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2011/0136(COD)

28.10.2011

# AMENDMENTS

## 49 - 170

**Draft report**

**Lidia Joanna Geringer de Oedenberg**

(PE472.338v01-00)

on the proposal for a directive of the European Parliament and of the Council  
on certain permitted uses of orphan works

Proposal for a directive

(COM(2011)0289 – C7-0138/2011 – 2011/0136(COD))

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PE475.839v01-00

**EN**

*United in diversity*

**EN**

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**Amendment 49**  
**Marielle Gallo, Piotr Borys**

**Proposal for a directive**  
**Recital 3**

*Text proposed by the Commission*

(3) Creating a legal framework to facilitate the digitisation and dissemination of works for which no **author** is identified or, even if identified, is not located, so called orphan works, is a key action of the Digital Agenda for Europe, as set out in the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions – A Digital Agenda for Europe.

*Amendment*

(3) Creating a legal framework to facilitate the digitisation and dissemination of works for which no **rightholder** is identified or, even if identified, is not located, so called orphan works, is a key action of the Digital Agenda for Europe, as set out in the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions – A Digital Agenda for Europe.

Or. fr

**Amendment 50**  
**Christian Engström, Eva Lichtenberger**

**Proposal for a directive**  
**Recital 3**

*Text proposed by the Commission*

(3) Creating a legal framework to facilitate the digitisation and dissemination of works for which no **author** is identified or, even if identified, is not located, so called orphan works, is a key action of the Digital Agenda for Europe, as set out in the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions – A Digital Agenda for Europe.

*Amendment*

(3) Creating a legal framework to facilitate the digitisation and dissemination of works **protected by copyright and neighbouring rights** for which no **rightholder** is identified or, even if identified, is not located, so called orphan works, is a key action of the Digital Agenda for Europe, as set out in the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions – A Digital Agenda for Europe.

Or. en

### *Justification*

*Neighbouring rights must be covered if the Directive is to have any purpose at all. See Article 2.*

#### **Amendment 51**

**Marielle Gallo, Piotr Borys**

#### **Proposal for a directive**

##### **Recital 4**

###### *Text proposed by the Commission*

(4) The exclusive rights for **authors** of reproduction and of making available to the public of their works, as harmonised under Directive 2001/29/EC of the European Parliament and Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, require the consent of the **author** prior to the digitisation and making available of a work.

###### *Amendment*

(4) The exclusive rights for **rightholders** of reproduction and of making available to the public of their works, as harmonised under Directive 2001/29/EC of the European Parliament and Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, require the consent of the **rightholder** prior to the digitisation and making available of a work.

Or. fr

#### **Amendment 52**

**Christian Engström, Eva Lichtenberger**

#### **Proposal for a directive**

##### **Recital 4**

###### *Text proposed by the Commission*

(4) The exclusive rights for **authors** of reproduction and of making available to the public of their works, as harmonised under Directive 2001/29/EC of the European Parliament and Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, require the consent of the **author** prior to the digitisation and making available of a work.

###### *Amendment*

(4) The exclusive rights for **rightholders** of reproduction and of making available to the public of their works, as harmonised under Directive 2001/29/EC of the European Parliament and Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, require the consent of the **rightholder** prior to the digitisation and making available of a work.

*Justification*

*The word “author” appeared twice in this paragraph in the text from the Commission. It should be replaced with “rightholder” throughout the Directive.*

**Amendment 53**  
**Jean-Marie Cavada**

**Proposal for a directive**  
**Recital 4**

*Text proposed by the Commission*

(4) The exclusive rights for *authors* of reproduction and of *making available* to the public of their works, as harmonised under Directive 2001/29/EC of the European Parliament and Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, require the consent of *the author* prior to *the* digitisation and making available *of a work*.

*Amendment*

(4) The exclusive rights for *rightholders* of reproduction and of *communication* to the public of their works, *including making them available*, as harmonised under Directive 2001/29/EC of the European Parliament and Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, require the consent of *rightholders* prior to digitisation and *communication of works to the public, including making them available on demand*.

Or. fr

**Amendment 54**  
**Luigi Berlinguer**

**Proposal for a directive**  
**Recital 4**

*Text proposed by the Commission*

(4) The exclusive rights for authors of reproduction and of making available to the public of their works, as harmonised under Directive 2001/29/EC of the European Parliament and Council of 22

*Amendment*

(4) The exclusive rights for authors of reproduction and of making available to the public of their works, as harmonised under Directive 2001/29/EC of the European Parliament and Council of 22

May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, require the consent of the author prior to the digitisation and making available of a work.

May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, require the consent of the author prior to the digitisation and making available of a work ***and concern specific acts of reproduction made by publicly accessible libraries, educational establishments or museums, or by archives, which are not for direct or indirect economic or commercial advantage, as referred to in Article 5(2)(c) of Directive 2001/29/EC.***

Or. en

**Amendment 55**  
**Luis de Grandes Pascual**

**Proposal for a directive**  
**Recital 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***(4a) This Directive is without prejudice to Directive 2001/29/EC and deals solely with certain permitted uses of orphan works. It does not introduce new exceptions or limitations to copyright and related rights.***

Or. es

*Justification*

*The purpose of the Directive is to deal with the specific issue of the permitted uses of orphan works in the EU. It does not aim to amend Directive 2001/29/EC.*

**Amendment 56**  
**Toine Manders**

**Proposal for a directive**  
**Recital 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***(4a) Copyright stimulates innovation, creation, investments and productions and thus it is the economic foundation for the creative industry. Mass digitisation and dissemination of works is therefore a means of protecting Europe's cultural heritage.***

Or. en

**Amendment 57**  
**Christian Engström, Eva Lichtenberger**

**Proposal for a directive**  
**Recital 9**

*Text proposed by the Commission*

*Amendment*

(9) For the purposes of this Directive, cinematographic, **audio** and audiovisual works in the archives of **public service** broadcasting organisations should be understood as including works commissioned by such organisations for their **exclusive** exploitation.

(9) For the purposes of this Directive, **sound recordings and** cinematographic and audiovisual works in the archives of broadcasting organisations should be understood as including works commissioned by such organisations for their exploitation.

Or. en

*Justification*

*The change from audio works to sound recordings is dictated by the fact that it is legally incorrect to talk about “audio works”, as sound recordings are not “works” in the legal sense of the word. The legally defined terms are either “phonogram”, “fixation”, or “sound recording”, therefore it is proposed to change the phrase “cinematographic, audio and audiovisual works” to “sound recordings and cinematographic and audiovisual works”. This affects Article 1(2)(2) as well. The word "exclusive" should be deleted: public service broadcasters may also commission works for joint use by other broadcasters, e.g. ZDF and ORF for ARTE, and the exploitation is sometimes shared with the producer.*

**Amendment 58**  
**Jean-Marie Cavada**

**Proposal for a directive**  
**Recital 9**

*Text proposed by the Commission*

(9) For the purposes of this Directive, cinematographic, audio and audiovisual works in the archives of **public service** broadcasting organisations should be understood as including works commissioned by such organisations for their **exclusive** exploitation.

*Amendment*

(9) For the purposes of this Directive, cinematographic, audio and audiovisual works in the archives of broadcasting organisations should be understood as including works commissioned by such organisations for their exploitation.

Or. fr

**Amendment 59**  
**Ramon Tremosa i Balcells**

**Proposal for a directive**  
**Recital 10**

*Text proposed by the Commission*

(10) The creation of large online libraries facilitate electronic search and discovery tools which open up new sources of discovery for researchers and academics that would otherwise have to content themselves with more traditional and analogue search methods.

*Amendment*

(10) The creation of large online libraries facilitate electronic search and discovery tools which open up new sources of discovery for researchers and academics that would otherwise have to content themselves with more traditional and analogue search methods. **Moreover, cloud computing technologies should be adequately used in order to create a European-wide database, which is comprehensive and easy to access.**

Or. en

**Amendment 60**  
**Christian Engström, Eva Lichtenberger**



**Proposal for a directive**

**Recital 11**

*Text proposed by the Commission*

(11) For reasons of international comity, this Directive should only apply to works that are first published or broadcast in a Member State.

*Amendment*

(11) For reasons of international comity, this Directive should only apply to works that are first published, **exhibited**, or broadcast in **the territory of** a Member State.

Or. en

*Justification*

*Cinematographic works are typically first “exhibited” in cinemas, not “broadcast”.*

**Amendment 61**

**Sajjad Karim**

**Proposal for a directive**

**Recital 11**

*Text proposed by the Commission*

(11) For reasons of international comity, this Directive should only apply to works that **are first published or broadcast** in a Member State.

*Amendment*

(11) For reasons of international comity, this Directive should only apply to works that **originate in the territory of** a Member State.

Or. en

**Amendment 62**

**Marielle Gallo, Piotr Borys**

**Proposal for a directive**

**Recital 12**

*Text proposed by the Commission*

(12) Before a work can be considered an orphan work, a good faith and reasonable diligent search for the **author** should be carried out. Member States should be

*Amendment*

(12) Before a work can be considered an orphan work, a good faith and reasonable diligent search for the **rightholder** should be carried out. Member States should be

permitted to provide that such a diligent search may be carried out by the organisations referred to in this Directive or by other organisations.

permitted to provide that such a diligent search may be carried out by the organisations referred to in this Directive or by other organisations. ***In the latter instance, liability in respect of the good faith and reasonable diligent search carried out lies with the organisations referred to in this Directive.***

Or. fr

**Amendment 63**  
**Alexandra Thein**

**Proposal for a directive**  
**Recital 13**

*Text proposed by the Commission*

(13) It is appropriate to provide for a harmonised approach concerning such diligent search in order to ensure a high level of protection of copyright in the Union. A diligent search should involve the consultation of publicly accessible databases that supply information on the copyright status of a work. Moreover, in order to avoid duplication of costly digitisation, Member States should ensure that use of orphan works by the organisations referred to in this Directive **is** recorded in a publicly accessible database. To the extent possible, publicly accessible databases of search results and use of orphan works should be designed and implemented so as to permit interlinkage with each other on a pan-European level and consultation thereof through a single entry point.

*Amendment*

(13) It is appropriate to provide for a harmonised approach concerning such diligent search in order to ensure a high level of protection of copyright in the Union. A diligent search should involve the consultation of publicly accessible databases that supply information on the copyright status of a work. ***In order to avoid duplication of search efforts, a diligent search should be conducted only in the Member State where the work was first published or broadcast.*** Moreover, in order to avoid duplication of costly digitisation ***and ascertain whether a work has been granted orphan status in another Member State,*** Member States should ensure that ***the results of the diligent search on their territory and*** use of orphan works by the organisations referred to in this Directive ***are*** recorded in a publicly accessible database. To the extent possible, ***free,*** publicly accessible databases of search results and use of orphan works should be designed and implemented so as to permit interlinkage with each other ***and interoperability*** on a pan-European level and consultation

thereof through a single entry point.

Or. de

*Justification*

*This amendment combines Recitals 13 and 15 with a view to making the text more coherent.*

**Amendment 64**  
**Toine Manders**

**Proposal for a directive**  
**Recital 13 a (new)**

*Text proposed by the Commission*

*Amendment*

***(13a) Online accessibility of cultural content and digital preservation often fail to fulfil their potential owing, inter alia, to inadequate resources in the Member States and interconnection of databases that are incompatible. For the purposes of this Directive, Member States should be asked to consider standardisation at European level for digitisation of works, in order to improve the central registration, accessibility and interoperability of their public databases.***

Or. en

**Amendment 65**  
**Marielle Gallo, Piotr Borys**

**Proposal for a directive**  
**Recital 14**

*Text proposed by the Commission*

*Amendment*

(14) Orphan works may have several ***authors*** or include other works or protected subject matter. This Directive should not affect the rights of known or

(14) Orphan works may have several ***rightholders*** or include other works or protected subject matter. This Directive should not affect the rights of known or

identified rightholders.

identified rightholders.

Or. fr

**Amendment 66**  
**Alexandra Thein**

**Proposal for a directive**  
**Recital 15**

*Text proposed by the Commission*

*Amendment*

***(15) In order to avoid duplication of search efforts, a diligent search should be conducted only in the Member State where the work was first published or broadcast. In order to enable other Member States to ascertain whether the orphan status of a work has been established in another Member State, Member States should ensure that the results of diligent searches carried out in their territories are recorded in a publicly accessible database.***

***deleted***

Or. de

**Amendment 67**  
**Marielle Gallo, Piotr Borys**

**Proposal for a directive**  
**Recital 15**

*Text proposed by the Commission*

*Amendment*

(15) In order to avoid duplication of search efforts, a diligent search should be conducted only in the Member State where the work was first published or broadcast. In order to enable other Member States to ascertain whether the orphan status of a work has been established in another Member State, Member States should ensure that the results of diligent searches

(15) In order to avoid duplication of search efforts, a good faith and diligent search should be conducted only in the Member State where the work was first published or broadcast. ***In some cases, however, such as with regard to coproduction of an audiovisual work, for example, a good faith and diligent search would involve a search in Member States other than the***

carried out in their territories are recorded in a publicly accessible database.

***Member State of first publication or broadcast.*** In order to enable other Member States to ascertain whether the orphan status of a work has been established in another Member State, Member States should ensure that the results of diligent searches carried out in their territories are recorded in a publicly accessible database.

Or. fr

**Amendment 68**  
**Sajjad Karim**

**Proposal for a directive**  
**Recital 15**

*Text proposed by the Commission*

(15) In order to avoid duplication of search efforts, a diligent search should be conducted only in the Member State where the work was first published or broadcast. In order to enable other Member States to ascertain whether the orphan status of a work has been established in another Member State, Member States should ensure that the results of diligent searches carried out in their territories are recorded in a publicly accessible database.

*Amendment*

(15) In order to avoid duplication of search efforts, a diligent search should be conducted only in the Member State where the work was first published or broadcast, ***or, where this is unclear or the work has not been published, the country most associated with the work.*** In order to enable other Member States to ascertain whether the orphan status of a work has been established in another Member State, Member States should ensure that the results of diligent searches carried out in their territories are recorded in a publicly accessible database.

Or. en

**Amendment 69**  
**Marielle Gallo, Piotr Borys**

**Proposal for a directive**  
**Recital 16**

*Text proposed by the Commission*

(16) It is appropriate to provide that **authors** are entitled to put an end to the orphan status in case they come forward to claim their works.

*Amendment*

(16) It is appropriate to provide that **rightholders** are entitled to put an end to the orphan status in case they come forward to claim their works **and to be remunerated**.

Or. fr

**Amendment 70**  
**Christian Engström, Eva Lichtenberger**

**Proposal for a directive**  
**Recital 16**

*Text proposed by the Commission*

(16) It is appropriate **to provide that authors are entitled** to put an end to the orphan status **in case they come forward to claim their works**.

*Amendment*

(16) **Where rightholders come forward to claim their works**, it is appropriate **for them to have the possibility** to put an end to the orphan status **of those works in respect of themselves**.

Or. en

*Justification*

*When there are multiple rightholders, each rightholder should be in control of his own rights, which means that each rightholder must be treated individually in respect of his own rights.*

**Amendment 71**  
**Marielle Gallo, Piotr Borys**

**Proposal for a directive**  
**Recital 16 a (new)**

*Text proposed by the Commission*

*Amendment*

**(16a) If a work has been wrongly found to be an orphan work, following a search which was not diligent and reasonable or not carried out in good faith, Member**

***States should provide that the user be held liable, for breach of copyright, in accordance with the relevant national provisions and Union law.***

Or. fr

**Amendment 72**  
**Marielle Gallo, Piotr Borys**

**Proposal for a directive**  
**Recital 17**

*Text proposed by the Commission*

(17) In order to promote learning and culture, Member States should permit libraries, educational establishments and museums which are publicly accessible, as well as archives, film heritage institutions and public service broadcasting organisations, to make available and reproduce orphan works, provided such use fulfils their public interest missions, notably preservation, restoration and the provision of cultural and educational access to works contained in their collections. Film heritage institutions should, for the purposes of this Directive, cover organisations designated by Member States to collect, catalogue, preserve and restore films forming part of their cultural heritage.

*Amendment*

(17) In order to promote learning and culture, Member States should permit libraries, educational establishments and museums which are publicly accessible, as well as archives, film heritage institutions and public service broadcasting organisations, to make available and reproduce orphan works, provided such use fulfils their public interest missions, notably preservation, restoration and the provision of cultural and educational access to works contained in their collections. Film heritage institutions should, for the purposes of this Directive, cover organisations designated by Member States to collect, catalogue, preserve and restore films forming part of their cultural heritage. ***For the purposes of this Directive, public-service broadcasting organisations should cover broadcasters with a public-service remit laid down and organised by a Member State.***

Or. fr

**Amendment 73**  
**Christian Engström, Eva Lichtenberger**

## Proposal for a directive

### Recital 17

#### *Text proposed by the Commission*

(17) In order to promote learning and culture, Member States should permit libraries, educational establishments and museums which are publicly accessible, as well as archives, film heritage institutions and **public service** broadcasting organisations, to make available and reproduce orphan works, provided such use fulfils their public interest missions, **notably preservation, restoration and the provision of** cultural and educational access to **works contained in their collections**. Film heritage institutions should, for the purposes of this Directive, cover organisations designated by Member States to collect, catalogue, preserve and restore films forming part of their cultural heritage.

#### *Amendment*

(17) In order to promote learning and culture, Member States should permit libraries, educational establishments and museums which are publicly accessible, as well as archives, film heritage institutions and broadcasting organisations, to **communicate**, make available and reproduce, **within the meaning of Directive 2001/29/EC**, orphan works, provided such use fulfils their public interest missions and **guarantees** cultural and educational access to **them**. Film heritage institutions should, for the purposes of this Directive, cover organisations designated by Member States to collect, catalogue, preserve and restore films forming part of their cultural heritage

Or. en

#### *Justification*

*The word "communicate": See justification for Article 6(1)(c).*

## Amendment 74

Luigi Berlinguer

## Proposal for a directive

### Recital 18

#### *Text proposed by the Commission*

(18) Contractual arrangements may play a role in fostering the digitisation of European cultural heritage, it being understood that libraries, educational establishments, museums or archives and film heritage institutions may, with a view to undertake the uses permitted under this

#### *Amendment*

(18) Contractual arrangements may play a role in fostering the digitisation of European cultural heritage, it being understood that libraries, educational establishments, museums or archives, **audio** and film heritage institutions may, with a view to undertake the uses permitted



Directive, conclude agreements with commercial partners for the digitisation and making available of orphan works. These agreements may include financial contributions by such partners.

under this Directive, conclude agreements with commercial partners for the digitisation and making available of orphan works. These agreements may include financial contributions by such partners.

Or. en

**Amendment 75**  
**Angelika Niebler**

**Proposal for a directive**  
**Recital 20**

*Text proposed by the Commission*

(20) This Directive should be without prejudice to *existing* arrangements *in the Member States* concerning the management of rights such as extended collective licences.

*Amendment*

(20) This Directive should be without prejudice to *the possibility for the Member States, acting in accordance with European copyright law and international agreements, to retain, develop further or introduce* arrangements concerning the management of rights such as extended collective licences.

Or. de

*Justification*

*Member States should continue to be able to retain or further develop existing arrangements, or introduce new arrangements, such as extended collective licences.*

**Amendment 76**  
**Marielle Gallo, Piotr Borys**

**Proposal for a directive**  
**Recital 20**

*Text proposed by the Commission*

(20) This Directive should be without prejudice to *existing arrangements in the Member States* concerning the

*Amendment*

(20) This Directive should be without prejudice to *the Member States' arrangements* concerning the management

management of rights such as extended collective licences.

of rights such as extended collective licences. ***It should also be without prejudice to the Member States' arrangements concerning mass-scale digitisation of works, such as those relating to out-of-commerce works.***

Or. fr

**Amendment 77**  
**Christian Engström, Eva Lichtenberger**

**Proposal for a directive**  
**Recital 20**

*Text proposed by the Commission*

(20) This Directive should be without prejudice to existing arrangements in the Member States concerning the management of rights such as extended collective licences.

*Amendment*

(20) This Directive should be without prejudice to existing ***or future*** arrangements in the Member States concerning the management of rights such as extended collective licences, ***legal presumptions of representation or transfer, mandatory collective management, or combinations of them.***

Or. en

*Justification*

*This amendment follows on from the new paragraph in Article 8 and clarifies that Member States remain free to find a solution for broadcasters' archives via other arrangements, such as "extended collective licensing" or otherwise, as several Member States have already done so or may decide to do so in the near future.*

**Amendment 78**  
**Luigi Berlinguer**

**Proposal for a directive**  
**Recital 20**

*Text proposed by the Commission*

(20) This Directive should ***be without prejudice to existing*** arrangements in the Member States concerning the management of rights ***such as*** extended collective licences.

*Amendment*

(20) This Directive should ***encourage*** arrangements in the Member States concerning the management of rights ***based on compulsory licenses or*** extended collective licences.

Or. en

**Amendment 79**  
**Sajjad Karim**

**Proposal for a directive**  
**Recital 20**

*Text proposed by the Commission*

(20) This Directive should be without prejudice to existing arrangements in the Member States concerning the management of rights such as extended collective licences.

*Amendment*

(20) This Directive should be without prejudice to existing ***or future*** arrangements in the Member States concerning the management of rights such as extended collective licences ***or requirement for authorisation.***

Or. en

**Amendment 80**  
**Toine Manders**

**Proposal for a directive**  
**Recital 20**

*Text proposed by the Commission*

(20) This Directive should be without prejudice to existing arrangements in the Member States concerning the management of rights such as extended collective licences.

*Amendment*

(20) This Directive should be without prejudice to existing ***and future*** arrangements in the Member States concerning the management of rights such as extended collective licences.

Or. en

**Amendment 81**  
**Marielle Gallo, Piotr Borys**

**Proposal for a directive**  
**Recital 21**

*Text proposed by the Commission*

*Amendment*

*(21) Member States should also be allowed to permit the use of orphan works for purposes which go beyond the public interest missions of the organisations covered by this Directive. In such circumstances, the rights and legitimate interests of rightholders should be protected.*

*deleted*

Or. fr

**Amendment 82**  
**Toine Manders**

**Proposal for a directive**  
**Recital 21**

*Text proposed by the Commission*

*Amendment*

(21) Member States should also be allowed to permit the use of orphan works for purposes which go beyond the public interest missions of the organisations covered by this Directive. *In such circumstances, the rights and legitimate interests of rightholders should be protected.*

(21) Member States should also be allowed to permit the use of orphan works for purposes which go beyond the public interest missions of the organisations covered by this Directive.

Or. en

**Amendment 83**  
**Marielle Gallo, Piotr Borys**

**Proposal for a directive**  
**Recital 22**

*Text proposed by the Commission*

*(22) When a Member State authorises, under the conditions established in this Directive, the use of orphan works by publicly accessible libraries, educational establishments, museums, archives, film heritage institutions or public service broadcasting organisations for purposes beyond their public interest mission, rightholders who come forward to claim their works should be remunerated. Such remuneration should take account of the type of work and the use concerned. Member States may provide that revenues collected from such use of orphan works for the purpose of remuneration but which are unclaimed after the expiry of the period fixed in accordance with this Directive should contribute to financing rights information sources that will facilitate diligent search, by low-cost and automated means, in respect of categories of works that fall actually or potentially within the scope of application of this Directive.*

*Amendment*

*deleted*

Or. fr

**Amendment 84**  
**Christian Engström, Eva Lichtenberger**

**Proposal for a directive**  
**Recital 22**

*Text proposed by the Commission*

(22) When a Member State authorises, under the conditions established in this Directive, the use of orphan works by **publicly accessible** libraries, educational establishments, museums, archives, film heritage institutions or **public service**

*Amendment*

(22) When a Member State authorises, under the conditions established in this Directive, the use of orphan works by libraries, educational establishments, museums, archives, film heritage institutions or broadcasting organisations

broadcasting organisations for purposes beyond their public interest mission, rightholders who come forward to claim their works should be remunerated. Such remuneration should take account of the type of work and the use concerned. Member States may provide that revenues collected from such use of orphan works for the purpose of remuneration but which are unclaimed after the expiry of the period fixed in accordance with this Directive should contribute to financing rights information sources that will facilitate diligent search, by low-cost and automated means, in respect of categories of works that fall actually or potentially within the scope of application of this Directive.

for purposes beyond their public interest mission, rightholders who come forward to claim their works should be remunerated. Such remuneration should ***be fair and*** take account of the type of work and the use concerned. Member States may provide that revenues collected from such use of orphan works for the purpose of remuneration but which are unclaimed after the expiry of the period fixed in accordance with this Directive should contribute to financing ***institutions involved in the preservation, restoration and provision of cultural and educational access to European works, or*** to financing rights information sources that will facilitate diligent search, by low-cost and automated means, in respect of categories of works that fall actually or potentially within the scope of application of this Directive.

Or. en

#### *Justification*

*Once the necessary information systems to facilitate a low-cost diligent search are in place and have been paid for, the Member States will still have to handle the issue of what they should do with revenues that have been collected but have not been claimed. According to Article 7(5) the Member States are free to decide whatever they want in this respect, but we can still encourage them to use the money for purposes, which are in line with the spirit of this Directive.*

#### **Amendment 85**

**Angelika Niebler, Rainer Wieland**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1**

##### *Text proposed by the Commission*

1. This Directive concerns certain uses of orphan works undertaken by publicly accessible libraries, educational establishments or museums as well as by

##### *Amendment*

1. This Directive concerns certain uses of orphan works undertaken by publicly accessible libraries, educational establishments or museums as well as by

archives, film heritage institutions and public service broadcasting organizations.

archives, film heritage institutions, ***publishers of the works listed in point 1 of paragraph 2*** and public service broadcasting organizations.

Or. de

*Justification*

*There is no reason to draw a distinction between a work kept in an archive or a library and the same work kept in the publisher's archives.*

**Amendment 86**  
**Luigi Berlinguer**

**Proposal for a directive**  
**Article 1 – paragraph 1**

*Text proposed by the Commission*

1. This Directive concerns certain uses of orphan works undertaken by publicly accessible libraries, educational establishments or museums as well as by archives, film heritage institutions and public service broadcasting organizations.

*Amendment*

1. This Directive concerns certain uses of orphan works undertaken by publicly accessible libraries, educational establishments or museums as well as by archives, ***audio and*** film heritage institutions and public service broadcasting organizations.

Or. en

**Amendment 87**  
**Angelika Niebler, Rainer Wieland**

**Proposal for a directive**  
**Article 1 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. This Directive applies to works first published or broadcast in a Member State and which are:

*Amendment*

2. This Directive applies to ***the use by the establishments referred to in paragraph 1 of works from their own archives which were*** first published or broadcast in a Member State and which are:

*Justification*

*Under the provisions of Article 1 the users referred to in Article 1(1) could also digitalise other users' archives and collections. However, the groups of users in question should only be able to digitalise their own archives and collections. Article 1 does not make this sufficiently clear. A clarification is needed, therefore.*

**Amendment 88**

**Christian Engström, Eva Lichtenberger**

**Proposal for a directive**

**Article 1 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. This Directive applies to works ***first published or broadcast in a Member State*** and which are:

*Amendment*

2. This Directive applies to works ***protected by copyright, which are contained in the collections of organisations referred to in Article 1(1)*** and which are:

*Justification*

*The requirement for publication in a Member State has been moved to the points of that paragraph.*

**Amendment 89**

**Jean-Marie Cavada**

**Proposal for a directive**

**Article 1 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. This Directive applies to works first published or broadcast in a Member State and which are:

*Amendment*

2. This Directive applies to works ***subject to copyright and related rights in the collections of organisations referred to in Article 1(1) and*** first published or broadcast in ***the territory of*** a Member



State, which are:

Or. fr

**Amendment 90**  
**Sajjad Karim**

**Proposal for a directive**  
**Article 1 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. This Directive applies to works first published or broadcast in a Member State and which are:

*Amendment*

2. This Directive applies to works ***protected by copyright, which are contained in the collections of organisations referred to in Article 1(1), originate or have been*** first published or broadcast in ***the territory of*** a Member State and which are:

Or. en

**Amendment 91**  
**Toine Manders**

**Proposal for a directive**  
**Article 1 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. This Directive applies to works first published ***or*** broadcast in a Member State and which are:

*Amendment*

2. This Directive applies to works first published, broadcast ***or communicated to the public*** in a Member State and which are:

Or. en

**Amendment 92**  
**Christian Engström, Eva Lichtenberger**

**Proposal for a directive**  
**Article 1 – paragraph 2 – point 1**

*Text proposed by the Commission*

*Amendment*

(1) Works **published** in the form of books, journals, newspapers, magazines or other writings, and **which are contained in the collections of publicly accessible libraries, educational establishments, museums or archives**, or

(1) Works in the form of books, journals, newspapers, magazines or other writings and **printed materials that were first published, exhibited or broadcast in the territory of a Member State at least five years earlier**, or

Or. en

*Justification*

*Minimum time after publication: Article 1(2)(3) of the Commission's proposal is made redundant by the rapporteur's amendment to Article 1(2)(2) and it should be deleted. This would, however, make the requirement for a minimum time after publication before a work can be declared orphan disappear completely, which would not be appropriate. Although the Commission proposal does not contain any minimum time after publication for printed material, the minimum time should apply to all types of works. Since it can be expected that works become orphan in the future as well, even if efforts are taken to reduce the problem, the minimum time should be defined as a certain number of years after the publication, and not as a fixed date. In order to ensure harmonisation, the Directive should specify a fixed time limit rather than leave it to be decided by the Member States.*

**Amendment 93**

**Sampo Terho, Sari Essayah, Mitro Repo, Hannu Takkula**

**Proposal for a directive**

**Article 1 – paragraph 2 – point 1**

*Text proposed by the Commission*

*Amendment*

(1) **Works published in the form of books, journals, newspapers, magazines or other writings, and** which are contained in the collections of publicly accessible libraries, educational establishments, museums or archives, or

(1) **Published works and sound recordings** which are contained in the collections of publicly accessible libraries, educational establishments, museums or archives, or

Or. en

**Amendment 94**  
**Christian Engström, Eva Lichtenberger**

**Proposal for a directive**  
**Article 1 – paragraph 2 – point 2**

*Text proposed by the Commission*

(2) **Cinematographic** or audiovisual works **contained in the collections of film heritage institutions**, or

*Amendment*

(2) **Sound recordings or cinematographic** or audiovisual works **that were first published, exhibited or broadcast in the territory of a Member State at least five years earlier**, or

Or. en

*Justification*

*Minimum time after publication: See Article amendment to Article 1(2)(1). “Sound recordings”: See amendment to recital 9.*

**Amendment 95**  
**Angelika Niebler, Rainer Wieland**

**Proposal for a directive**  
**Article 1 – paragraph 2 – point 3**

*Text proposed by the Commission*

(3) Cinematographic, audio or audiovisual works produced by public service broadcasting organisations **before the 31 December 2002** and contained in their archives.

*Amendment*

(3) Cinematographic, audio or audiovisual works produced by public service broadcasting organisations and contained in their archives.

Or. de

*Justification*

*It is perfectly possible that orphan works have been created since 31 December 2002.*

**Amendment 96**  
**Christian Engström, Eva Lichtenberger**

**Proposal for a directive**  
**Article 1 – paragraph 2 – point 3**

*Text proposed by the Commission*

*Amendment*

**(3) Cinematographic, audio or audiovisual works produced by public service broadcasting organisations before the 31 December 2002 and contained in their archives.**

***deleted***

Or. en

*Justification*

*Article 1(2)(3) is made redundant by the rapporteur's amendment to Article 1(2)(2), since all works covered by Article 1(2)(3) would automatically also be covered by Article 1(2)(2).*

**Amendment 97**  
**Jean-Marie Cavada**

**Proposal for a directive**  
**Article 1 – paragraph 2 – point 3**

*Text proposed by the Commission*

*Amendment*

**(3) Cinematographic, audio or audiovisual works produced by public service broadcasting organisations before the 31 December 2002 and contained in their archives.**

**(3) Works which are an integral or incorporated part of an audio or audiovisual work produced and disseminated initially in a Member State by a public service broadcasting organisation before 31 December 2002 and contained in its archives.**

Or. fr

**Amendment 98**  
**Luigi Berlinguer**

**Proposal for a directive**  
**Article 1 – paragraph 2 – point 3**

*Text proposed by the Commission*

(3) Cinematographic, audio or audiovisual works produced by public service broadcasting organisations ***before the 31 December 2002*** and contained in their archives.

*Amendment*

(3) Cinematographic, audio or audiovisual works produced by public service broadcasting organisations and contained in their archives.

Or. en

**Amendment 99**

**Christian Engström, Eva Lichtenberger**

**Proposal for a directive**

**Article 1 – paragraph 2 – point 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***(3a) Works that constitute an integral or embedded part of works referred to in Article 1(2).***

Or. en

*Justification*

*The scope of application must cover not only works but also other protected subject matter, as the Directive would otherwise have no meaningful effect for the beneficiary broadcasting organisations concerned.*

**Amendment 100**

**Christian Engström, Eva Lichtenberger**

**Proposal for a directive**

**Article 2 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. A work shall be considered an orphan work if ***the rightholder in the work*** is not identified or, even if identified, is not located after a diligent search for the rightholder has been carried out and

1. A work ***protected by copyright*** shall be considered an orphan work if ***one or more copyright or related rights holders are*** not identified or, even if identified, is not located after a diligent search for the

recorded in accordance with Article 3.

rightholder has been carried out and recorded in accordance with Article 3.

Or. en

*Justification*

*Neighbouring rights must be included, as the Directive would otherwise have no meaningful effect for the beneficiary broadcasting organisations concerned.*

**Amendment 101**

**Sampo Terho, Sari Essayah, Mitro Repo, Hannu Takkula**

**Proposal for a directive**

**Article 2 – paragraph 1**

*Text proposed by the Commission*

1. A work shall be considered **an orphan work** if the rightholder in the work is not identified or, even if identified, is not located after a diligent search for the rightholder has been carried out and recorded in accordance with Article 3.

*Amendment*

1. A work **or a sound recording** shall be considered orphan if the rightholder in the work is not identified or, even if identified, is not located after a diligent search for the rightholder has been carried out and recorded in accordance with Article 3.

Or. en

**Amendment 102**

**Toine Manders**

**Proposal for a directive**

**Article 2 – paragraph 1**

*Text proposed by the Commission*

1. A work shall be considered an orphan work if the rightholder in the work is not identified or, even if identified, is not located after a diligent search for the rightholder has been carried out and recorded in accordance with Article 3.

*Amendment*

1. A work shall be considered an orphan work if the rightholder in the work is not identified or, even if identified, is not located after a **reasonably** diligent search for the rightholder has been carried out **in good faith** and recorded in accordance with Article 3.

**Amendment 103**  
**Angelika Niebler, Rainer Wieland**

**Proposal for a directive**  
**Article 2 – paragraph 2**

*Text proposed by the Commission*

2. Where a work has more than one rightholder, and one of the rightholders has been identified **and** located, that work shall **not** be considered an orphan work.

*Amendment*

2. Where a work has more than one rightholder, and **at least** one of the rightholders has **not** been identified **or** located, that work shall be considered an orphan work. **The rights of known or identified rightholders shall not be affected.**

Or. de

*Justification*

*The Commission's original wording would create a situation in which a majority of works (particularly in the audiovisual sphere) would be rendered inaccessible. The definition should therefore be expanded and, at the same time, it should be made clear that the rights of identified rightholders will be unaffected.*

**Amendment 104**  
**Christian Engström, Eva Lichtenberger**

**Proposal for a directive**  
**Article 2 – paragraph 2**

*Text proposed by the Commission*

2. Where a work has more than one **rightholder**, and one of the rightholders has been identified and located, **that work shall not be considered an orphan work.**

*Amendment*

2. Where a work has more than one **rightholder in copyright or related rights**, and one of the rightholders has been identified and located, **the rights of the other rightholder(s) are not affected by the present Directive.**

Or. en

*Justification*

*Neighbouring rights must be included. The Directive should be without prejudice to the rights of known rightholders.*

**Amendment 105**

**Sampo Terho, Sari Essayah, Mitro Repo, Hannu Takkula**

**Proposal for a directive**

**Article 2 – paragraph 2**

*Text proposed by the Commission*

2. Where a work has more than one rightholder, and one of the rightholders has been identified and located, that work shall not be considered an orphan **work**.

*Amendment*

2. Where a work **or a sound recording** has more than one rightholder, and one of the rightholders has been identified and located, that work shall not be considered an orphan.

Or. en

**Amendment 106**

**Marielle Gallo, Piotr Borys**

**Proposal for a directive**

**Article 3 – paragraph 1**

*Text proposed by the Commission*

1. For the purposes of establishing whether a work is an orphan work, the organisations referred to in Article 1(1) shall ensure that a diligent search is carried out for each work, by consulting the appropriate sources for the category of works in question.

*Amendment*

1. For the purposes of establishing whether a work is an orphan work, the organisations referred to in Article 1(1) shall ensure that a **good faith** and diligent search is carried out for each work, by consulting the appropriate sources for the category of works in question.

Or. fr

**Amendment 107**

**Christian Engström, Eva Lichtenberger**



**Proposal for a directive**  
**Article 3 – paragraph 1**

*Text proposed by the Commission*

1. For the purposes of establishing whether a work is an orphan work, the organisations referred to in Article 1(1) shall ensure that a diligent search is carried out **for each work**, by consulting the appropriate sources for the category of works in question.

*Amendment*

1. For the purposes of establishing whether a work is an orphan work, the organisations referred to in Article 1(1) shall ensure that a diligent search is carried out **in good faith**, by consulting the appropriate sources for the category of works in question.

Or. en

*Justification*

*Comment by Europeana, EBLIDA, JISC and Liber, representing libraries, museums and other memory institutions: A solution to the legal problem presented by orphan works is without any use unless it is practical. Large-scale release of orphan works will be impossible if the Directive insists on a diligent search for the right-holder of “each work” that is contained within a film, book or sound recording. A single physical work can potentially have many different contributors (for example a film in the UK across the 20th century can have at least 14 different rightholders) and the requirement to physically inspect every work imposed by the current wording, rather than using the cataloguing information that exists, will make mass digitisation impossible. The risks of a library digitising a work whose author can indeed be traced must be minimised but the words ‘good faith’, ‘reasonable’ and ‘diligent’ that appear in the Directive are already well-understood legal principles. In addition to this the Annex to the draft Directive indicates a pragmatic and appropriate list of sources which need to be searched, including the ARROW database, national catalogues and collecting society databases. However, without the removal of the term “each work” not only will mass digitisation be impossible because of the requirement to do a physical inspection, but also the use of existing databases of rightholders as envisaged by the Annex and the ARROW project itself will not be sufficiently comprehensive to fall within the scope of “due diligence”. Without this crucial amendment to the Directive it will be of a limited practical use.*

**Amendment 108**

**Sampo Terho, Sari Essayah, Mitro Repo, Hannu Takkula**

**Proposal for a directive**  
**Article 3 – paragraph 1**

*Text proposed by the Commission*

1. For the purposes of establishing whether

*Amendment*

1. For the purposes of establishing whether

a work is **an orphan work**, the organisations referred to in Article 1(1) shall ensure that a diligent search is carried out for each work, by consulting the appropriate sources for the category of works in question.

a work **or a sound recording** is orphan, the organisations referred to in Article 1(1) shall ensure that a diligent search is carried out for each work, by consulting the appropriate sources for the category of works in question.

Or. en

**Amendment 109**  
**Luigi Berlinguer**

**Proposal for a directive**  
**Article 3 – paragraph 1**

*Text proposed by the Commission*

1. For the purposes of establishing whether a work is an orphan work, the organisations referred to in Article 1(1) shall ensure that a diligent search is carried out **for each work**, by consulting the appropriate sources for the category of works in question.

*Amendment*

1. For the purposes of establishing whether a work is an orphan work, the organisations referred to in Article 1(1) shall ensure that a diligent search is carried out by consulting the appropriate sources for the category of works in question.

Or. en

**Amendment 110**  
**Alexandra Thein**

**Proposal for a directive**  
**Article 3 – paragraph 1**

*Text proposed by the Commission*

1. For the purposes of establishing whether a work is an orphan work, the organisations referred to in Article 1(1) shall ensure that a diligent search is carried out for each work, by consulting the appropriate sources for the category of works in question.

*Amendment*

1. For the purposes of establishing whether a work is an orphan work, the organisations referred to in Article 1(1) **or authorised copyright collection societies** shall ensure that a diligent search is carried out for each work, by consulting the appropriate sources for the category of works in question.

**Amendment 111**  
**Alexandra Thein**

**Proposal for a directive**  
**Article 3 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. In the event that the cinematographic and audiovisual work subject to a good faith diligent search is known to be a co-production, such a search must be carried out in each of the Member States involved in the coproduction.***

Or. en

**Amendment 112**  
**Marielle Gallo, Piotr Borys**

**Proposal for a directive**  
**Article 3 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. The sources that are appropriate for each category of works shall be determined by each Member State, in ***consultation*** with rightholders and users, and include, the sources listed in the Annex.

2. The sources that are appropriate for each category of works shall be determined by each Member State, in ***agreement*** with rightholders and users, and include the sources listed in the Annex.

Or. fr

**Amendment 113**  
**Christian Engström, Eva Lichtenberger**

**Proposal for a directive**  
**Article 3 – paragraph 2**

*Text proposed by the Commission*

2. The sources that are appropriate for each category of works shall be determined by each Member State, in consultation with rightholders and users, and include, the sources listed in the Annex.

*Amendment*

2. The sources that are appropriate for each category of works **or other protected subject matter** shall be **the publicly accessible databases** determined by each Member State, in consultation with rightholders and users, and **may** include the sources listed in the Annex.

Or. en

*Justification*

*Publicly accessible databases: This is mentioned in Recital 13 of the Commission proposal, so it should be the Article as well in order to provide clarity. The word “may”: As the appropriate sources are ultimately to be determined by each Member State individually, in consultation with the stakeholders, Member States may decide to add other sources or delete those which are not relevant in that country (e.g. legal deposit).*

**Amendment 114**

**Sampo Terho, Sari Essayah, Mitro Repo, Hannu Takkula**

**Proposal for a directive  
Article 3 – paragraph 2**

*Text proposed by the Commission*

2. The sources that are appropriate for each category of works shall be determined by each Member State, in consultation with rightholders and users, and include, the sources listed in the Annex.

*Amendment*

2. The sources that are appropriate for each category of works **or sound recordings** shall be determined by each Member State, in consultation with rightholders and users, and include, the sources listed in the Annex.

Or. en

**Amendment 115**

**Luigi Berlinguer**

**Proposal for a directive  
Article 3 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. The sources that are appropriate for each category of works shall be determined by each Member State, in consultation with rightholders and users, and include, the sources listed in the Annex.

2. The sources that are appropriate for each category of works shall be determined by each Member State, in consultation with rightholders and users, and include, the sources listed in the Annex, ***provided these sources are publicly accessible online.***

Or. en

**Amendment 116**  
**Alexandra Thein**

**Proposal for a directive**  
**Article 3 – paragraph 2 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***The sources listed in the 'Due Diligence Guidelines' which are referred to in point 1 of the 'Memorandum of Understanding on Diligent Search Guidelines for Orphan Works' shall also be consulted.***

Or. de

*Justification*

*This Memorandum of Understanding, which was published on 4 June 2008, was signed by representatives of libraries, archives and rightholders in the presence of the Commission and contains a harmonised list of sources.*

**Amendment 117**  
**Angelika Niebler, Rainer Wieland**

**Proposal for a directive**  
**Article 3 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. A diligent search is required to be carried out only ***in*** the Member State of

3. A diligent search is required to be carried out only ***on the territory of*** the

first publication or broadcast.

Member State of first publication or broadcast. *If there is evidence to suggest that rightholders from the territory of other Member States were involved in the creation of the work, the diligent search shall be deemed to have been concluded only if it also encompassed the territories of those Member States.*

Or. de

*Justification*

*Co-productions involving rightholders from several Member States are common. In addition, it is possible for a work to be broadcast for the first time in one Member State, even though it was created in other Member States. If, during the diligent search in one Member State, evidence emerges of the involvement of rightholders from another Member State, the search must therefore be expanded beyond the borders of the Member State in which the work was first published or broadcast.*

**Amendment 118**

**Christian Engström, Eva Lichtenberger**

**Proposal for a directive**

**Article 3 – paragraph 3**

*Text proposed by the Commission*

3. A diligent search is required to be carried out only in the Member State *of* first **publication** or broadcast.

*Amendment*

3. A diligent search is required to be carried out only in the Member State *in which territory the work was* first **published, exhibited,** or broadcast. **It shall be carried out in good faith and in a reasonable scope prior to the use of the work.**

Or. en

*Justification*

*Wording of the draft report plus the word “exhibited” in order to cover cinematographic works.*

**Amendment 119**  
**Jean-Marie Cavada**

**Proposal for a directive**  
**Article 3 – paragraph 3**

*Text proposed by the Commission*

3. A diligent search is required to be carried out only in the Member State *of* first *publication* or broadcast.

*Amendment*

3. A diligent search is required to be carried out only in the Member State *in whose territory the work was first published* or broadcast. *It shall be carried out in good faith and in reasonable terms for each work used.*

Or. fr

**Amendment 120**  
**Marielle Gallo, Piotr Borys**

**Proposal for a directive**  
**Article 3 – paragraph 3 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*In some cases, a good faith and diligent search will involve a search in Member States other than the Member State of first publication or broadcast.*

Or. fr

**Amendment 121**  
**Sajjad Karim**

**Proposal for a directive**  
**Article 3 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

*3a. Where a work has not been published or broadcast, or the Member State of first publication or broadcast cannot be determined, a diligent search shall be*

*carried out in the country of origin or country most associated with the work. If necessary, the additional consultation of information available in other countries shall be undertaken.*

Or. en

**Amendment 122**  
**Marielle Gallo, Piotr Borys**

**Proposal for a directive**  
**Article 3 – paragraph 4**

*Text proposed by the Commission*

4. Member States shall ensure that the results of diligent searches carried out in their territories are recorded in a publicly accessible database.

*Amendment*

4. Member States shall ensure that the results of diligent searches carried out in their territories are recorded in a publicly accessible database. ***The Member States' databases shall be designed and implemented so as to permit interlinkage with each other on a pan-European level.***

Or. fr

**Amendment 123**  
**Alexandra Thein**

**Proposal for a directive**  
**Article 3 – paragraph 4 a (new)**

*Text proposed by the Commission*

***4a. Authorised copyright collection societies shall act on behalf of those rightholders who cannot be located even after a diligent search.***

Or. de



**Amendment 124**  
**Luis de Grandes Pascual**

**Proposal for a directive**  
**Article 3 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**4a. If the cinematographic or audiovisual work subject to a bona fide diligent search is a co-production, the bona fide diligent search shall be carried out in each of the Member States involved in the co-production.**

Or. es

*Justification*

*Many cinematographic and audiovisual works are co-productions. If the scope of the bona fide diligent search is limited to the Member State in which the work is first published or broadcast, it could often reach the conclusion that the audiovisual co-production is an orphan work when the relevant information for establishing its orphan status may be available in the other Member States involved in the co-production. The bona fide diligent search should therefore be carried out in all Member States involved in the co-production.*

**Amendment 125**  
**Sampo Terho, Sari Essayah, Mitro Repo, Hannu Takkula**

**Proposal for a directive**  
**Article 4**

*Text proposed by the Commission*

*Amendment*

A work which is considered **an orphan work** according to Article 2 in a Member State shall be considered an orphan work in all Member States.

A work **or a sound recording** which is considered orphan according to Article 2 in a Member State shall be considered an orphan work in all Member States.

Or. en

**Amendment 126**  
**Jean-Marie Cavada**

**Proposal for a directive**  
**Article 4 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***This Directive shall be without prejudice to the current or future arrangements laid down by the Member States concerning the management of rights such as extended collective licences.***

Or. fr

**Amendment 127**  
**Sajjad Karim**

**Proposal for a directive**  
**Article 4 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***This Directive is without prejudice to present and future arrangements in the Member States concerning the management of rights, such as extended collective licences or requirements for authorisation.***

Or. en

**Amendment 128**  
**Angelika Niebler, Rainer Wieland**

**Proposal for a directive**  
**Article 5**

*Text proposed by the Commission*

*Amendment*

Member States shall ensure that a rightholder in a work considered to be orphan has, at any time, the possibility of putting an end to the orphan status.

***If a work considered to be orphan has only one rightholder, Member States shall ensure that **that rightholder** has, at any time, the possibility of putting an end to the orphan status; **if a work considered to be*****

*orphan has more than one rightholder, its status as an orphan work may be brought to an end only if all the rightholders have been identified and located, in accordance with the provisions of Article 2(2).*

Or. de

*Justification*

*Clarification in connection with Article 2(2) (case of more than one rightholder).*

**Amendment 129**

**Christian Engström, Eva Lichtenberger**

**Proposal for a directive**

**Article 5**

*Text proposed by the Commission*

Member States shall ensure that a rightholder in a work considered to be orphan has, at any time, the possibility of putting an end to the orphan status.

*Amendment*

Member States shall ensure that a rightholder in a work considered to be orphan has, at any time, the possibility of putting an end to the orphan status *in respect of himself, by making himself known in an appropriate manner.*

Or. en

*Justification*

*When there are multiple rightholders, each rightholder should be in control of his own rights and be treated individually in respect of his own rights.*

**Amendment 130**

**Sampo Terho, Sari Essayah, Mitro Repo, Hannu Takkula**

**Proposal for a directive**

**Article 5**

*Text proposed by the Commission*

Member States shall ensure that a

*Amendment*

Member States shall ensure that a

rightholder in a work considered to be orphan has, at any time, the possibility of putting an end to the orphan status.

rightholder in a work *or a sound recording* considered to be orphan has, at any time, the possibility of putting an end to the orphan status.

Or. en

**Amendment 131**  
**Alexandra Thein**

**Proposal for a directive**  
**Article 5**

*Text proposed by the Commission*

Member States shall ensure that a rightholder in a work considered to be orphan has, at any time, the possibility of putting an end to the orphan status.

*Amendment*

Member States shall ensure that a rightholder in a work considered to be orphan has, at any time, the ***enforceable*** possibility of putting an end to the orphan status ***and, to that end, shall establish a speedy, uniform, cheap procedure.***

Or. de

**Amendment 132**  
**Toine Manders**

**Proposal for a directive**  
**Article 5**

*Text proposed by the Commission*

Member States shall ensure that a rightholder in a work considered to be orphan has, at any time, the possibility of putting an end to the orphan status.

*Amendment*

Member States shall ensure that a rightholder in a work considered to be orphan has, at any time, the ***real*** possibility of putting an end to the orphan status ***in a speedy, uniform and cost-effective manner, in the Member State of his choice.***

Or. en

**Amendment 133**  
**Christian Engström, Eva Lichtenberger**

**Proposal for a directive**  
**Article 5 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Termination of the status of orphan work in respect of a rightholder that makes himself known shall not call into question contracts previously entered into for the use, in accordance with the present Directive, of the work which was previously orphan in respect of that rightholder.***

Or. en

*Justification*

*A clear rule is necessary to safeguard the agreements made for the use of productions which include one or more orphan works. Especially for broadcast productions, the agreements are made long before the material will actually be broadcast and thus all parties involved (including programme editors, advertisers, etc.) need legal certainty.*

**Amendment 134**  
**Sampo Terho, Sari Essayah, Mitro Repo, Hannu Takkula**

**Proposal for a directive**  
**Article 6 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

1. Member States shall ensure that the organisations referred to in Article 1(1) are permitted to use an orphan work in the following ways:

1. Member States shall ensure that the organisations referred to in Article 1(1) are permitted to use an orphan work ***or a sound recording*** in the following ways:

Or. en

**Amendment 135**  
**Sampo Terho, Sari Essayah, Mitro Repo, Hannu Takkula**

**Proposal for a directive**  
**Article 6 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) by making the orphan work available, within the meaning of Article 3 of Directive 2001/29/EC;

*Amendment*

(a) by making the orphan work **or the sound recording** available, within the meaning of Article 3 of Directive 2001/29/EC;

Or. en

**Amendment 136**  
**Jean-Marie Cavada**

**Proposal for a directive**  
**Article 6 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) by **making** the orphan work **available, within the meaning of Article 3 of Directive 2001/29/EC;**

*Amendment*

(a) by **communicating** the orphan work **to the public, including making it available to the public in such a way that members of the public may access it from a place and at a time individually chosen by them;**

Or. fr

**Amendment 137**  
**Christian Engström, Eva Lichtenberger**

**Proposal for a directive**  
**Article 6 – paragraph 1 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

**(ba) by communication to the public of the orphan work, including making it available to the public, by wire or wireless means, so that everybody can have access to it at a place and a time chosen individually.**

*Justification*

*The permitted use under the current wording of the proposal is limited to on-demand use. Consequently, it would not cover the re-broadcasting (or any simulcasting of such re-broadcasts) of broadcasters' archives. Moreover, the on-demand use is, in Article 6(2), generally limited to certain uses within the "public service mission" of the user. This would unnecessarily restrict Member States' freedom to find other appropriate solutions.*

**Amendment 138****Marielle Gallo, Piotr Borys****Proposal for a directive  
Article 6 – paragraph 2***Text proposed by the Commission*

**2. However, unless otherwise provided in Article 7**, the organisations referred to in Article 1(1) may not use orphan works in order to achieve aims other than their public interest missions, notably preservation, restoration and the provision of cultural and educational access to works contained in their collections.

*Amendment*

2. The organisations referred to in Article 1(1) may not use orphan works in order to achieve aims other than their public interest missions, notably preservation, restoration and the provision of cultural and educational access to works contained in their collections.

**Amendment 139****Sampo Terho, Sari Essayah, Mitro Repo, Hannu Takkula****Proposal for a directive  
Article 6 – paragraph 2***Text proposed by the Commission*

2. However, unless otherwise provided in Article 7, the organisations referred to in Article 1(1) may not use orphan works in order to achieve aims other than their public interest missions, notably preservation, restoration and the provision of cultural and educational access to works

*Amendment*

2. However, unless otherwise provided in Article 7, the organisations referred to in Article 1(1) may not use orphan works **or sound recordings** in order to achieve aims other than their public interest missions, notably preservation, restoration and the provision of cultural and educational

contained in their collections.

access to works contained in their collections.

Or. en

**Amendment 140**  
**Luis de Grandes Pascual**

**Proposal for a directive**  
**Article 6 – paragraph 2**

*Text proposed by the Commission*

2. However, ***unless otherwise provided in Article 7***, the organisations referred to in Article 1(1) may not use orphan works in order to achieve aims other than their public interest missions, notably preservation, restoration and the provision of cultural and educational access to works contained in their collections.

*Amendment*

2. However, the organisations referred to in Article 1(1) may not use orphan works in order to achieve aims other than their public interest missions, notably preservation, restoration and the provision of cultural and educational access to works contained in their collections.

Or. es

*Justification*

*The permitted uses of orphan works in the EU should be defined in narrow terms and tied to public-interest objectives such as preservation, restoration and the provision of access for cultural, research and educational purposes.*

**Amendment 141**  
**Angelika Niebler, Rainer Wieland**

**Proposal for a directive**  
**Article 6 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. If, in the case of an orphan work, one or more rightholders has been identified but not located, the name(s) of the rightholder(s) shall be indicated every time a work is used.***



*Justification*

*As in Article 7(1)(3) these arrangements should also apply to non-commercial forms of use.*

**Amendment 142**  
**Marielle Gallo, Piotr Borys**

**Proposal for a directive**  
**Article 6 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Member States shall provide that rightholders which put an end to the orphan status of the work, within the meaning of Article 5, are remunerated for the use that has been made of the work by the organisations referred to in Article 1(1);***

Or. fr

**Amendment 143**  
**Marielle Gallo, Piotr Borys**

**Proposal for a directive**  
**Article 6 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

4. Member States shall ensure that the organisations referred to in Article 1(1), when using orphan works in accordance with paragraph 1, maintain records of their diligent search and publicly accessible records of use.

4. Member States shall ensure that the organisations referred to in Article 1(1), when using orphan works in accordance with paragraph 1, maintain records of their diligent search and publicly accessible records of use. ***Those records shall be designed and implemented so as to permit interlinkage with each other on a pan-European level.***

Or. fr

## Amendment 144

Sampo Terho, Sari Essayah, Mitro Repo, Hannu Takkula

### Proposal for a directive

#### Article 6 – paragraph 4

*Text proposed by the Commission*

4. Member States shall ensure that the organisations referred to in Article 1(1), when using orphan works in accordance with paragraph 1, maintain records of their diligent search and publicly accessible records of use.

*Amendment*

4. Member States shall ensure that the organisations referred to in Article 1(1), when using orphan works ***or sound recordings*** in accordance with paragraph 1, maintain records of their diligent search and publicly accessible records of use.

Or. en

## Amendment 145

Alexandra Thein

### Proposal for a directive

#### Article 6 – paragraph 4

*Text proposed by the Commission*

4. Member States shall ensure that the organisations referred to in Article 1(1), ***when using*** orphan works in accordance with paragraph 1, ***maintain records of their diligent search and publicly accessible records of use.***

*Amendment*

4. Member States shall ensure that the organisations referred to in Article 1(1), ***may use*** orphan works in accordance with paragraph 1, ***provided that:***

***(1) the organisations referred to in Article 1(1) maintain records of their diligent search;***

***(2) the organisations maintain publicly accessible records of their use of orphan works;***

***(3) in the case of an orphan work where a rightholder has been identified but not located, the name of the rightholder is indicated in any use of the work;***

***(4) rightholders which put an end to the***

*orphan status of the work, within the meaning of Article 5, are remunerated for the use that has been made of the work by the organisations referred to in Article 1(1). Such remuneration shall be comparable to that of another known and located rightholder in the same work and for the same use.*

*Rightholders may claim their remuneration under this point within a period fixed by Member States and which shall not be less than five years from the date of the act giving rise to the claim.*

Or. en

**Amendment 146**  
**Jean-Marie Cavada**

**Proposal for a directive**  
**Article 6 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

*4a. Member States shall ensure that rightholders which put an end to the orphan status of the work, within the meaning of Article 5, are remunerated for the use that has been made of the work by the organisations referred to in Article 1(1);*

Or. fr

**Amendment 147**  
**Piotr Borys, Marielle Gallo**

**Proposal for a directive**  
**Article 6 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

*4a. In the case of an orphan work where a rightholder has been identified but not*

*located, the name of the rightholder shall be indicated in any use of the work.*

Or. en

**Amendment 148**  
**Marielle Gallo, Piotr Borys**

**Proposal for a directive**  
**Article 7**

*Text proposed by the Commission*

*Amendment*

*Article 7*

*deleted*

*Authorised uses of orphan works*

*1. Member States may authorise the organisations referred to in Article 1(1) to use an orphan work for purposes other than those referred to in Article 6(2), provided that:*

*(1) the organisations referred to in Article 1(1) maintain records of their diligent search;*

*(2) the organisations maintain publicly accessible records of their use of orphan works;*

*(3) in the case of an orphan work where a rightholder has been identified but not located, the name of the rightholder is indicated in any use of the work;*

*(4) rightholders which put an end to the orphan status of the work, within the meaning of Article 5, are remunerated for the use that has been made of the work by the organisations referred to in Article 1(1);*

*(5) rightholders may claim their remuneration under point (4) within a period fixed by Member States and which shall not be less than five years from the date of the act giving rise to the claim.*

*2. Member States may chose the means*

*for authorising use within the meaning of paragraph 1 and remain free to decide on the use of any revenues which are unclaimed after the expiry of the period fixed in accordance with paragraph 1(5).*

Or. fr

**Amendment 149**  
**Luis de Grandes Pascual**

**Proposal for a directive**  
**Article 7**

*Text proposed by the Commission*

*Amendment*

*Article 7*

*deleted*

*Authorised uses of orphan works*

*1. Member States may authorise the organisations referred to in Article 1(1) to use an orphan work for purposes other than those referred to in Article 6(2), provided that:*

*(1) the organisations referred to in Article 1(1) maintain records of their diligent search;*

*(2) the organisations maintain publicly accessible records of their use of orphan works;*

*(3) in the case of an orphan work where a rightholder has been identified but not located, the name of the rightholder is indicated in any use of the work;*

*(4) rightholders which put an end to the orphan status of the work, within the meaning of Article 5, are remunerated for the use that has been made of the work by the organisations referred to in Article 1(1);*

*(5) rightholders may claim their remuneration under point (4) within a period fixed by Member States and which shall not be less than five years from the*

*date of the act giving rise to the claim.*

*2. Member States may chose the means for authorising use within the meaning of paragraph 1 and remain free to decide on the use of any revenues which are unclaimed after the expiry of the period fixed in accordance with paragraph 1(5).*

Or. es

#### **Amendment 150**

**Sampo Terho, Sari Essayah, Mitro Repo, Hannu Takkula**

#### **Proposal for a directive**

#### **Article 7 – paragraph 1 – introductory part**

##### *Text proposed by the Commission*

1. Member States may authorise the organisations referred to in Article 1(1) to use an orphan work for purposes other than those referred to in Article 6(2), provided that:

##### *Amendment*

1. Member States may authorise the organisations referred to in Article 1(1) to use an orphan work ***or a sound recording*** for purposes other than those referred to in Article 6(2), provided that:

Or. en

#### **Amendment 151**

**Sampo Terho, Sari Essayah, Mitro Repo, Hannu Takkula**

#### **Proposal for a directive**

#### **Article 7 – paragraph 1 – point 2**

##### *Text proposed by the Commission*

(2) the organisations maintain publicly accessible records of their use of orphan works;

##### *Amendment*

(2) the organisations maintain publicly accessible records of their use of orphan works ***or sound recordings***;

Or. en

#### **Amendment 152**

**Sampo Terho, Sari Essayah, Mitro Repo, Hannu Takkula**

**Proposal for a directive**  
**Article 7 – paragraph 1 – point 3**

*Text proposed by the Commission*

(3) in the case of an orphan work where a rightholder has been identified but not located, the name of the rightholder is indicated in any use of the work;

*Amendment*

(3) in the case of an orphan work **or a sound recording** where a rightholder has been identified but not located, the name of the rightholder is indicated in any use of the work **or the sound recording**;

Or. en

**Amendment 153**  
**Toine Manders**

**Proposal for a directive**  
**Article 7 – paragraph 1 – point 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***(3a) The organisations referred to in Article 1(1) may commercialise the orphan work in a reasonable manner and in good faith until the day in which the rightholder claims the work and puts an end to the orphan status in accordance with Article 5. Until this day the rightholder will not be remunerated and copyright legislation will not be applicable.***

Or. en

**Amendment 154**  
**Toine Manders**

**Proposal for a directive**  
**Article 7 – paragraph 1 – point 4**

*Text proposed by the Commission*

*Amendment*

***(4) rightholders which put an end to the***

***deleted***

*orphan status of the work, within the meaning of Article 5, are remunerated for the use that has been made of the work by the organisations referred to in Article 1(1);*

Or. en

**Amendment 155**  
**Christian Engström, Eva Lichtenberger**

**Proposal for a directive**  
**Article 7 – paragraph 1 – point 4**

*Text proposed by the Commission*

(4) rightholders which put an end to the orphan status of the work, within the meaning of Article 5, are remunerated for the use that has been made of the work by the organisations referred to in Article 1(1);

*Amendment*

(4) rightholders which put an end to the orphan status of the work, within the meaning of Article 5, are remunerated ***according to fixed tariffs determined by the Member States*** for the use that has been made of the work by the organisations referred to in Article 1(1);

Or. en

*Justification*

*The whole purpose of this Directive is to provide legal certainty to the libraries, museums and broadcasters that are the beneficiaries of the Directive. If a reappearing rightholder has the right to unspecified remuneration the legal certainty disappears and Article 7 of the Directive becomes meaningless.*

**Amendment 156**  
**Sampo Terho, Sari Essayah, Mitro Repo, Hannu Takkula**

**Proposal for a directive**  
**Article 7 – paragraph 1 – point 4**

*Text proposed by the Commission*

(4) rightholders which put an end to the orphan status of the work, within the

*Amendment*

(4) rightholders which put an end to the orphan status of the work, within the



meaning of Article 5, are remunerated for the use that has been made of the work by the organisations referred to in Article 1(1);

meaning of Article 5, are remunerated for the use that has been made of the work **or the sound recording** by the organisations referred to in Article 1(1);

Or. en

**Amendment 157**  
**Toine Manders**

**Proposal for a directive**  
**Article 7 – paragraph 1 – point 5**

*Text proposed by the Commission*

*Amendment*

**(5) rightholders may claim their remuneration under point (4) within a period fixed by Member States and which shall not be less than five years from the date of the act giving rise to the claim.**

**deleted**

Or. en

**Amendment 158**  
**Christian Engström, Eva Lichtenberger**

**Proposal for a directive**  
**Article 7 – paragraph 1 – point 5**

*Text proposed by the Commission*

*Amendment*

(5) rightholders may claim their remuneration under point (4) within a period **fixed by Member States and which shall not be less than** five years from the date of the act giving rise to the claim.

(5) rightholders may claim their remuneration under point (4) within a period **of** five years from the date of the act giving rise to the claim.

Or. en

*Justification*

*In order to ensure harmonisation the Directive should specify a fixed time limit rather than leave it to be decided by the Member State.*

**Amendment 159**  
**Jean-Marie Cavada**

**Proposal for a directive**  
**Article 7 – paragraph 1 – point 5**

*Text proposed by the Commission*

(5) rightholders may claim their remuneration under point (4) within a period fixed by Member States and which shall not be less than five years from the date of the act **giving** rise to the claim.

*Amendment*

(5) rightholders may claim their remuneration under point (4) within a period fixed by Member States and which shall not be less than five years from the date of the act **of exploitation of a work which gives** rise to the claim.

Or. fr

**Amendment 160**  
**Jean-Marie Cavada**

**Proposal for a directive**  
**Article 7 – paragraph 2**

*Text proposed by the Commission*

2. Member States may *chose* the means for authorising use within the meaning of paragraph 1 **and** remain free to decide on the use of any revenues which are unclaimed after the expiry of the period fixed in accordance with paragraph 1(5).

*Amendment*

2. Member States may *choose* the means for authorising use within the meaning of paragraph 1. **They shall** remain free to decide on the use of any revenues which are unclaimed after the expiry of the period fixed in accordance with paragraph 1(5). **However, preference shall be given to earmarking those revenues for the restoration and digitisation of works and for measures assisting the creative process.**

Or. fr

**Amendment 161**  
**Marielle Gallo, Piotr Borys**

**Proposal for a directive**  
**Article 8 – title**

*Text proposed by the Commission*

***Continued application of*** other legal provisions

*Amendment*

***Compliance with*** other legal provisions

Or. fr

**Amendment 162**  
**Marielle Gallo, Piotr Borys**

**Proposal for a directive**  
**Article 8 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***This Directive shall be without prejudice to the Member States' arrangements concerning mass-scale digitisation of works, such as those relating to out-of-commerce works.***

Or. fr

**Amendment 163**  
**Christian Engström, Eva Lichtenberger**

**Proposal for a directive**  
**Article 8 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***This Directive shall be without prejudice to provisions for managing the rights to works and other protected subject matter, in particular collective licensing arrangements, legal presumptions of representation or transfer, mandatory collective management, or combinations of them, irrespective of whether such works or protected subject matter are orphan works under Article 2, in***

*accordance with Union law and the international treaties on copyright and related rights. Where such provisions exist or are introduced, each other Member State shall ensure that the beneficiaries of Article 1(1) are legally protected with regard to their use of works or other protected subject matter as licensed or permitted under such provisions.*

Or. en

#### *Justification*

*There is neither a provision on a possible solution for orphan works via a form of collective licensing nor any encouragement for Member States to introduce such a type of solution, whereas in a number of Member States arrangements of this kind have proven to be appropriate for both orphan works and broadcasters' archives. Although the preamble includes the wording "The proposal also clarifies the application of extended collective licences to works which are potentially orphan works", the proposal itself omits to provide for the possibility of such licensing arrangements if a Member State would prefer to take that approach. This issue is too important to deal with such a provision merely in a recital. Moreover, where such an approach is or will be taken, this Directive must create the necessary legal certainty for the cross-border effect.*

**Amendment 164**  
**Marielle Gallo, Piotr Borys**

**Proposal for a directive**  
**Article 8 a (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 8a*

#### *Management of rights*

*This Directive shall be without prejudice to the Member States' arrangements concerning the management of rights such as extended collective licences.*

Or. fr

## Amendment 165

Sampo Terho, Sari Essayah, Mitro Repo, Hannu Takkula

### Proposal for a directive

#### Article 9 – paragraph 1

*Text proposed by the Commission*

1. The provisions of this Directive shall apply in respect of all works referred to in Article 1 which are, on [transposition date], protected by the Member States' legislation in the field of copyright.

*Amendment*

1. The provisions of this Directive shall apply in respect of all works ***or sound recordings*** referred to in Article 1 which are, on [transposition date], protected by the Member States' legislation in the field of copyright.

Or. en

## Amendment 166

Christian Engström, Eva Lichtenberger

### Proposal for a directive

#### Article 11 – paragraph 1

*Text proposed by the Commission*

The Commission shall keep under constant review the development of rights information sources and shall, at the latest one year after the entry into force of this Directive, and at annual intervals thereafter, submit a report concerning the possible inclusion in the scope of application of this Directive of works or other protected subject matter not currently included in such scope, and in particular ***phonograms and*** stand alone photographs and other images.

*Amendment*

The Commission shall keep under constant review the development of rights information sources and shall, at the latest one year after the entry into force of this Directive, and at annual intervals thereafter, submit a report concerning the possible inclusion in the scope of application of this Directive of ***beneficiaries other than those listed in Article 1(1), and of*** works or other protected subject matter not currently included in such scope, and in particular stand alone photographs and other images, ***as well as unpublished works of all kinds created in Europe.***

Or. en

### *Justification*

*Other beneficiaries than the museums, libraries etc. are necessary if we want orphan works to be available to e.g. documentary film makers who want to include historic footage, or, generally speaking, to any entrepreneurs in the cultural sector who might want to make use of Europe's common cultural heritage in new works. Unpublished works are of great cultural importance, since many of the works held in the collections of museums and libraries fall into this category. The present Directive is a starting point for addressing the orphan works issue, but it is far from a complete solution.*

#### **Amendment 167** **Rolandas Paksas**

##### **Proposal for a directive** **Article 11 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***The Commission shall regularly update (at least every two years) the list of the bodies referred to in Article 1(1) which are responsible for managing orphan works.***

Or. lt

#### **Amendment 168** **Sajjad Karim**

##### **Proposal for a directive** **Annex – point 3 – point a**

*Text proposed by the Commission*

*Amendment*

(a) The publishers association in the respective country and the authors and journalists associations;

(a) The publishers ***and the publishers'*** association in the respective country and the authors and journalists associations;

Or. en

#### **Amendment 169** **Piotr Borys, Marielle Gallo**

**Proposal for a directive**  
**Annex – point 5 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(da) Credits and other information  
appearing on the work's packaging;***

Or. en

**Amendment 170**  
**Piotr Borys, Marielle Gallo**

**Proposal for a directive**  
**Annex – point 5 – point d b (new)**

*Text proposed by the Commission*

*Amendment*

***(db) Databases/membership lists of all  
relevant associations or institutions  
representing the relevant category of  
rightholder.***

Or. en