

July 2014

Adapting the EU copyright rules to the digital transformation

Main instrument: [Directive 2001/29/EC](#) on the harmonisation of certain aspects of copyright and related rights in the information society (InfoSoc Directive).

This briefing is one of a new series of 'Implementation Appraisals', produced by the European Parliamentary Research Service (EPRS), on the operation of existing EU legislation in practice. Each briefing focuses on a specific EU body of law which is, or will shortly be, subject to amending proposals from the European Commission, intended to update the current framework. The series is based on the Commission's intentions, as announced in its annual Work Programme (CWP). 'Implementation Appraisals' aim to provide a succinct overview of material publicly available on the implementation, application and effectiveness of an EU law to date - drawing on available in-puts from, inter alia, the EU institutions and advisory committees, national parliaments, and relevant external consultation and outreach exercises. They are provided to assist parliamentary committees in their consideration of related Commission proposals, once tabled.

EP committee responsible at the time of adoption of the EU legislation: Legal Affairs Committee (JURI).
Date of adoption of original legislation in plenary: 14 February 2001 .
Deadline for implementation of the InfoSoc Directive by Member States: 22 December 2002 (Article 13).
Date foreseen for review of legislation: 22 December 2004 and every three years thereafter (Article 12).
Timeline for new amending legislation: According to the CWP 2014 , the Commission's overall review of the copyright framework will be completed shortly. A White Paper Communication on the review of the framework is expected in September 2014. Although not announced in the CWP 2014, legislative proposals are likely to follow in 2015, accompanied by detailed impact assessments.

Background

The initiative to modernise the EU copyright framework was launched in May 2011 in the European Commission's strategy on "[A Single Market for Intellectual Property Rights](#)" and pursuant to actions in the Commission's [Digital Agenda for Europe](#). In December 2012, the Commission then published a "[Communication on Content in the Digital Single Market](#)" in which it aims to complete the review in 2014, followed by legislative reform proposals, as appropriate. Although two new Directives in specific areas of copyright - on [orphan works](#) (2012) and on the [collective management of copyright](#) (2014) - have since been adopted, a White Paper is now expected, and should be accompanied by an 'Impact Assessment', which will in fact be a presentation of detailed policy orientations and options in advance of decisions on specific Commission initiatives (legislative and non-legislative). According to the CWP 2014, its [Annexes](#), and the 2013 [Roadmap](#), the review seeks to achieve a modern framework that fosters innovative practices, creativity, cultural diversity, new business models, guarantees effective recognition and remuneration of rights holders, and enhances legal offers for end users while tackling piracy more effectively.

Mapping the EU framework on copyright and the evaluation and reform process

World Intellectual Property Organisation (WIPO) Treaties				
<i>The EU legal framework on copyright and future reform must conform to these treaties</i>				
Berne Convention for the Protection of Literary and Artistic Works (1979)				
WIPO Copyright Treaty (WCT) (1996)				
WIPO Performances and Phonograms Treaty (WPPT) (1996)				
Beijing Treaty on the Protection of Audiovisual Performances (2012)				
Marrakesh Treaty to facilitate access to published works for the blind, visually impaired or otherwise print disabled (2013)				
Initial EU instruments regarding copyright on specific subjects				
<i>These instruments have not been updated or replaced</i>				
Directive 87/54/EEC amended by Council Decisions 94/824/EC and 96/644/EC on the legal protection of topographies of semiconductor products.		Directive 93/83/EEC on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission.		Directive 96/9/EC on the legal protection of databases.
Main EU instrument establishing an EU legal framework on copyright				
<i>This instrument has not been updated or replaced</i>				
Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society (InfoSoc Directive)				
Later EU instruments regarding copyright on specific subjects				Enforcement
Directive 2001/84/EC on the resale right for the benefit of the author of an original work of art.	Directive 2006/115/EC on rental right and lending right and on certain rights related to copyright in the field of intellectual property.	Directive 2011/77/EU amending Directive 2006/116/EC on the term of protection of copyright and certain related rights.	Directive 2009/24/EC on the legal protection of computer programs.	Directive 2004/48/EC on the enforcement of intellectual property rights (IPRED).
EU instruments adapting the copyright framework to the digital environment on specific subjects				
Directive 2012/28/EU on certain permitted uses of orphan works.		Directive 2014/26/EU on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market.		
Previous evaluations of the EU framework on copyright in view of new media and the digital transformation				
Subject area	Communications/Reports			
Implementation of the main EU instrument; how exceptions and enforcement are working at national level.	Commission Report SEC(2007)/1556 on the application of the Directive on the harmonisation of certain aspects of copyright and related rights in the information society (2001/29/EC).			
Efficiency of the system of private copyright levies.	Vitorino Recommendations (2013) resulting from the mediation on Private Copying and Reprography.			
Digitisation and dissemination of books and library collections; orphan works and user generated content.	COM(2009) 532 final on Copyright in the Knowledge Economy.			
Addressing EU market fragmentation; improving access to content online; efficiency of the rights clearance system; remuneration of authors; administration of the resale right; exceptions and limitations.	COM(2011) 287 final on a Single Market for Intellectual Property Rights.			
	COM(2012) 789 final on content in the Digital Single Market.			
	2011 Report on the Resale Right Directive 2001/84 .			
	2014 Recommendations on the management of the Author Resale Right .			
2013 Licenses for Europe Ten pledges to bring more content online .				
Current evaluation and review of the EU framework on copyright in view of the digital transformation				
Commission Work Programme 2014 COM(2013) 739 final and COM(2013) 739 final Annexes .				
2013 Roadmap on the Review of the EU Copyright Framework.	2013 Public Consultation on the review of the EU copyright rules .			
	2013 Extensive Study on the application of Directive 2001/29/EC on copyright and related rights in the information society			
Forecast (to be confirmed)				
September 2014: White Paper and accompanying Impact Assessment on the review of the EU copyright framework.				
Probable legislative proposal(s) in 2015.				

1) EU-level reports, evaluations, and studies

Following stakeholder consultations (see section 3), a variety of reports and evaluations have been published on the implementation and effect of the existing copyright rules:

A] Two general appraisals on the effect of the InfoSoc Directive 2001/29/EC have been carried out to date. These are the [European Commission's Staff Working Document](#)¹ Report on the application of the InfoSoc Directive 2001/29/EC, and a major 2013 [Study on the application of Directive 2001/29/EC on copyright and related rights in the information society](#)² carried out by De Wolf and Partners.

The initial 2007 report examines the transposition of specific Articles of the Directive in light of the development of the digital market, the application of these provisions by Member States, and how they have been applied by the national courts. This looks specifically at Article 5 on the exceptions and limitations provided by the Directive, Article 6 concerning the obligation to protect against the circumvention of technological measures, and Article 8 on sanctions and remedies in respect of infringements of the rights and obligations.

The 2007 Report provides an overview of how the framework has helped in addressing problems relating to reproduction rights, private copying, technological protection measures, copyright infringements by 'intermediary' content service providers, and exceptions for libraries and other specific uses. However, this report is essentially an overview of the jurisprudence from the introduction of the Directive until 2007 and does not address what other areas might need to be covered by the framework.

By contrast, the 2013 study (586 pages) carried out for the Commission, is a far more comprehensive review carried out mainly as desk research of accessible sources and verified by national experts in the countries concerned. The study concentrates, as requested by the European Commission, on 11 countries (Germany, France, UK, Italy, Spain, Poland, Denmark, Hungary and the Benelux countries). It presents an assessment of the degree to which the implementation of the InfoSoc Directive is appropriate to the economic and technological realities of digital markets, and its objective is to evaluate whether and, to what extent, further harmonisation in some areas of copyright is needed in order to enable the EU to capitalise on the opportunities of a digital Single Market.

This study also takes into account the numerous and recent decisions taken by the Court of Justice of the European Union (CJEU) and national courts, including those delivered since the last implementation report on the InfoSoc Directive of 2007, and reviews previous studies, published literature, and initiatives at EU or Member State level. However, it does not cover all provisions of the InfoSoc Directive but only a number of topics, selected by the European Commission. Accordingly, it concentrates on reviewing two important aspects of the InfoSoc Directive against the evolution of digital technologies and networks:

- the definition and localisation of exclusive rights relevant to internet transmission, namely the 'making available right', and some other aspects of rights related to content transmissions over digital networks, including links to the Satellite and Cable and the Rental and Lending Directives;
- key limitations and exceptions of the InfoSoc Directive are analysed and possible ways forward on these exceptions are recommended, notably as regards: libraries and archives; research and education; persons with a disability; user-generated content (UGC); and, press review.

These two thematic choices are reflected in the current review of the EU copyright framework, in particular to what extent the national copyright provisions should be harmonised or not, and whether or not they impede the EU cross-border exchange of services and information, addressing the widespread criticism of the limited effect of the InfoSoc Directive owing to differences in transposition from one Member State to another.

¹ [SEC\(2007\)1556](#)

² http://ec.europa.eu/internal_market/copyright/docs/studies/131216_study_en.pdf

B] In parallel, the Commission has reviewed the specific rules on the Author Resale Right in two important publications: 2011 [Report on the Implementation and Effect of the Resale Right Directive 2001/84](#)³, and 2014 [Key Principles and Recommendations on the management of the Author Resale Right](#)⁴.

The 2011 report examines the effects of the resale right Directive in the Member States that introduced the right when the Directive came into force, looking in particular at the role of the Directive in fostering artistic creativity. The report also looks at management procedures for the resale right in those Member States as compared to the situation in the Member States that did not apply the right in national law with the entry into force of this Directive, but which secured a two-year derogation, namely Austria, Netherlands, the UK, Malta, and Ireland. Although this report relies on quantitative market data, it does not reveal any striking differences between Member States who have not implemented the Directive as compared to those Member States who have. The likely reasons for this are twofold:

- Firstly, Member States benefiting from the derogation only needed to comply with the Directive from 1 January 2012, two weeks after this Report was published on 14 December 2011.
- Secondly, the performance of the EU arts market was atypical in the period studied, as this was in the wake of the 2008 crisis. Although the evidence showed in 2011 that the Directive had not had any detrimental effect on the internal market - indeed, for the Member States who had implemented the resale right, their market share either remained stable or grew over the studied period - the Commission chose to continue the evaluation and make proposals in 2014, where relevant.

On 17 February 2014, under the auspices of the Commission, representatives of collecting management organisation, authors and art market professionals (art dealers, galleries, auctioneers) made further progress on reviewing the administration of the author resale right by signing up to a series of principles and recommendations on the management of this right. This stakeholder review, presided over by the Commission, concluded on the need to introduce more transparency, in particular, regarding the tracing of artists and sharing of artwork sales details, through streamlined reporting on the collection of the resale right, improved market data and problem reporting, the publication of guidance for artists on the resale right, and related workshops on legal obligations. Further areas for the Commission to report on in 2015 were also identified, namely on the so-called 'cascade effect' in relation to the successive sales of an artwork and identifying the frequency with which dealers end up paying the resale right twice in respect of the same work.

C] The Commission has also extensively reviewed the Copyright Framework's specific rules on Private Copying. This followed two work streams, concluding in 2013 with the [Vitorino Recommendations](#)⁵ and the "[Ten pledges to bring more content online](#)"⁶ as part of the "[Licences for Europe](#)"⁷ initiative.

For private copying, exclusive reproduction rights are still owed to the rights owners (e.g. from a downloaded MP3 onto a recordable CD). Currently, these are compensated for by Member States, and ultimately paid for by end users. Member States based the current system on levies imposed on equipment manufacturers. However, national levy systems are not harmonised, and a series of separate systems emerged with different tariffs and some cases of double taxation, creating an uneven playing field in the Single Market. Moreover, some Member States, such as the UK, do not have any levies system in place and others, such as Spain, are currently undertaking substantial legislative reforms in this field.

Because of this clear implementation problem, there are now pressures in favour of revisiting the balance of the value chain on the internet, essentially asking if compensation levies should not be extended - beyond just equipment manufacturers - to encompass intermediaries (internet service providers and content providers: the beneficiaries of on-line traffic). However certain Member States have expressed

³ [COM\(2011\) 878 final](#)

⁴ http://ec.europa.eu/internal_market/copyright/docs/resale/140214-resale-right-key-principles-and-recommendations_en.pdf

⁵ http://ec.europa.eu/internal_market/copyright/docs/levy_reform/130131_levies-vitorino-recommendations_en.pdf

⁶ http://ec.europa.eu/internal_market/copyright/docs/licences-for-europe/131113_ten-pledges_en.pdf

⁷ <http://ec.europa.eu/licences-for-europe-dialogue/>

concerns that this would likely be detrimental to the sustained growth of eCommerce. Alternatively, a more radical and controversial proposal would be for an internet tax. In any case, the debate on how to correct implementation in this area reflects the polarised positions between users, who argue that the levies system is broken, whereas rights holders argue the system is adequate. In January 2013, Mr Vitorino presented the following important findings to Commissioner Barnier:

- copies made by end users for private purposes in the context of a service licensed by rights holders do not cause any harm requiring additional remuneration in the form of private copying levies;
- in cross-border transactions, levies should be collected where the final customer resides;
- liability for paying levies should be shifted from manufacturers/importers to retailers while simplifying the levy tariff system and obliging manufacturers/importers to inform collecting societies of their transactions concerning goods subject to a levy. Alternatively, clear and predictable ex-ante exemption schemes should be established;
- more emphasis should be placed on operator levies than on hardware based levies for reprographics;
- levies should be made visible for the final customer;
- more coherence with regard to the process of setting levies should be ensured by defining 'harm' uniformly across the EU, and that this calculation is based on the actual value which consumers confer on any additional private copies they make; and,
- a procedural framework that would reduce complexity, guarantee objectiveness and ensure the observance of strict time-limits should be proposed.

In these Recommendations, the growth of licensed services in the digital environment was considered, as well as the effect this has on the extent to which private copying should be compensated for by levy systems. Mr Vitorino points out that the level of market penetration of directly licensed services is still limited (as compared, for instance, to physical distribution or broadcasting). However, since this assessment in January 2013, the situation has already changed, with market penetration of these services (streaming, and temporary downloads) now being significant if not already dominant, following the global shift of music and video consumption to smart-phone and tablet based mobile platforms. This development is evidenced, inter alia, in the International Federation of the Phonographic Industry [IFPI Digital Music Report 2014](#)⁸. "*Industry's digital revenues grew by 4.3 per cent in 2013 to US\$5.9 billion. There was steep growth in both revenues and user numbers for subscription services, continued revenue growth from ad-supported services and stable income from download sales in most markets.*" This trend was not yet apparent in the [IFPI Digital Music Report 2012](#)⁹. Nevertheless, it should be underlined that the general content of Mr Vitorino's recommendations remains relevant, although disputed.

The Licences for Europe initiative also reviewed the Copyright Levy System leading to "[Ten pledges to bring more content online](#)" by the sector's stakeholders, which were taken into account in the European Commission's detailed policy choices for the current review of the copyright framework. These pledges are:

1. Further development of cross-border portability of subscription services.
2. Improved availability of e-books across borders and devices.
3. Easier licensing for music.
4. Easier access to print and images.
5. Enabling the identification of your work and rights online.
6. More active reader involvement in the online press.
7. More heritage films online.
8. Freeing up TV footage archives through digitisation.
9. Improving identification and discoverability of audio-visual content online.
10. Easier text and data mining of subscription based material for non-commercial researchers.

⁸ <http://www.ifpi.org/downloads/Digital-Music-Report-2014.pdf>

⁹ <http://www.ifpi.org/content/library/dmr2012.pdf>

2) European Commission Stakeholder Consultations

In the run up to the current review of the EU copyright framework, the Commission carried out several stakeholder consultations to assess the state of play on implementation, transposition and application of the EU copyright acquis. These consultations prompted detailed contributions from a vast array of industry stakeholders, public sector bodies, NGOs and civil society organisations, academia, and individual citizens. When looking at the overall feedback from these consultations, stakeholders have responded from throughout the EU, with higher response rates from the more developed digital marketplaces.

The [Green Paper on Copyright in the Knowledge Economy](#)¹⁰ (2008) generated more than 370 detailed contributions, and led to [Communication on Copyright in the Knowledge Economy](#)¹¹, which focuses on the digitisation and dissemination of books. Consistent with the feedback from the consultation, this Communication proposes that the focus should be on tackling the important cultural and legal challenges of mass-scale digitisation and dissemination of books and identifies a clear need for a cost-efficient rights clearance system for researchers and consumers across Europe. The Communication also establishes the need to find a solution for orphan works, whose uncertain copyright status means they often cannot be digitised. Improving the distribution and availability of content for persons with disabilities also transpires as an important area requiring action at EU level, and user generated content (UGC) is identified as a nascent policy area to be monitored.

On the subject of private copyright levies, the Commission carried out [two stakeholder consultations](#)¹², in 2006 and in 2008, on the functioning of national private copying levy schemes. A public consultation followed on [Content Online](#)¹³ (2009), for which over 180 responses were received, and in November 2011, Commissioner Michel Barnier tasked António Vitorino with presiding over a stakeholder dialogue on private copying and reprography levies. While this did not include Member States, targeted stakeholder representation was sought in determining Vitorino's findings and subsequent recommendations, which were the subject of Parliament's [Resolution of 27 February 2014](#) on private copying levies. The Commission also organised the "[Licences for Europe](#)" structured dialogue initiative in 2013, as a result of the Commission 2012 Communication on "[content in the Digital Single Market](#)¹⁴", in which the Commission urged industry to deliver innovative solutions for greater access to content online.

In 2011, the Commission also sought stakeholder views on other specific copyright issues, through the [Green Paper on Audiovisual Works](#)¹⁵, which generated over 220 contributions, and in a [consultation on the implementation and effect of the resale right Directive](#)¹⁶.

Finally, in advance of the expected 2014 White Paper, the Commission carried out a major [public consultation on the review of the EU copyright rules](#)¹⁷ in order to analyse the extent to which the EU copyright acquis remains fit for the digital age and whether there is a need to update or clarify certain elements. Around 10,000 replies to the questionnaire have been received from a wide-range of industry and public sector stakeholders, and civil society including free contributions from citizens. The publication of a summary of the responses is expected in July 2014.

3) Analysis of methodology/benchmarking

What is apparent in the European Commission's overall approach to evaluation in the field of EU copyright legislation is that public consultations have featured prominently and have essentially aimed to gather and confirm qualitative data.

¹⁰ [COM\(2008\) 466/3](#)

¹¹ [COM\(2009\)532](#)

¹² http://ec.europa.eu/internal_market/copyright/levy_reform/index_en.htm#maincontentSec3

¹³ http://ec.europa.eu/internal_market/consultations/docs/2009/content_online/reflection_paper%20web_en.pdf

¹⁴ [COM\(2012\) 789 final](#)

¹⁵ [COM\(2011\) 427 final](#)

¹⁶ http://ec.europa.eu/internal_market/consultations/2011/resale_right_en.htm

¹⁷ http://ec.europa.eu/internal_market/consultations/2013/copyright-rules/docs/consultation-document_en.pdf

The various open public consultations have generated consistent input from a very broad range of stakeholders including Member States, public bodies with a direct interest, economic actors, academia, business and civil society NGO stakeholders, as well as concerned citizens. It is clear that the most important stakeholders have been identified and consulted repeatedly, and that trends have also been confirmed through in-depth reviews of national and European case-law. As regards the structured consultations that were in fact mediations delivering joint industry commitments, the measurement of the degree to which these commitments have been implemented and their impact on the market is perhaps lacking as a clearly defined deliverable, although it is fairly obvious that the problems which instigated these industry dialogues continue to be monitored by the Commission.

The European Commission does not seem to have attempted to compile and compare quantitative (including monetised) data, which key stakeholder groups might have made available, assuming that this data is not commercially sensitive, especially from those stakeholders with opposing or diverging commercial interests, and published a report on the findings. This could have helped in identifying any obvious discrepancies in data depending on the type of stakeholder and allowed for a clearer assessment of the economic impact of any proposed changes to legislation. However, it should also be acknowledged that there is apparently very little openly available quantitative data in this field. Furthermore, the European Commission has apparently not endeavoured to compile and share quantitative data from its own sources, based for example on the number of complaints received or infringement cases, by type of issue. This would perhaps provide more justification for the detailed policy choices in terms of which areas to focus on and prioritise.

As a result, there may be some doubts as to whether some of the European Commission's policy choices on copyright review and reform (some of the specific focal-points it has identified as priorities), have not in fact turned into "path-dependent"¹⁸ choices over time. Although the margin of error is likely to be relatively limited, this may expose the European Commission to questions on the continued validity of certain choices, and to some criticism over how comprehensive the European Commission's overall policy approach remains. This principally supports the argument that more quantitative data and evidence is needed to inform sound policy making in this field.

4) Analysis of findings

The fundamentals of the EU legal framework on copyright date back to Directive 2001/29/EC, yet divisions run deep over whether it should be updated or not. The matrix within which to view this framework is one of rights versus exceptions, and the basic balance between the two has not been revisited since 2001. To understand the divisions between stakeholders over whether and how to reform the framework, it is important to underline the added complexity brought by the debate on net neutrality and the absence of a legal control on intermediaries. There is no general control obligation on transmitted content, as established by the [eCommerce Directive](#)¹⁹. Furthermore, the potential impact that changing the EU copyright system may have on telecom services is also problematic.

With the lower protection of rights come increased receipts from higher volumes of internet traffic. Greater receipts enable greater investments in the telecoms infrastructure. One example of this tension is the current discussion about whether a specific exemption for user generated content (uploading your own videos) should be introduced in the EU directives. Users are pressing for action, however blanket licences actually already exist between platforms supporting content and rights owners, so this traffic is apparently already monitored effectively at the technical level and monetised by the businesses concerned. More transparency and detailed information on how these licences are structured would now help with developing a policy proposal striking the right balance. Nevertheless, the main findings are as follows:

¹⁸ The tendency of a past preference to continue even if better alternatives are available.

¹⁹ [Directive 2000/31/EC](#)

The system of Rights and the functioning of the Single Market is not satisfactory for all stakeholders, in particular owing to the territorial scope of the rights involved in digital transmissions and the segmentation of the market through licensing agreements. In particular, improved consumer access to cross border online services needs to be fostered.

The system of limitations and exceptions to copyright and related rights in the Single Market should be updated, and possibly harmonised, since Member States are currently free to introduce these rules as they see fit in national legislation, and this has implications on fair compensation for rights holders given the cross border effect of limitations and exceptions. Additional exceptions may be justified for teaching, disabilities, libraries and other cultural institutions (preservation and mass digitisation), e-Lending and off-premises access to library collections, text and data mining (TDM), user generated content, private copying and reprography. One important element is the possible need to ensure cross border effect to exceptions, in particular those that are most relevant for the internet transmissions of copyright protected content.

In addition, **there is a need for better enforcement of intellectual property rights (IPR)** as laid down in Directive 2004/48/EC on the civil enforcement of IPR, specifically, given concerns that some of its provisions may not be fit for purpose for copyright in the digital age, **as well as a need to tackle concerns about the respect for fundamental rights which derive from enforcement**. In this regard, the Commission has recently launched an [action plan on counterfeiting and piracy](#)²⁰, which proposes a [list of 10 actions](#)²¹. These are soft measures accompanying Directive 2004/48/EC. The European Commission has furthermore proposed a related [strategy for the enforcement of intellectual property rights in third countries](#)²², as part of its suggested approach to international trade negotiations.

Other key findings include the need to better ensure the fair remuneration of authors and performers, and to consider the feasibility of a single EU copyright title i.e. of developing a European Copyright Code establishing a unitary title covering the whole territory of the EU, and replacing national titles.

Against this backdrop, while it is clear that the EU copyright framework has helped enable the explosion in digital services over recent years, a combination of non-legislative and legislative actions should now be explored in order to modernise and improve the EU legal framework on copyright:

- Relying on existing market pledges to increase content online, and on Member States to make best use of the flexibility available under the current legal framework, while the Courts continue to clarify the rules relating to the development of new types of use, new technologies, and new types of service. The Commission could develop monitoring and guidance to Member States and market operators and propose support for market initiatives to sustain the momentum of the Licences for Europe pledges and encourage the sharing of market data.
- Legislative proposals, ranging from adapting specific Directives - to clarify elements of the existing framework for some new important uses and services, and achieving targeted cross-border benefits across the Single Market - to a new InfoSoc Directive aimed at achieving a significantly deeper level of harmonisation than is currently the case.

The fundamental question is: "are the current rules totally inadequate or do they just need balanced modernisation?" Although the "balanced modernisation" solution is effectively substantiated in the overall evidence, there seems to be a gap in analysis and evaluation on the impact of the pace of technological change on business models and social behaviour, a problem the Commission is clearly aware of. By the time reliable evidence is gathered upon which to draw conclusions and propose ways to adapt legislation, there has often already been a profound transformation in online trends. This is particularly true for tackling piracy and breach of copyright: by the time a legislative fix has been rolled out to tackle a specific problem, new technologies or services have already been rolled out, shifting the focus of attention.

²⁰ [COM\(2014\) 392 final](#)

²¹ http://ec.europa.eu/internal_market/iprenforcement/docs/action-plan/140701-10-actions_en.pdf

²² [COM\(2014\) 389 final](#)

The rapid evolution in online technologies and services may give more weight to the "wait and see" and "let the Courts decide" approaches, and to limiting the review to proposing targeted changes to the legal framework in areas where the pace of change has slowed, or where persistent problems have been identified. However this fragmentary approach means that the framework would continue to develop in a comparatively unstructured manner, which would be at the expense of realising the benefits from a wider, coordinated and more fundamental legislative modernisation exercise.

5) European Parliament position

The Parliament's non-legislative resolutions consistently support the reform and modernisation of the EU copyright framework, highlighting in particular the need to develop a virtuous EU copyright system by considering further harmonisation, the need to further simplify procedures in order to remove unnecessary barriers to media innovation, as well as calls to develop clearer consumer information and more efficient reimbursement procedures. At the same time Parliament has been sensitive to the need to sustain investment in broadband networks which still need to be developed further, and to maintaining the EU's cultural diversity. The Parliament has additionally expressed strong support for improving revenues for artists and stressed in this regard the importance of improving transparency regarding allocation of revenue in the copyright value chain in the digital environment. The Parliament recently published a related study on [contractual arrangements applicable to creators](#)²³, and the Commission is also responding to this call with two additional on-going studies. The most relevant recent Parliament resolutions are:

- [European Parliament resolution of 27 February 2014 on private copying levies](#), Rapporteur Françoise Castex (S&D, FR).
- [European Parliament resolution of 12 March 2014 on Preparing for a Fully Converged Audiovisual World](#), Rapporteur Sabine Verheyen (EPP, DE).
- [European Parliament resolution of 12 September 2013 on promoting the European cultural and creative sectors as sources of economic growth and jobs](#), Rapporteur Marie-Thérèse Sanchez-Schmid (EPP, FR).
- [European Parliament resolution of 4 July 2013 on completing the digital single market](#) (2013/2655(RSP)).
- [European Parliament resolution of 20 November 2012 on the Report on the Implementation and Effect of the Resale Right Directive \(2001/84/EC\)](#), Rapporteur Marielle Gallo (EPP, FR).
- [European Parliament resolution of 11 September 2012 on the online distribution of audiovisual works in the European Union](#), Rapporteur Jean Marie Cavada (EPP, FR) now (ALDE, FR).
- [European Parliament resolution of 16 February 2012 on access by blind people to books and other printed products](#) (2011/2894(RSP)), pursuant to Petition 0924/2011 by Dan Pescod (British), on behalf of the European Blind Union (EBU)/Royal National Institute of Blind People (RNIB).
- [European Parliament resolution of 22 September 2010 on enforcement of intellectual property rights in the internal market](#) (2009/2178(INI)), Rapporteur Marielle Gallo (EPP, FR).

6) Other documents for reference

- [Overcoming Transatlantic differences on intellectual property: IPR and the TTIP negotiations](#), EPRS In-depth analysis, July 2014.
- [COM\(2013\) 926 final](#) proposal for a Council Decision on signing the Marrakesh Treaty.
- ["Appropriate for the Digital Age? Copyright and the Internet"](#). Prof. Hector MacQueen. University of Edinburgh School of Law Research Paper. No 2014/24, 2014.
- [Europe's copyright law decade : Recent case law of the European Court of Justice and policy perspectives](#) / Leistner, Matthias, Common Market Law Review, Vol. 51, Issue 2, 2014, pp: 559-600.
- [Copyright in the EU: in search of \(in\)flexibilities](#), Eleonora Rosati, SSRN and J.I.P.L.P. 2014, 9(7), 585-598.
- [Collective management of copyright and related rights in the EU](#) / EPRS Keysources, November 2013.
- [Copyright in the EU digital Single Market: report of the CEPS Digital Forum](#), 2013.
- [Copyright reform for growth and jobs: modernising the European copyright framework](#) / Hargreaves, Ian; Hugenholtz, Bernt, Interactive policy brief, 13/2013.

²³ http://www.europarl.europa.eu/RegData/etudes/etudes/join/2014/493041/IPOL-JURI_ET%282014%29493041_EN.pdf

- Recent ex-ante studies carried out for the Commission:
 - March 2014 [Study on “Economic Analysis of the Territoriality of the Making Available Right in the EU”](#) - Analysis of specific policy options, by Charles River Associates.
 - March 2014 [Study on “the legal framework of text and data mining”](#), by De Wolf and Partners.
 - June 2014 [Study on “Assessing the economic impacts of adapting certain limitations and exceptions to copyright and related rights in the EU – Analysis of specific policy options”](#) by Charles River Associates.
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