

5.9.2018

A8-0245/120

Amendment 120

João Ferreira, João Pimenta Lopes, Miguel Viegas, Jiří Maštálka
on behalf of the GUE/NGL Group

Report

A8-0245/2018

Axel Voss

Copyright in the Digital Single Market
COM(2016)0593 – C8-0383/2016 – 2016/0280(COD)

Proposal for a directive

Article 6 – paragraph 1

Text proposed by the Commission

Amendment

Article 5(5) and the first, third and fifth subparagraphs of Article 6(4) of Directive 2001/29/EC shall apply to the exceptions and the limitation provided for under this Title.

Article 5(5) and the first, third and fifth subparagraphs of Article 6(4) of Directive 2001/29/EC shall apply to the exceptions and the limitation provided for under this Title. ***The exceptions provided for in Title II of this Directive may not be excluded from contracts.***

Or. pt

5.9.2018

A8-0245/121

Amendment 121

João Ferreira, João Pimenta Lopes, Miguel Viegas, Jiří Maštálka
on behalf of the GUE/NGL Group

Report

A8-0245/2018

Axel Voss

Copyright in the Digital Single Market
COM(2016)0593 – C8-0383/2016 – 2016/0280(COD)

Proposal for a directive

Article 7

Text proposed by the Commission

Amendment

Use of out-of-commerce works by cultural heritage institutions

Use of out-of-commerce works by cultural heritage institutions

1. Member States shall ***provide that when a collective management organisation, on behalf of its members, concludes a non-exclusive licence*** for non-commercial purposes ***with a cultural heritage institution for the digitisation, distribution, communication to the public or making available of out-of-commerce works or other subject-matter permanently in the collection of the institution, such a non-exclusive licence may be extended or presumed to apply to rightholders of the same category as those covered by the licence who are not represented by the collective management organisation, provided that:***

1. ***Taking into account their situation and their legislation, Member States shall contribute to the establishment of simplified schemes which provide for freedom of access, for non-commercial purposes, of commercially exhausted works that include collections and are made available online by cultural heritage institutions.***

(a) the collective management organisation is, on the basis of mandates from rightholders, broadly representative of rightholders in the category of works or other subject-matter and of the rights which are the subject of the licence;

(b) equal treatment is guaranteed to all rightholders in relation to the terms of the licence;

(c) all rightholders may at any time object to their works or other subject-

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matter being deemed to be out of commerce and exclude the application of the licence to their works or other subject-matter.

2. *A work or other subject-matter shall be deemed to be out of commerce when the whole work or other subject-matter, in all its translations, versions and manifestations, is not available to the public through customary channels of commerce and cannot be reasonably expected to become so.*

Member States shall, in consultation with rightholders, collective management organisations and cultural heritage institutions, ensure that the requirements used to determine whether works and other subject-matter can be licensed in accordance with paragraph 1 do not extend beyond what is necessary and reasonable and do not preclude the possibility to determine the out-of-commerce status of a collection as a whole, when it is reasonable to presume that all works or other subject-matter in the collection are out of commerce.

3. *Member States shall provide that appropriate publicity measures are taken regarding:*

- (a) the deeming of works or other subject-matter as out of commerce;*
- (b) the licence, and in particular its application to unrepresented rightholders;*
- (c) the possibility of rightholders to object, referred to in point (c) of paragraph 1;*

including during a reasonable period of time before the works or other subject-matter are digitised, distributed, communicated to the public or made available.

4. *Member States shall ensure that the licences referred to in paragraph 1 are sought from a collective management*

organisation that is representative for the Member State where:

(a) the works or phonograms were first published or, in the absence of publication, where they were first broadcast, except for cinematographic and audiovisual works;

(b) the producers of the works have their headquarters or habitual residence, for cinematographic and audiovisual works; or

(c) the cultural heritage institution is established, when a Member State or a third country could not be determined, after reasonable efforts, according to points (a) and (b).

5. Paragraphs 1, 2 and 3 shall not apply to the works or other subject-matter of third country nationals except where points (a) and (b) of paragraph 4 apply.

Or. pt

5.9.2018

A8-0245/122

Amendment 122

João Ferreira, João Pimenta Lopes, Miguel Viegas, Jiří Maštálka
on behalf of the GUE/NGL Group

Report

A8-0245/2018

Axel Voss

Copyright in the Digital Single Market
COM(2016)0593 – C8-0383/2016 – 2016/0280(COD)

Proposal for a directive

Article 8

Text proposed by the Commission

Amendment

Cross-border uses

Cross-border uses

1. Works or other subject-matter covered by *a licence granted in accordance with Article 7 may be used by the cultural heritage institution in accordance with the terms of the licence in all* Member States.

1. *To foster freedom of access and knowledge sharing, cross-border uses of works or other subject-matter covered by Article 7 shall be promoted and deepened on a basis of cooperation between the* Member States.

2. *Member States shall ensure that information that allows the identification of the works or other subject-matter covered by a licence granted in accordance with Article 7 and information about the possibility of rightholders to object referred to in Article 7(1)(c) are made publicly accessible in a single online portal for at least six months before the works or other subject-matter are digitised, distributed, communicated to the public or made available in Member States other than the one where the licence is granted, and for the whole duration of the licence.*

3. *The portal referred to in paragraph 2 shall be established and managed by the European Union Intellectual Property Office in accordance with Regulation (EU) No 386/2012.*

Or. pt

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A8-0245/123

Amendment 123

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on behalf of the GUE/NGL Group

Report

A8-0245/2018

Axel Voss

Copyright in the Digital Single Market
COM(2016)0593 – C8-0383/2016 – 2016/0280(COD)

Proposal for a directive

Article 11

Text proposed by the Commission

Amendment

Article 11

deleted

***Protection of press publications
concerning digital uses***

1. Member States shall provide publishers of press publications with the rights provided for in Article 2 and Article 3(2) of Directive 2001/29/EC for the digital use of their press publications.

2. The rights referred to in paragraph 1 shall leave intact and shall in no way affect any rights provided for in Union law to authors and other rightholders, in respect of the works and other subject-matter incorporated in a press publication. Such rights may not be invoked against those authors and other rightholders and, in particular, may not deprive them of their right to exploit their works and other subject-matter independently from the press publication in which they are incorporated.

3. Articles 5 to 8 of Directive 2001/29/EC and Directive 2012/28/EU shall apply mutatis mutandis in respect of the rights referred to in paragraph 1.

4. The rights referred to in paragraph 1 shall expire 20 years after the publication of the press publication. This term shall be calculated from the

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*first day of January of the year following
the date of publication.*

Or. pt

Justification

In a number of Member States that followed the Commission's recommendations, findings from studies have been contradictory and somewhat concerning and contrary to the objectives pursued. Deeper reflection on potential solutions is needed and therefore these issues should be tackled outside the scope of this directive.