruments, each one focussing on a general theme in EU copyright policy, and suggesting possible options for reform.

### **The challenges of copyright in the EU**

*Briefing by Katsarova I., June 2015*

Despite over a century of international harmonisation, copyright law remains essentially national law, even though some fundamental copyright norms are gradually converging. Today, copyright is regulated at international level mainly through the Bern Convention, the Universal Copyright Convention and a series of other treaties. Since 2015 the European Commission has been working towards the creation of a Digital Single Market, aiming to present also legislative proposals reducing the differences between national copyright regimes and allowing for wider online access, including through further harmonisation measures.

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