



2016/0280(COD)

28.4.2017

AMENDMENTS

73 - 272

Draft report
Therese Comodini Cachia
(PE601.094v01-00)

Copyright in the Digital Single Market

Proposal for a directive
(COM(2016)0593 – C8-0383/2016 – 2016/0280(COD))

Amendment 73

Marie-Christine Boutonnet, Dominique Bilde, Gilles Lebreton

Proposal for a directive

Citation 1

Text proposed by the Commission

Having regard to the Treaty on the Functioning of the European Union, and in particular Article **114** thereof,

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular Article **167** thereof,

Or. fr

Amendment 74

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Citation 1 a (new)

Text proposed by the Commission

Amendment

Having regard to the Charter of Fundamental Rights of the European Union, and in particular Articles 11, 14, 16, 17, 38 thereof,

Or. en

Amendment 75

Marie-Christine Boutonnet, Dominique Bilde, Gilles Lebreton

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) The Treaty *provides for the establishment of an internal market and the institution of a system ensuring that competition in the internal market is not distorted*. Harmonisation of the laws of the Member States on copyright and related rights should *contribute further to the achievement of those objectives*.

Amendment

(1) The Treaty *stipulates that the Union, while respecting the powers of the Member States, must contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity*. Harmonisation of the laws of the Member States on copyright and related rights should *help to preserve this cultural diversity*.

Amendment 76

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive**Recital 2***Text proposed by the Commission*

(2) The directives which have been adopted in the area of copyright and related rights provide for a **high level of protection for rightholders and create a framework wherein the exploitation of works and other protected subject-matter can take place. This harmonised legal framework contributes to the good functioning of the internal market; it stimulates innovation, creativity, investment and production of new content, also in the digital environment. The protection provided by this legal framework also contributes** to the Union's objective of respecting and promoting cultural diversity while at the same time bringing the European common cultural heritage to the fore. Article 167(4) of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action.

Amendment

(2) The directives which have been adopted in the area of copyright and related rights provide for a **harmonised legal framework, which contributes to the good functioning of the internal market. This legal framework should however be updated, taking into account new digital technologies that pose new challenges in finding the right balance between the protection of intellectual property rights and the new possibilities for consumers and businesses to create, innovate, access and exchange copyright-protected works and other subject matter. Furthermore, it should be acknowledged that there is an increasing number of cases where copyright hampers innovation and creativity rather than fostering them. An updated legal framework would contribute to the general public goal of increasing access to, and favouring the dissemination of, creative content, information and knowledge, and** to the Union's objective of respecting and promoting cultural diversity while at the same time bringing the European common cultural heritage to the fore. Article 167(4) of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action.

Amendment 77

Marie-Christine Boutonnet, Dominique Bilde, Gilles Lebreton

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) The directives which have been adopted in the area of copyright and related rights **provide** for a high level of protection for rightholders and **create** a framework wherein the exploitation of works and other protected subject-matter can take place. This harmonised legal framework **contributes to the good functioning of the internal market; it stimulates** innovation, creativity, investment and production of new content, also in the digital environment. The protection provided by this legal framework also contributes to the Union's objective of respecting and promoting cultural diversity while at the same time bringing the European common cultural heritage to the fore. Article 167(4) of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action.

Amendment

(2) The **constitutional traditions of the Member States and the European** directives which have been adopted in the area of copyright and related rights **have the aim of providing** for a high level of protection for rightholders and **of creating** a framework wherein the exploitation of works and other protected subject-matter can take place. This harmonised legal framework **should make it possible to preserve cultural heritage and to promote the cultural and creative industries, with the purpose of stimulating** innovation, creativity, investment and production of new content, also in the digital environment. The protection provided by this legal framework also contributes to the Union's objective of respecting and promoting cultural diversity while at the same time bringing the European common cultural heritage to the fore. Article 167(4) of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action.

Or. fr

Amendment 78 Daniel Buda

Proposal for a directive Recital 2

Text proposed by the Commission

(2) The directives which have been adopted in the area of copyright and related rights provide for a high level of protection for rightholders and create a framework wherein the exploitation of works and other protected subject-matter can take place. This harmonised legal framework contributes to the good functioning of the internal market; it stimulates innovation, creativity, investment and production of

Amendment

(2) The directives which have been adopted in the area of copyright and related rights **contribute to the functioning of the internal market**, provide for a high level of protection for rightholders, **facilitate the clearance of rights** and create a framework wherein the exploitation of works and other protected subject-matter can take place. This harmonised legal framework contributes to the good functioning of the

new content, also in the digital environment. The protection provided by this legal framework also contributes to the Union's objective of respecting and promoting cultural diversity while at the same time bringing the European common cultural heritage to the fore. Article 167(4) of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action.

internal market; it stimulates innovation, creativity, investment and production of new content, also in the digital environment, ***with a view to avoiding fragmentation of the internal market***. The protection provided by this legal framework also contributes to the Union's objective of respecting and promoting cultural diversity while at the same time bringing the European common cultural heritage to the fore. Article 167(4) of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action.

Or. ro

Amendment 79

Antanas Guoga, Eva Maydell

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) The directives which have been adopted in the area of copyright and related rights provide for a high level of protection for rightholders and create a framework wherein the exploitation of works and other protected subject-matter can take place. This harmonised legal framework contributes to the good functioning of the internal market; it stimulates innovation, creativity, investment and production of new content, also in the digital environment. The protection provided by this legal framework also contributes to the Union's objective of respecting and promoting cultural diversity while at the same time bringing the European common cultural heritage to the fore. Article 167(4) of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action.

Amendment

(2) The directives which have been adopted in the area of copyright and related rights provide for a high level of protection for rightholders and create a framework wherein the exploitation of works and other protected subject-matter can take place. This harmonised legal framework contributes to the good functioning of the ***truly integrated*** internal market; it stimulates innovation, creativity, investment and production of new content, also in the digital environment. The protection provided by this legal framework also contributes to the Union's objective of respecting and promoting cultural diversity while at the same time bringing the European common cultural heritage to the fore. Article 167(4) of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action.

Or. en

Amendment 80

Julia Reda

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) The directives which have been adopted in the area of copyright and related rights provide for a high level of protection for rightholders and create a framework wherein the exploitation of works and other protected subject-matter can take place. ***This*** harmonised legal framework contributes to the good functioning of the internal market; it stimulates innovation, creativity, investment and production of new content, also in the digital environment. The ***protection provided by this*** legal framework also contributes to the Union's objective of respecting and promoting cultural diversity while at the same time bringing the European common cultural heritage to the fore. Article 167(4) of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action.

Amendment

(2) The directives which have been adopted in the area of copyright and related rights provide for a high level of protection for rightholders and create a framework wherein the exploitation of works and other protected subject-matter can take place. ***A*** harmonised legal framework contributes to the good functioning of the internal market; it stimulates innovation, creativity, investment and production of new content, also in the digital environment. The legal framework also contributes to the Union's objective of respecting and promoting cultural diversity while at the same time bringing the European common cultural heritage to the fore. Article 167(4) of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action.

Or. en

Amendment 81

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and ***exploited***. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework ***remain sound***. ***However***, legal uncertainty

Amendment

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and ***enjoyed***. New business models and new actors continue to emerge, ***changing tremendously the market, contributing to stimulating competition with the established players and fostering***

remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled 'Towards a modern, more European copyright framework'²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules ***on rights in publications, on the use of works and other subject-matter by online service providers storing and giving access to user uploaded content and on the transparency of authors' and performers' contracts.***

²⁶ COM(2015) 626 final.

creativity and innovation. The objectives and the principles laid down by the Union copyright framework ***need to be updated and adapted in order to increase access to and dissemination of content, information and knowledge within the internal market.*** ***Indeed,*** legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled 'Towards a modern, more European copyright framework'²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms, ***and the use of works and other subject matters belonging to the public domain,*** with a view to ensuring wider access to content. In order to achieve a well-functioning ***and fair*** marketplace for copyright, there should also be rules the transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

Or. en

Amendment 82

Marie-Christine Boutonnet, Dominique Bilde, Gilles Lebreton

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced,

PE603.009v01-00

Amendment

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced,

AM\1123343EN.docx

8/148

distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright *framework* remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to *digital and cross-border environments*, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to *achieve a well-functioning marketplace for copyright*, there should also be rules on rights in publications, on the use of works and other subject-matter by online service providers storing and giving access to user uploaded content and on the transparency of authors' and performers' contracts.

distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by *national legal systems and taken over by* the Union *with regard to* copyright remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to *the digital environment*, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to *striking a balance between respect for rightholders' rights or rights related to copyright, which are responsible for financing cultural creation, and* ensuring wider access to content. In order to *ensure legal certainty for all stakeholders*, there should also be rules on rights in publications, on the use of works and other subject-matter by online service providers storing and giving access to user uploaded content and on the transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

Or. fr

Amendment 83

Julia Reda, Isabella Adinolfi, Max Andersson, Petras Auštrevičius, Brando Benifei, Izaskun Bilbao Barandica, David Borrelli, Klaus Buchner, Reinhard Bütikofer, Matt Carthy, Dita Charanzová, Daniel Dalton, Fabio De Masi, Pascal Durand, Stefan Eck, Bas Eickhout, Cornelia Ernst, Fredrick Federley, Laura Ferrara, Thomas Händel, Heidi Hautala, Benedek Jávor, Kaja Kallas, Ska Keller, Kostadinka Kuneva, Merja Kyllönen, Philippe Lamberts, Marju Lauristin, Sabine Lösing, Ulrike Lunacek, Jiří Maštálka,

Martina Michels, Victor Negrescu, Jozo Radoš, Evelyn Regner, Michel Reimon, Terry Reintke, Judith Sargentini, Marietje Schaake, Helmut Scholz, Molly Scott Cato, Davor Škrlec, Igor Šoltes, Catherine Stihler, Dario Tamburrano, Indrek Tarand, Yana Toom, Ernest Urtasun, Bodil Valero, Monika Vana, Sophia in 't Veld, Josef Weidenholzer, Gabriele Zimmer, Laura Agea, Luke Ming Flanagan, Yannick Jadot, Nessa Childers, Rosa D'Amato, Marco Valli, Matthijs van Miltenburg, Florent Marcellesi

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules on ***rights in publications, on the use of works and other subject-matter by online service providers storing and giving access to user uploaded content and on the*** transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

Amendment

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules on the transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

Amendment 84

Sajjad Karim

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. *New* business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be **rules on rights in publications**, on the use of works and other subject-matter by online service **providers storing and giving access to** user uploaded content and on the transparency of authors' and performers' contracts.

Amendment

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. **Innovative** new business models and new actors continue to emerge **in the Digital Single Market**. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be **a recognition of the rights of publishers, proportionate measures** on the use of works and other subject-matter by **active** online service **platforms which make available to the public** user uploaded content and on the transparency of authors' and performers' contracts.

Amendment 85

Daniel Buda

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules on rights in publications, on the use of works and other subject-matter **by** online service providers storing and giving access to user uploaded content and on the transparency of authors' and performers' contracts.

Amendment

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules on ***the exercise and enforcement of*** rights in publications, on the use of works and other subject-matter ***on*** online service providers' ***platforms*** storing and giving access to user uploaded content and on the transparency of authors' and performers' contracts.

Amendment 86

Julia Reda, Marietje Schaake, Kaja Kallas, Nessa Childers, Max Andersson, Michel Reimon, Brando Benifei

Proposal for a directive

Recital 4

Text proposed by the Commission

(4) This Directive is based upon, and complements, the rules laid down in the Directives currently in force in this area, in particular Directive 96/9/EC of the European Parliament and of the Council²⁷, Directive 2001/29/EC of the European Parliament and of the Council²⁸, Directive 2006/115/EC of the European Parliament and of the Council²⁹, Directive 2009/24/EC of the European Parliament and of the Council³⁰, Directive 2012/28/EU of the European Parliament and of the Council³¹ and Directive 2014/26/EU of the European Parliament and of the Council³².

²⁷ Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 77, 27.3.1996, p. 20–28).

²⁸ Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L 167,

Amendment

(4) This Directive is based upon, and complements, the rules laid down in the Directives currently in force in this area, in particular Directive 96/9/EC of the European Parliament and of the Council²⁷, **Directive 2000/31/EC of the European Parliament and of the Council^{27a}, Directive 2001/29/EC of the European Parliament and of the Council²⁸, Directive 2006/115/EC of the European Parliament and of the Council²⁹, Directive 2009/24/EC of the European Parliament and of the Council³⁰, Directive 2012/28/EU of the European Parliament and of the Council³¹ and Directive 2014/26/EU of the European Parliament and of the Council³².**

²⁷ Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 77, 27.3.1996, p. 20–28).

^{27a} **Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce) (OJ L 178, 17.7.2000, p. 1).**

²⁸ Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L 167,

22.6.2001, p. 10–19).

²⁹ Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ L 376, 27.12.2006, p. 28–35).

³⁰ Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs (OJ L 111, 5.5.2009, p. 16–22).

³¹ Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works (OJ L 299, 27.10.2012, p. 5–12).

³² Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market (OJ L 84, 20.3.2014, p. 72–98).

22.6.2001, p. 10–19).

²⁹ Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ L 376, 27.12.2006, p. 28–35).

³⁰ Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs (OJ L 111, 5.5.2009, p. 16–22).

³¹ Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works (OJ L 299, 27.10.2012, p. 5–12).

³² Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market (OJ L 84, 20.3.2014, p. 72–98).

Or. en

Amendment 87 **Constance Le Grip**

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

Text proposed by the Commission

Amendment

(4a) The establishment of hyperlinks is at the heart of how the internet functions in that it offers the opportunity to gain access to content from other content by using a clickable link and thus facilitates the genuine circulation of information online, including for making copyright-protected works or other objects available. In this context, and in order to ensure legal certainty for the public, it should be recalled that a hyperlink ought not to constitute an act of communication with the public only in cases where, having

been established for a non-commercial purpose, it guides the user to an online service where the work or other protected subject-matter is accessible without restriction, without any use however having been made of techniques, which, like framing, make the content appear on the site from which the hyperlink originates, and on condition that the person who has established it did not know, and had no valid reasons to believe, that the work or other protected subject-matter had been published without authorisation on the online service of destination.

Or. fr

Amendment 88

Constance Le Grip, Angelika Niebler, Daniel Buda, Stefano Maullu

Proposal for a directive

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4 a) For the purpose of the application of Union law in the field of copyright, in particular of this directive, and in order to guarantee a strong level of protection for rightholders, it should be recalled that an act of communication to the public and/or of making available occurs whenever an access is given to a protected work or any other subject-matter to people outside the normal circle or who do not belong to the closest social acquaintances of the family of the person providing such an access, irrespective of whether these people are at the same place or in different ones, or whether they perceive the protected works or other subject-matters at the same time or in different ones.

Or. en

Amendment 89

Victor Negrescu

Proposal for a directive

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) This Directive and its provisions do not concern and do not constitute a legal barrier to the activity of search engines and distributors of digital content.

Or. ro

Amendment 90

Victor Negrescu

Proposal for a directive

Recital 4 b (new)

Text proposed by the Commission

Amendment

(4b) This Directive recognises the rights of users of digital services to use facilities providing access to online content free of charge.

Or. ro

Amendment 91

Kosma Zlotowski

Proposal for a directive

Recital 5

Text proposed by the Commission

Amendment

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields **and in the field of education** may negatively impact the

market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. ***Member States should be able to adopt or maintain in force broader provisions, compatible with the exceptions and limitations existing in Union law, for uses covered by the exceptions or the limitation provided for in this Directive.*** Directives 96/9/EC and 2001/29/EC should be adapted.

Or. en

Amendment 92
Sajjad Karim, Angel Dzhambazki

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as

Amendment

(5) In the fields of research, ***innovation***, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is

regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for *innovation*, scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. *Therefore, existing well-functioning exceptions in these fields may continue to be available in Member States, as long as they do not restrict the scope of the exceptions or limitations provided for in this Directive.* Directives 96/9/EC and 2001/29/EC should be adapted.

Or. en

Amendment 93

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) In the fields of research, education *and* preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are

PE603.009v01-00

Amendment

(5) In the fields of research, education, preservation of cultural heritage *and public lending of literary works*, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, *2006/115/EC*, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market *and the access to*

18/148

AM\1123343EN.docx

becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching *and* preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching in the digital environment *and for* preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC *and* 2001/29/EC should be adapted.

creative content, information and knowledge. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching, preservation of cultural heritage *and public lending of literary works*, should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching *and scientific research* in the digital environment, preservation of cultural heritage, *public lending of literary works, and out-of-commerce works* should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC, 2001/29/EC *and* 2006/115/EC should be adapted.

Or. en

Amendment 94

Marie-Christine Boutonnet, Dominique Bilde, Gilles Lebreton

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, *the optional nature of* exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields *may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly*

Amendment

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are *already taken into account by certain Member States but are* not clearly covered by the current Union rules on exceptions and limitations. In addition, *certain* exceptions and limitations *are already* provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research,

important in the digital environment.

Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses.

Mandatory exceptions or limitations for uses of text **and data** mining technologies in the field of scientific research, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

teaching and preservation of cultural heritage should be reassessed in the light of those new uses. **Optional** exceptions or limitations for uses of text mining technologies in the field of scientific research, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

Or. fr

Amendment 95

József Szájer, Andrea Bocskor

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining

Amendment

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching, **libraries** and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text

technologies in the field of scientific research, illustration for teaching in the digital environment **and** for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

and data mining technologies in the field of scientific research, illustration for teaching in the digital environment, for preservation of cultural heritage, **for user-generated content and for the reproduction of works permanently situated in public places** should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

Or. en

Justification

The inclusion of libraries as relevant establishments is reasonable because they have an important role in the field of research, education and preservation of cultural heritage.

Amendment 96

Antanas Guoga, Eva Maydell

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields **may** negatively **impact** the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining

Amendment

(5) In the fields of research, **innovation**, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields negatively **impacts** the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or

technologies in the field of scientific research, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

limitations for uses of text and data mining technologies in the field of scientific research **and innovation**, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

Or. en

Amendment 97

Julia Reda, Nessa Childers, Dita Charanzová, Marietje Schaake, Max Andersson, Michel Reimon, Brando Benifei

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) In the fields of research, **education and preservation of** cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC **in these fields may** negatively **impact** the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for **scientific** research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies **in the field of scientific research**, illustration for teaching **in the digital environment** and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or **the limitation** provided for in this Directive,

Amendment

(5) In the fields of research **and innovation, transformative use, education and** cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC negatively **impacts** the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for research, teaching and preservation of cultural heritage should be reassessed **and complemented** in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies, illustration for teaching, **user-generated content, freedom of panorama** and for preservation **and dissemination** of cultural heritage should be introduced. For uses not covered by the

the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

exceptions or *limitations* provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

Or. en

Amendment 98

Jean-Marie Cavada, Robert Rochefort, Pervenche Berès, António Marinho e Pinto

Proposal for a directive

Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Search engines embrace a wide variety of services whose aim is in principle to enable the public to access resources disseminated over the Internet. However, the nature of the acts performed by these entities varies greatly from service to service. While text search engines supply a clickable hypertext link whose basic aim is to lead users to the reference online service, most search engines specialising in images directly display the works referenced in the search results, autonomously in relation to the online service from which they are derived.

As the images can then be consulted in their original format and in high quality, these search engines therefore in terms of their functionalities more closely resemble image banks. Exploitation of graphic, plastic or photographic works therefore requires authorisation by the rightholders under Articles 2 and 3 of Directive 2001/29/EC. In view of the very large number of images reproduced or communicated to the public by these search engines, it is desirable to leave it to the discretion of Member States to apply balanced solutions, with provision for equitable compensation.

Or. fr

Amendment 99

Jean-Marie Cavada, Robert Rochefort, Joëlle Bergeron

Proposal for a directive

Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) In accordance with the principles of subsidiarity and proportionality, in Member States where commercial use of the freedom of panorama is not authorised, reproductions and representations by natural persons of works of architecture and sculptures permanently located in public places must always require the prior authorisation of the authors, their rightholders or collecting societies.

Paragraph 37 of Parliament's resolution of 9 July 2015 on the implementation of Directive 2001/29/EC states that this field could benefit from more common rules, while remarking that differences may be justified to allow Member States to legislate according to their specific cultural and economic interests.

Or. fr

Amendment 100

Virginie Rozière, Sylvie Guillaume, Pervenche Berès, Marc Tarabella

Proposal for a directive

Recital 5 a (new)

Text proposed by the Commission

Amendment

(5 a) The Communication of the Commission Promoting a fair, efficient and competitive European copyright-based economy in the Digital Single Market (COM(2016)0592) underlines, in accordance with the impact assessment and the public consultation, that there is no evidence, as regard to cross-border issues or obstacle, that requires the Union

to introduce a new "panorama exception". The European Parliament, in its Resolution of 9 July 2015 on the implementation of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society followed this line and did not include this exception as requiring further EU harmonisation.

Or. en

Amendment 101

Jean-Marie Cavada, Robert Rochefort, Pervenche Berès, Frédérique Ries, António Marinho e Pinto

Proposal for a directive

Recital 5 b (new)

Text proposed by the Commission

Amendment

(5b) The right of communication to the public and the right of making available to the public defined in Article 3 of the Directive, which implements the principles and rules laid down in Article 8 of the WIPO Copyright Treaty, to which the Union is a party, play a vital role in the information society. Union law should guarantee its effect and effectiveness in order to afford a high level of protection to rightholders.

Or. fr

Amendment 102

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 6

Text proposed by the Commission

Amendment

(6) The exceptions and the limitation set out in this Directive seek to achieve a

(6) The exceptions and the limitation set out in this Directive seek to achieve a

fair balance between the rights and interests of authors and other rightholders on the one hand, and of users on the other. They can be applied **only** in certain special cases which do not conflict with the normal exploitation of the works or other subject-matter and do not unreasonably prejudice the legitimate interests of the rightholders.

fair balance between the *specific* rights and interests of authors and other rightholders on the one hand, and of users on the other. They can be applied in certain special cases which do not conflict with the normal exploitation of the works or other subject-matter and do not unreasonably prejudice the legitimate interests of the rightholders. ***The public goal of favouring the creation, dissemination and access to content, information and knowledge within the internal market should be also duly taken into account in the balance of the different interests at stake.***

Or. en

Amendment 103

Daniel Buda

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) The exceptions and the **limitation** set out in this Directive seek to achieve a fair balance between the rights and interests of authors and other rightholders on the one hand, and of users on the other. They can be applied only in certain special cases which do not conflict with the normal exploitation of the works or other subject-matter and do not unreasonably prejudice the legitimate interests of the rightholders.

Amendment

(6) The exceptions and the **limitations** set out in this Directive seek to achieve a fair balance between the rights and interests of authors and other rightholders on the one hand, and of users on the other. They can be applied only in certain special cases which do not conflict with the normal exploitation of the works or other subject-matter and do not unreasonably prejudice the legitimate interests of the rightholders. ***Exceptions also contain conditions that ensure the preservation of functioning markets and rightholders' interests and incentives to create and invest.***

Or. ro

Amendment 104

Jiří Maštálka, Kostas Chrysogonos, Kostadinka Kuneva

Proposal for a directive

Recital 6

PE603.009v01-00

26/148

AM\1123343EN.docx

Text proposed by the Commission

(6) The exceptions and the limitation set out in this Directive seek to achieve a fair balance between the rights and interests of authors and other rightholders on the one hand, and of users on the other. They can be applied only in certain special cases which do not conflict with the normal exploitation of the works or other subject-matter and do not unreasonably prejudice the legitimate interests of the rightholders.

Amendment

(6) The exceptions and the limitation set out in this Directive seek to achieve a fair balance between the rights and interests of authors and other rightholders on the one hand, and of users on the other. They can be applied only in certain special cases which do not conflict with the normal exploitation of the works or other subject-matter and do not unreasonably prejudice the legitimate interests of the rightholders. ***Such cases concern, in particular, access to education, knowledge and cultural heritage and as such, are generally in the public interest.***

Or. en

Amendment 105

Marie-Christine Boutonnet, Dominique Bilde, Gilles Lebreton

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) The exceptions and the limitation set out in this Directive seek to achieve a fair balance between the rights and interests of authors and other rightholders on the one hand, and of users on the other. ***They can*** be applied only in certain special cases ***which do not*** conflict with the normal exploitation of the works or other subject-matter ***and do not*** unreasonably prejudice the legitimate interests of the rightholders.

Amendment

(6) The exceptions and the limitation set out in this Directive ***should*** seek to achieve a fair balance between the rights and interests of authors and other rightholders on the one hand, and of users on the other. ***It should be possible for them to*** be applied only in certain special cases ***and not to*** conflict with the normal exploitation of the works or other subject-matter ***or*** unreasonably prejudice the legitimate interests of the rightholders.

Or. fr

Amendment 106

Julia Reda

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) The exceptions and ***the limitation*** set out in this Directive seek to achieve a fair balance between the rights and interests of authors and other rightholders on the one hand, and of users on the other. They ***can be applied only in*** certain special cases which do not conflict with the normal exploitation of the works or other subject-matter and do not unreasonably prejudice the legitimate interests of the rightholders.

Amendment

(6) The exceptions and ***limitations*** set out in this Directive seek to achieve a fair balance between the rights and interests of authors and other rightholders on the one hand, and of users on the other. They ***have been designed to apply only to*** certain special cases which do not conflict with the normal exploitation of the works or other subject-matter and do not unreasonably prejudice the legitimate interests of the rightholders.

Or. en

Amendment 107

Laura Ferrara, Isabella Adinolfi, David Borrelli, Dario Tamburrano

**Proposal for a directive
Recital 6 a (new)**

Text proposed by the Commission

Amendment

(6a) Consumers are not only users but are increasingly, in particular in a digital environment, also creators and distributors of works created by themselves, albeit for non-commercial purposes.

Or. it

Amendment 108

Julia Reda, Lucy Anderson, Lidia Joanna Geringer de Oedenberg

**Proposal for a directive
Recital 7**

Text proposed by the Commission

Amendment

(7) The protection of technological measures established in Directive 2001/29/EC ***remains essential*** to ensure the protection and the effective exercise of the rights granted to authors and to other

(7) The protection of technological measures established in Directive 2001/29/EC ***was established*** to ensure the protection and the effective exercise of the rights granted to authors and to other

rightholders under Union law. ***This*** protection should be ***maintained while ensuring*** that the use of technological measures does not prevent the ***enjoyment*** of the exceptions and ***the limitation*** established in this Directive, which are particularly relevant in the online environment. Rightholders ***should have the opportunity*** to ensure this through voluntary measures. ***They should remain free to choose the format and the modalities*** to provide the beneficiaries of the exceptions and ***the limitation*** established in this Directive ***with the means to benefit from them provided that such means are appropriate. In the absence of voluntary measures***, Member States should take appropriate measures in accordance with the first subparagraph of Article 6(4) of Directive 2001/29/EC.

rightholders under Union law. ***The scope of*** this protection should be ***adapted in order to better ensure*** that the use of technological measures does not prevent the ***users' rights to make use*** of the exceptions and ***limitations*** established in this Directive, which are particularly relevant in the online environment. Rightholders ***are often not best placed*** to ensure this through voluntary measures, ***because technological protection measures are most commonly put in place by entities other than the rightholders. All actors in the value chain should*** provide the beneficiaries of the exceptions and ***limitations*** established in this Directive, ***in Directive 96/9/EC, Directive 2001/29/EC, Directive 2009/24/EC and Directive 2012/28/EU, with the means to benefit from them.*** Member States should take appropriate measures in accordance with the first subparagraph of Article 6(4) of Directive 2001/29/EC.

Or. en

Amendment 109

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 7

Text proposed by the Commission

(7) The protection of technological measures established in Directive 2001/29/EC remains ***essential*** to ensure the protection and the effective exercise of the rights granted to authors and to other rightholders under Union law. This protection should be maintained while ensuring that the use of technological measures does not prevent the enjoyment of the exceptions and the limitation established in this Directive, which are particularly relevant in the online environment. Rightholders should have the opportunity to ensure this through voluntary measures. They should remain

Amendment

(7) The protection of technological measures established in Directive 2001/29/EC remains ***important*** to ensure the protection and the effective exercise of the rights granted to authors and to other rightholders under Union law. This protection should be maintained while ensuring that the use of technological measures does not prevent ***or hinder in any way*** the enjoyment of the exceptions and the limitation established in this Directive, which are particularly relevant in the online environment. Rightholders should have the opportunity to ensure this through voluntary ***effective*** measures. They

free to choose the format and the modalities to provide the beneficiaries of the exceptions and the limitation established in this Directive with the means to benefit from them provided that such means are **appropriate**. In the absence of voluntary measures, Member States should take appropriate measures in accordance with the first subparagraph of Article 6(4) of Directive 2001/29/EC.

should remain free to choose the format and the modalities to provide the beneficiaries of the exceptions and the limitation established in this Directive with the means to **effectively** benefit from them provided that such means are **transparent, non-discriminatory and proportionate**. In the absence of voluntary **effective** measures, Member States should take appropriate measures in accordance with the first subparagraph of Article 6(4) of Directive 2001/29/EC.

Or. en

Amendment 110

Julia Reda, Lucy Anderson, Lidia Joanna Geringer de Oedenberg

Proposal for a directive

Recital 7 a (new)

Text proposed by the Commission

Amendment

(7 a) In order to ensure that technological measures do not prevent the enjoyment of the exceptions and limitations established in this Directive and in Directive 2001/29/EC, Directive 96/9/EC, Directive 2009/24/EC or Directive 2012/28/EU, Article 6(4) of Directive 2001/29/EC needs to be updated in order to take account of the fact that in the marketplace, rightsholders are often unable to make available to the beneficiary of an exception or limitation the means of benefiting from that exception or limitation, because technological protection measures are generally not applied by the rightsholders themselves, but by third party suppliers who provide the content to consumers, such as online marketplaces, some of whom enjoy a dominant market position. The inability of users to make use of their rights under copyright exceptions and limitations is not just having a negative impact on users' fundamental rights, it is also detrimental to rightsholders who often find themselves in a weaker

bargaining position vis-à-vis suppliers of digital content, especially when consumers are locked into the products and services offered by that seller through the use of technological measures. It is therefore insufficient to require Member States only to place obligations upon the rightsholders, who are generally unable to remove the technological protection measures put on their works by third parties. In addition, the act of circumventing technological protection measures for the purposes of enjoying exceptions and limitations to copyright and related rights needs to be exempted from the general legal protection of effective technological measures enshrined in Article 6(1) and 6(2) of Directive 2001/29/EC. Furthermore, the definition of "technological measures" in Article 6(3) of Directive 2001/29/EC needs to be clarified so as not to include measures which are designed to restrict authorised uses under copyright exceptions and limitations.

Or. en

Amendment 111
Tadeusz Zwiefka

Proposal for a directive
Recital 8

Text proposed by the Commission

Amendment

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so

deleted

doing encourage innovation. However, in the Union, research organisations such as universities and research institutes are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

Or. en

Amendment 112

Jiří Maštálka, Kostas Chrysogonos, Kostadinka Kuneva

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. *Those technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, research organisations such as universities and research institutes are confronted with legal uncertainty as to the extent to which they can perform text and*

Amendment

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. *Text and data mining allows for the reading and analysis of large amounts of digitally stored information to gain new knowledge and discover new trends.*

data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

Or. en

Amendment 113

Julia Reda, Nessa Childers, Max Andersson, Michel Reimon, Brando Benifei

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow *researchers to process* large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that *text and data mining can in particular benefit the research community and in so doing* encourage innovation. *However, in* the Union, research organisations such as universities and research institutes are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. *In certain instances*, text and data mining *may involve acts* protected by copyright *and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or*

Amendment

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow *the processing of* large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that *there is a need to clarify the legality of copies made for purposes of text and data mining in order to* encourage innovation *and discovery in all fields. Without a mandatory exception applying throughout* the Union, *all entities engaging in text and data mining, including* research organisations such as universities and research institutes are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. *For text and data mining to occur, one first needs to access*

the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright *and in such instances no authorisation would be required.*

information and then to reproduce that information. It is generally only after that information is normalised that its processing through text and data mining can occur. Once there is lawful access to information, it is when that information is being normalised that a copyright protected use takes place since this leads to a reproduction by changing the format of the information itself or an extraction from a database into one that can be subjected to text and data mining. The copyright relevant processes in the use of text and data mining technology is consequently not the text and data mining process itself which consists of a reading and analysis of digitally stored normalised information, but the process of access and the process by which information is normalised to enable its automated computational analysis. The process of access to information be it works or other subject matter protected by copyright is already regulated in the copyright related acquis. In certain instances, text and data mining could involve works protected by copyright and/or by the sui generis database right. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright.

Or. en

Amendment 114
Sajjad Karim, Angel Dzhambazki

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow *researchers to process* large amounts of information to gain new knowledge and

PE603.009v01-00

Amendment

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow *the processing of* large amounts of information *for research purposes* to gain

34/148

AM\1123343EN.docx

discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, research organisations such as universities and research institutes **are confronted with** legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation **and competitiveness**. However, in the Union, **when research is carried out by educational establishments and organisations such as universities, the public sector, cultural heritage institutions,** and research institutes, **there is** legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

Or. en

Amendment 115
Antanas Guoga, Eva Maydell

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow **researchers** to process large amounts of information to gain new knowledge and discover new trends. **Whilst text** and data mining technologies are prevalent across

AM\1123343EN.docx

Amendment

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow to process large amounts of **digitally stored** information to gain new knowledge and discover new trends. **Text** and data mining technologies are prevalent across

35/148

PE603.009v01-00

the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. **However, in the Union, research organisations such as universities and research institutes are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content.** In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

the digital economy **and** there is **a** widespread acknowledgment that text and data mining can in particular benefit **not only** the research community **but also start ups** and in so doing encourage innovation. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. **This is where research organisations such as universities and research institutes as well as businesses that use text and data mining as their main tool are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content.** Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

Or. en

Amendment 116

Marie-Christine Boutonnet, Dominique Bilde, Gilles Lebreton

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. **Those** technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends. **Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the**

PE603.009v01-00

Amendment

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. **While those** technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends, **their uses require a legal framework and should be limited to non-commercial uses, particularly as regards the analysis of data. Although text mining may prove**

36/148

AM\1123343EN.docx

research community and in so doing encourage innovation. However, in the Union, research organisations such as universities and research institutes are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

profitable in the field of research and innovation, it must not disproportionately damage copyright in a context in which profit takes the place of the educational objective. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

Or. fr

Amendment 117

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can *in particular benefit* the research community and in so doing encourage innovation. However, in the Union, *research organisations such as universities and research institutes* are confronted with legal uncertainty as to the

Amendment

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow *citizens, startups, researchers and journalists* to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can *also benefit citizen science, business, the research community and journalism and*, in so doing, encourage innovation. However, in the Union, *individuals and legal entities having authorised access to*

extent to which they can perform text and data mining *of content*. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

content are confronted with legal uncertainty as to the extent to which they can perform text and data mining *thereof*. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

Or. en

Amendment 118

Angelika Niebler, Christian Ehler, Axel Voss

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, research organisations such as *universities and research institutes* are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis

Amendment

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, research organisations, such as *research institutes and universities, university libraries, museums and laboratories*, are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may

database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

Or. de

Amendment 119
Victor Negrescu

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, research organisations such as universities and research institutes are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation

Amendment

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, research organisations such as universities and research institutes are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation

which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out *in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.*

which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out *by any natural or legal person with lawful access.*

Or. en

Amendment 120

Jens Rohde

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, research organisations such as universities and research institutes are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no

PE603.009v01-00

Amendment

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, research organisations such as universities and research institutes, *their libraries, museums and laboratories* are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by

40/148

AM\1123343EN.docx

authorisation would be required.

copyright and in such instances no authorisation would be required.

Or. en

Justification

It should be clarified that libraries, museums and laboratories of universities and research institutes are covered by the exception.

Amendment 121

Jean-Marie Cavada, Robert Rochefort, António Marinho e Pinto

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, research organisations such as universities and research institutes are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright *and* in such instances no

Amendment

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, research organisations such as universities and research institutes are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright *or legally accessible, for which*

authorisation would be required.

in such instances no authorisation would be required.

Or. fr

Amendment 122

Tadeusz Zwiefka

Proposal for a directive

Recital 9

Text proposed by the Commission

Amendment

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where researchers have lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

deleted

Or. en

Amendment 123

Jiří Maštálka, Kostas Chrysogonos, Kostadinka Kuneva

Proposal for a directive

Recital 9

Text proposed by the Commission

Amendment

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations

are optional and not fully adapted to the use of technologies in scientific research. Moreover, where *researchers* have lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research *is* increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position *as a research area* will suffer unless steps are taken to address the legal uncertainty for text and data mining.

are optional and not fully adapted to the use of technologies in scientific research. Moreover, where *users, including both public and private entities, as well as individuals* have lawful access to content, for example through *access to the internet or* subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As *both business and* research *are* increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position *globally* will suffer unless steps are taken to address the legal uncertainty for text and data mining. *It is important to recognize the potential of text and data mining technologies in enabling new knowledge, innovation and discovery in all fields and the role that those technologies have in the continuous development of the digital economy, providing for an exception for reproduction and the extraction of information for the purpose of text and data mining where there is lawful access.*

Or. en

Amendment 124
Antanas Guoga, Eva Maydell

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where *researchers have* lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the

Amendment

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where *there is* lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital

assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

In terms of digital economy and its growth, it is important to recognise the positive impact that text and mining has on innovation and how it can foster further development of digital economy in the Union by providing for an exception for reproductions and extractions of information to be submitted to text and data mining when there is acquired lawful access.

Or. en

Amendment 125

Julia Reda, Nessa Childers, Max Andersson, Michel Reimon, Brando Benifei

Proposal for a directive

Recital 9

Text proposed by the Commission

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies *in* scientific research. Moreover, where *researchers have* lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty *for* text and data mining.

Amendment

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of ***text and data mining*** technologies ***which are relevant far beyond the area of*** scientific research. Moreover, where ***there is*** lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area ***and action lines envisaged in the European Open Science Agenda*** will suffer unless steps are taken to address the legal uncertainty ***regarding text and data mining for all potential users. Union law should acknowledge that*** text and data mining ***is increasingly used beyond formal research organisations and***

for purposes other than scientific research which nevertheless contribute to innovation, technology transfer and the public interest.

Or. en

Amendment 126
Sajjad Karim, Angel Dzhambazki

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where researchers have lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

Amendment

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where researchers have lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining *in Union law, while ensuring that text and data mining exceptions in Member States should be able to continue to be provided.*

Or. en

Amendment 127
Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive
Recital 9

Text proposed by the Commission

Amendment

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where *researchers have lawful* access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research *is* increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where *individuals and legal entities have authorised* access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As *both research and business are* increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

Or. en

Amendment 128

Constance Le Grip

Proposal for a directive

Recital 9

Text proposed by the Commission

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where researchers have lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

Amendment

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where researchers have lawful access to *legally acquired* content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

Amendment 129**Jens Rohde****Proposal for a directive****Recital 9***Text proposed by the Commission*

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where researchers have lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

Amendment

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where researchers have **acquired** lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

Or. en

Justification

It should be clarified that rented content or content accessed via another copyright exception are not intended to be addressed and a reference to the tried and tested concept of Article 5 of the Software Directive 2009/24/EC would seem appropriate.

Amendment 130**Marie-Christine Boutonnet, Dominique Bilde, Gilles Lebreton****Proposal for a directive****Recital 9***Text proposed by the Commission*

(9) Union law already **provides** certain exceptions and limitations covering uses for scientific research purposes which may

AM\1123343EN.docx

Amendment

(9) **Some national legal systems and** Union law already **provide** certain exceptions and limitations covering uses

47/148

PE603.009v01-00

apply to acts of text *and data* mining. ***However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover,*** where researchers have ***lawful access to*** content, for example through subscriptions to publications or open access licences, the terms of the licences ***may exclude text and data*** mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the ***Union's*** competitive position as a research area will suffer unless steps are taken to address the legal uncertainty ***for text and data mining.***

for scientific research purposes which may apply to acts of text mining. ***In order to preserve the integrity of the copyright principle, these exceptions should remain optional. However,*** where researchers have ***obtained*** content ***lawfully,*** for example through subscriptions to publications or open access licences, ***it should be possible for*** the terms of the licences ***to include text*** mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the competitive position ***of EU Member States*** as a research area will suffer ***from a possible impossibility to undertake text mining*** unless steps are taken to address the legal uncertainty ***surrounding it.***

Or. fr

Amendment 131

Julia Reda, Nessa Childers, Max Andersson, Michel Reimon, Brando Benifei

Proposal for a directive

Recital 9 b (new)

Text proposed by the Commission

Amendment

(9 b) Furthermore, there is widespread acknowledgment that access to normalised information in a format which enables it to be subjected to text and data mining can in particular benefit the research community in its entirety including to smaller research organisations especially when there is no lawful access to content, for example through subscriptions to publications or open access licences. In the Union, research organisations such as universities and research institutes are confronted with challenges to gain lawful access to the volume of digitally stored information required for new knowledge to be sought through the use of text and data mining.

Or. en

Amendment 132

Jiří Maštálka, Kostas Chrysogonos, Kostadinka Kuneva

Proposal for a directive

Recital 9 a (new)

Text proposed by the Commission

Amendment

(9 a) Furthermore, there is widespread acknowledgement that access to information in a format which enables it to be subjected to text and data mining can, in particular, benefit the research community in its entirety including smaller research organisations, especially where there is no lawful access to content such as through subscriptions to scientific publications or open access licences. In the Union, research organisations such as universities and research institutes, as well as organisations such as libraries and cultural heritage institutions that support research, are confronted with challenges to gain lawful access to the volume of digitally stored information required for new knowledge to be sought by means of text and data mining. There are also many other types of content, such as trade publications, film, sound, the wider Internet, that are also the subject of analysis through text and data mining, where access can also be a problem, and where rightholders will be less able to create versions of their works in usable formats.

Or. en

Amendment 133

Emil Radev

Proposal for a directive

Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) Furthermore, there is widespread

acknowledgement that access to information in a format which enables it to be subjected to text and data mining can, in particular, benefit the research community in its entirety, including smaller research organisations, especially where there is no lawful access to content via, for example, subscriptions to scientific publications or open access licences. In the Union, research organisations such as universities and research institutes, as well as entities such as public libraries and cultural heritage institutions which support research, encounter difficulties in gaining lawful access to the volume of digitally stored information required for new knowledge to be sought by means of text and data mining.

Or. bg

Amendment 134

Julia Reda, Nessa Childers, Max Andersson, Michel Reimon, Brando Benifei

Proposal for a directive

Recital 9 a (new)

Text proposed by the Commission

Amendment

(9 a) Scientific data produced with public funding should be made available in an open format, so that researchers, citizens and companies can access the data and re-use them, including to perform text and data mining. This obligation should create an Open Data mandate for the benefit of researchers and of European SMEs and start-ups. For the advancement of European innovation, guiding principles on text and data mining enablement should be further scrutinised along the lines of the Horizon 2020 Open Research Data Pilot. The exception for text and data mining should cover all data sources, including data hosted by information society service providers, so that concentrated and anti-competitive

research models can be avoided.

Or. en

Amendment 135

Tadeusz Zwiefka

Proposal for a directive

Recital 10

Text proposed by the Commission

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. Research organisations should also benefit from the exception when they engage into public-private partnerships.

deleted

Or. en

Amendment 136

Julia Reda, Nessa Childers, Max Andersson, Michel Reimon, Brando Benifei

Proposal for a directive

Recital 10

Text proposed by the Commission

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. *The new* exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database *for the purposes of text and data mining, which should not be subject to compensation given that in view of the nature and scope of the exception the*

Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. **Research organisations should also benefit from the exception when they engage into public-private partnerships.**

harm should be minimal. An additional mandatory exception should allow research organisations to have access to normalised information in a format that enables it to be text and data mined provided that that process is carried out by the research organisation. Rightholders should not be able to seek compensation for this exception that goes beyond what is necessary and proportionate to the cost of the normalisation process. Research organisations should also benefit from this exception when they engage in public-private partnerships. These new exceptions should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception.

Or. en

Amendment 137
Jens Rohde

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. Research organisations should also benefit from the exception when they engage into public-private partnerships.

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. ***To prevent unjustified dissemination of the content necessary for text and data mining, research organisations should destroy the content reproduced for the***

purpose of text and data mining once all the acts necessary for the research have been performed. Research organisations should also benefit from the exception when they engage into public-private partnerships, ***provided that the text and data mining act performed relate directly to the purpose of the research carried out in the partnership concerned.***

Or. en

Justification

It needs to be clarified that access for the purpose of text and data mining is limited to that purpose and thus any reproduced content needs to be destroyed upon completion of the text and data mining project. The inclusion of public-private partnerships should be limited to research purposes and not to private companies generating commercial value with the data mined content.

Amendment 138

József Szájer, Andrea Bocskor

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. Research organisations should also benefit from the exception when they ***engage*** into public-private partnerships.

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. ***To prevent unjustified dissemination of the content necessary for text and data mining, research organisations should destroy the content reproduced for the purpose of text and data mining once all the acts necessary for the research have been performed.*** Research organisations should also benefit from the exception when they ***enter*** into public-private

partnerships *provided that the text and data mining acts performed relate directly to the purpose of the research carried out in the partnership concerned.*

Or. en

Justification

It is crucial to avoid the unjustified dissemination of protected works.

Amendment 139

Jiří Maštálka, Kostas Chrysogonos, Kostadinka Kuneva

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. ***Research organisations should also benefit from the exception when they engage into public-private partnerships.***

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception ***for all persons, whether legal or natural,*** to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. ***Stakeholder dialogue aimed at expanding access to database purely for text and data mining purposes should be encouraged, where research organizations do not currently have legal access to original works.***

Or. en

Amendment 140

Virginie Rozière, Sylvie Guillaume, Pervenche Berès, Marc Tarabella

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should ***be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. Research organisations should also benefit from the exception when they engage into public-private partnerships.***

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should ***only apply to the text and data mining process pursued for non-commercial purpose. Rightholders should still be entitled to develop licences and to receive payment.***

Or. en

Amendment 141

Angelika Niebler, Christian Ehler, Axel Voss

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. Research organisations should also benefit from the exception when they engage into public-private partnerships.

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. Research organisations should also benefit from the exception when they engage into public-private partnerships, ***as long as the company participating in the partnership also has legal access to the works or other protected subject matter.***

Or. de

Amendment 142
Constance Le Grip

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. Research organisations should also benefit from the exception when they engage into public-private partnerships.

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. Research organisations should also benefit from the exception when they engage into public-private partnerships, ***provided that private partners involved in such partnerships operate on a non-for-profit basis.***

Or. en

Amendment 143
Emil Radev

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception ***to the right of reproduction and also to the right to prevent extraction from a database. The new*** exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception ***for research organisations and public libraries to have access to text in a format that enables information to be extracted from it. This*** exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue

which do not involve the making of copies going beyond the scope of that exception. Research organisations should also benefit from the exception when they engage *into* public-private partnerships.

to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. Research organisations *and public libraries* should also benefit from the exception when they engage *in* public-private partnerships.

Or. bg

Amendment 144

Marie-Christine Boutonnet, Dominique Bilde, Gilles Lebreton

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for *a mandatory* exception to the right of reproduction *and also to the right to prevent extraction from a database*. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. Research organisations should also benefit from the exception when they engage into public-private partnerships.

Amendment

(10) This legal uncertainty should be addressed by providing for *an optional* exception to the right of reproduction. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. Research organisations should also benefit from the exception when they engage into public-private partnerships.

Or. fr

Amendment 145

Sajjad Karim, Angel Dzhambazki

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and

also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. **Research organisations** should also benefit from the exception when they engage into public-private partnerships.

also to the right to prevent extraction from a database **for research purposes**. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. **Member States** should **be able to determine that researchers can** also benefit from the exception when they engage into public-private partnerships.

Or. en

Amendment 146

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. **Research organisations should** also benefit from the exception when they engage into public-private partnerships.

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database, **including raw data**. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. **Legal entities could** also benefit from the exception when they engage into public-private partnerships.

Or. en

Amendment 147

Antanas Guoga, Eva Maydell

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. ***Research organisations should also benefit from the exception when they engage into public-private partnerships.***

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. ***Research organisations should also benefit from the exception when they engage into public-private partnerships.*** The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception.

Or. en

Amendment 148

Laura Ferrara, Isabella Adinolfi, David Borrelli, Dario Tamburrano

Proposal for a directive
Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) It should be noted that technological innovation can make legal rules obsolete and to counter this, it would be advisable to simplify and modernise the legal framework for copyright and related rights by introducing an open standard concerning the interpretation of exceptions and limitations.

Or. it

Amendment 149

Jean-Marie Cavada, Robert Rochefort, António Marinho e Pinto

Proposal for a directive
Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) In the context of public-private partnerships, a private organisation should intervene only if it represents a structure with a non-commercial purpose and if it has legitimate access to the content.

Or. fr

Amendment 150

Jiří Maštálka, Kostas Chrysogonos, Kostadinka Kuneva

Proposal for a directive

Recital 11

Text proposed by the Commission

Amendment

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a decisive influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.

deleted

Or. en

Amendment 151

Tadeusz Zwiefka

Proposal for a directive

Recital 11

Text proposed by the Commission

Amendment

(11) *Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a decisive influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.*

deleted

Or. en

Amendment 152

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 11

Text proposed by the Commission

Amendment

(11) *Research organisations across the*

deleted

Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a decisive influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.

Or. en

Amendment 153

Virginie Rozière, Sylvie Guillaume, Pervenche Berès, Marc Tarabella

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a **not for profit** basis

Amendment

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a **non-commercial**

or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a *decisive* influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.

basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. ***Research organisations that carry out text and data mining for a commercial purpose, should not be considered research organisation for the purpose of this Directive.*** At the same time, organisations upon which commercial undertakings have a *significant* influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive. ***Research organisations that carry out text and data mining as part of public-private partnership should benefit from the exception provided that they act on a non-profit, non-commercial purpose. Therefore, content used by research organisations that carry out text and data mining for commercial purposes as part of a public-private partnership should be lawfully acquired by their commercial partner.***

Or. en

Amendment 154

Angelika Niebler, Christian Ehler, Axel Voss

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception.

AM\1123343EN.docx

Amendment

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception.

63/148

PE603.009v01-00

Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a decisive influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.

Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit, ***non-business*** basis or in the context of a public-interest mission recognised by the State. ***This applies, for example, to universities and their libraries as well as to museums, if the educational task or scientific research is the primary objective.*** Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations ***whose investment in text and data mining are profit-oriented or*** upon which commercial undertakings have a decisive influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive. ***In the event that a research organisation carries out text and data mining in the framework of a public-private partnership in favour of the economic enterprise, it is necessary that that the enterprise should also have a legal access to the works or other protected subject matter.***

Or. de

Amendment 155

Jens Rohde

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is

PE603.009v01-00

Amendment

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is

AM\1123343EN.docx

64/148

important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a *decisive* influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.

important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit *and non-commercial* basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. *Such research organisations include publicly funded universities, including their libraries, museums and laboratories if their primary goal is to provide educational services and to conduct scientific research. Organisations which seek to obtain a commercial profit on their investment in text and data mining should not be considered research organisations for the purpose of this Directive.* At the same time, organisations upon which commercial undertakings have a *significant* influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.

Or. en

Justification

It should be clarified that libraries, museums and laboratories of universities and research institutes are covered by the exception. Research organisations seeking to obtain a commercial profit on the text and data mining product should not benefit from the TDM exception.

Amendment 156

Julia Reda, Nessa Childers, Max Andersson, Michel Reimon, Brando Benifei

Proposal for a directive

Recital 11

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct *scientific* research or to do so together with the provision of educational services. ***Due to*** the diversity of such entities, it is important ***to have a common understanding of the beneficiaries of the exception***. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. ***At the same time, organisations upon which commercial undertakings have a decisive influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.***

(11) Research organisations across the Union encompass a wide variety ***and size*** of entities the primary goal of which is to conduct research or to do so together with the provision of educational services. ***Taking into account*** the diversity of such entities, ***for instance small research organisations with only limited access to content***, it is important ***that rightholders provide access to normalised datasets for the purpose of text and data mining***. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts.

Or. en

Amendment 157

Sajjad Karim, Angel Dzhambazki

Proposal for a directive

Recital 11

Text proposed by the Commission

Amendment

(11) ***Research organisations*** across the Union encompass ***a wide variety of entities*** the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and

(11) Organisations across the Union encompass, ***which carry out research, include the public sector and cultural heritage institutions***, the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries

structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a decisive influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.

of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a decisive influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.

Or. en

Amendment 158 **Tadeusz Zwiefka**

Proposal for a directive **Recital 12**

Text proposed by the Commission

(12) In view of a potentially high number of access requests to and downloads of their works or other subject-matter, rightholders should be allowed to apply measures where there is risk that the security and integrity of the system or databases where the works or other subject-matter are hosted would be jeopardised. Those measures should not exceed what is necessary to pursue the objective of ensuring the security and integrity of the system and should not undermine the effective application of the exception.

Amendment

deleted

Or. en

Amendment 159

Julia Reda, Nessa Childers, Max Andersson, Michel Reimon, Brando Benifei

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) In view of a potentially high number of access requests to and downloads of *their* works or other subject-matter, *rightholders should be allowed to apply measures where there is risk that the security and integrity of the system or databases where the works or other subject-matter are hosted would be jeopardised. Those measures should not exceed what is necessary to pursue the objective of ensuring the security and integrity of the system and should not undermine the effective application of the exception.*

Amendment

(12) In view of a potentially high number of access requests to and downloads of works or other subject-matter, *and in order to ensure reproducibility of research results, Member States shall designate a facility to safely store datasets used for text and data mining.*

Or. en

Amendment 160

Jiří Maštálka

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) In view of a potentially high number of access requests to and downloads of their works or other subject-matter, rightholders should be allowed to apply measures where there is risk that the security *and integrity* of the system or databases where the works or other subject-matter are hosted would be jeopardised. *Those measures should not exceed what is necessary to pursue the objective of ensuring the security and integrity of the system and should not undermine the effective application of the exception.*

Amendment

(12) In view of a potentially high number of access requests to and downloads of their works or other subject-matter, rightholders should be allowed to apply measures where there is risk that the security of the system or databases where the works or other subject-matter are hosted would be jeopardised.

Or. en

Amendment 161

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) *In view of a potentially high number of access requests to and downloads of their works or other subject-matter, rightholders* should be allowed to apply measures where there is risk that the security and integrity of the system or databases where the works or other subject-matter are hosted *would* be jeopardised. Those measures should not exceed what is necessary to pursue the objective of ensuring the security and integrity of the system and should not undermine the effective application of the exception.

Amendment

(12) Rightholders should be allowed to apply measures where there is risk that the security and integrity of the system or databases where the works or other subject-matter are hosted *could* be jeopardised. Those measures should *be transparent, non-discriminatory, proportionate and* not exceed what is necessary to pursue the objective of ensuring the security and integrity of the system and should not undermine *in any way* the effective application of the exception.

Or. en

Amendment 162

Emil Radev

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) In view of *a* potentially high number of access requests to and downloads of their works or other subject-matter, rightholders should be allowed to apply measures where there is risk that the security *and integrity* of the system or databases where the works or other subject-matter are hosted would be jeopardised. Those measures should not exceed what is necessary to pursue the objective of ensuring the security *and integrity* of the system and should not undermine the effective application of the exception.

Amendment

(12) In view of *the* potentially high number of access requests to, and downloads of, their works or other subject-matter, rightholders should be allowed to apply measures where there is *a* risk that the security of the system or databases where the works or other subject-matter are hosted would be jeopardised. Those measures should not exceed what is necessary to pursue the objective of ensuring the security of the system and should not undermine the effective application of the exception.

Amendment 163

Tadeusz Zwiefka

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) There is no need to provide for compensation for rightholders as regards uses under the text and data mining exception introduced by this Directive given that in view of the nature and scope of the exception the harm should be minimal.

Amendment

deleted

Or. en

Amendment 164

Jiří Maštálka, Kostas Chrysogonos, Kostadinka Kuneva

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) There is no need to provide for compensation for rightholders as regards uses under the text and data mining exception introduced by this Directive given that in view of the nature and scope of the exception *the harm should be minimal.*

Amendment

(13) There is no need to provide for compensation for rightholders as regards uses under the text and data mining exception introduced by this Directive given that in view of the nature and scope of the exception *there would be no unreasonable prejudice to the interests of right holders. Use under the text and data mining exception would also not conflict with the normal exploitation of the works in a way that calls for separate compensation.*

Or. en

Amendment 165

Constance Le Grip

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) There is no need to provide for compensation for rightholders as regards uses under the text and data mining exception introduced by this Directive given that in view of the nature and scope of the exception the harm should be minimal.

Amendment

(13) There is no need to provide for compensation for rightholders as regards uses under the text and data mining exception introduced by this Directive given that in view of the nature and scope of the exception the harm should be minimal. ***However, where rightholders are providing research organisations with normalised information enabling mining, they should be able to seek compensation related to the cost of the normalisation process.***

Or. en

Amendment 166
József Szájer, Andrea Bocskor

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) ***There is no need to provide for compensation for rightholders as regards*** uses under the text and data mining exception introduced by this Directive given ***that in view of the nature and*** scope of the exception ***the harm should be minimal.***

Amendment

(13) ***Rightholders should be compensated for*** uses under the text and data mining exception introduced by this Directive given ***the mandatory nature of the exception and the consequent investments that would be required by rightholders to make technically possible and facilitate the wide use of text and data mining techniques under the*** scope of the exception, ***which cause sufficient harm to justify such compensation.***

Or. en

Justification

It would be better if the decision on the introduction of compensation was left to the Member States. Such an approach could also consider the differences between the Member States in this area and would leave them the possibility to adjust their system even after the implementation of the Directive, according to future experiences and developments.

Amendment 167

Emil Radev

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) There is *no* need to provide for compensation for rightholders as regards *uses under the text and data mining exception introduced by this Directive given that in view of the nature and scope of the exception the harm should be minimal.*

Amendment

(13) There is *a* need to provide for compensation for rightholders as regards *the exception which allows research organisations and public libraries that do not have lawful access to information, to have access to normalised data suitable for text and data mining, but only in so far as such compensation is proportionate to the cost of the data normalisation process.*

Or. bg

Amendment 168

Virginie Rozière, Sylvie Guillaume, Pervenche Berès, Marc Tarabella

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) *There is no need to provide for compensation for rightholders* as regards uses under the text and data mining exception introduced by this Directive *given that in view of the nature and scope of the exception the harm should be minimal.*

Amendment

(13) *Considering the harm caused to rightholders, Member states should provide them with compensation* as regards uses under the text and data mining exception introduced by this Directive.

Or. en

Amendment 169

Marie-Christine Boutonnet, Dominique Bilde, Gilles Lebreton

Proposal for a directive

Recital 13

Text proposed by the Commission

Amendment

(13) ***There is no need*** to provide for compensation for rightholders as regards uses under the text ***and data*** mining exception introduced by this Directive ***given that in view of the nature and scope of the exception the harm should be minimal.***

(13) ***It is necessary*** to provide for compensation for rightholders as regards uses under the text mining exception introduced by this Directive, ***as the principle of compensation is central to the concept of copyright.***

Or. fr

Amendment 170

Virginie Rozière, Sylvie Guillaume, Pervenche Berès, Marc Tarabella

Proposal for a directive

Recital 13 a (new)

Text proposed by the Commission

Amendment

(13 a) The process of text and data mining includes a substantial download of protected works and other subject matter. Therefore the storage and copy of content should be strictly limited to what is necessary to verify results. Any copies stored should be deleted after a reasonable period of time, in order to avoid other uses not covered by the exception.

Or. en

Amendment 171

Marie-Christine Boutonnet, Dominique Bilde, Gilles Lebreton

Proposal for a directive

Recital 14

Text proposed by the Commission

Amendment

(14) Article 5(3)(a) of Directive 2001/29/EC ***allows*** Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among

(14) ***The national legal systems of some Member States, as well as*** Article 5(3)(a) of Directive 2001/29/EC, ***allow*** Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making

others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of *a substantial part of its contents* for the purpose of illustration for teaching. The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. **Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary** to ensure that educational establishments benefit from full legal certainty when using works or other subject-matter in digital teaching activities, including online *and across borders*.

available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of *extracts from works or content from them* for the purpose of illustration for teaching. The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. **Therefore, this optional exception or limitation should be extended to digital teaching** to ensure that educational establishments benefit from full legal certainty when using *extracts from* works or other subject-matter in digital teaching activities, including online.

Or. fr

Amendment 172

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the *sole* purpose of, *among others*, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to

PE603.009v01-00

Amendment

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the purpose of illustration for teaching *or scientific research*. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to

74/148

AM\1123343EN.docx

whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure *that educational establishments benefit from* full legal certainty when using works or other subject-matter in *digital* teaching activities, including online and across borders.

whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect, *nor allow the application of such exceptions or limitations to private study purposes*. This situation may hamper the development of digitally-supported teaching activities and distance learning, *scientific research and private study*. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure full legal certainty when using works or other subject-matter in *all* teaching activities, *scientific research and private study*, including *digital*, online and across borders.

Or. en

Amendment 173

Jiří Maštálka, Kostas Chrysogonos, Kostadinka Kuneva

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, *Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. The* scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-

Amendment

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, *to uneven application across EU Member States*, the scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that

supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that educational establishments benefit from full legal certainty when using works or other subject-matter in *digital* teaching activities, including online and across borders.

educational establishments benefit from full legal certainty when using works or other subject-matter in *all* teaching activities, including online and across borders.

Or. en

Amendment 174
Daniel Buda

Proposal for a directive
Recital 14

Text proposed by the Commission

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that educational establishments benefit from full legal certainty when using works or other subject-matter in digital teaching activities, including online and across borders.

Amendment

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that educational establishments benefit from full legal certainty when using works or other subject-matter in digital teaching activities, including online and across borders.

Article 5(5) of Directive 2001/29/EC

should apply to all the exceptions and limitations provided for by this Directive.

Or. ro

Amendment 175
Sajjad Karim, Angel Dzhambazki

Proposal for a directive
Recital 14

Text proposed by the Commission

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. ***The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there*** is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that educational establishments benefit from full legal certainty when using works or other subject-matter in digital teaching activities, including online and across borders.

Amendment

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. There is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that educational establishments benefit from full legal certainty when using works or other subject-matter in digital teaching activities, including online and across borders.

Or. en

Amendment 176
Emil Radev

AM\1123343EN.docx

77/148

PE603.009v01-00

EN

Proposal for a directive
Recital 14

Text proposed by the Commission

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. **The** scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that educational establishments benefit from full legal certainty when using works or other subject-matter in digital teaching activities, including online and across borders.

Amendment

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. **Alongside uneven application in the Member States, the** scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that educational establishments benefit from full legal certainty when using works or other subject-matter in **all** digital teaching activities, including online and across borders.

Or. bg

Amendment 177
Kosma Złotowski

Proposal for a directive
Recital 14

Text proposed by the Commission

Amendment

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that educational *establishments* benefit from full legal certainty when using works or other subject-matter in *digital* teaching activities, including online and across borders.

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that *all persons and entities providing an educational activity* benefit from full legal certainty when using works or other subject-matter in teaching activities, including online and across borders.

Or. en

Amendment 178
Julia Reda

Proposal for a directive
Recital 14

Text proposed by the Commission

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the *sole* purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive

AM\1123343EN.docx

Amendment

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive

79/148

PE603.009v01-00

96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. *The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance.*

Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that educational *establishments* benefit from full legal certainty when using works or other subject-matter in *digital teaching* activities, including online and across borders.

96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. *However, those exceptions and limitations are not mandatory and some Member States have followed a too narrow interpretation of illustration for teaching in their national implementations of the exceptions.* Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that educational *activities* benefit from full legal certainty when using works or other subject-matter in *research and education* activities, including online and across borders.

Or. en

Amendment 179
Emil Radev

Proposal for a directive
Recital 15

Text proposed by the Commission

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the

PE603.009v01-00

Amendment

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education, *as well as organisations such as libraries and other cultural heritage institutions providing non-formal or self-study education*, to the extent they pursue their educational activity for a non-commercial purpose. *In*

80/148

AM\1123343EN.docx

non-commercial nature of the activity.

accordance with the Council conclusions of 12 May 2009 on a strategic framework for European cooperation in education and training ('ET 2020'), the contribution of non-formal and informal education, alongside official education, should be recognised and developed with a view to ensuring that the Union's aims are realised. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Or. bg

Amendment 180

Jiří Maštálka, Kostas Chrysogonos, Kostadinka Kuneva

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Amendment

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments ***recognized by the Member State in which they are established*** in primary, secondary, vocational and higher education ***as well as libraries or other public and non - profit institutions providing non-formal or informal cultural and other education***, to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Or. en

Amendment 181

Daniel Buda

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Amendment

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose ***and are recognised as such or accredited as educational establishments by the relevant national authority***. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Or. ro

Amendment 182

Antanas Guoga, Eva Maydell

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should

Amendment

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should

therefore benefit all educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

therefore benefit all educational establishments in primary, secondary, vocational and higher education, ***also including libraries which provide non-formal learning activities for a wide range of citizens across the Union every year*** to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Or. en

Amendment 183

Lidia Joanna Geringer de Oedenberg, Catherine Stihler, Victor Negrescu, Sergio Gaetano Cofferati, Marju Lauristin, Mary Honeyball

Proposal for a directive Recital 15

Text proposed by the Commission

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Amendment

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education, ***as well as organizations such as libraries and other cultural heritage institutions providing non-formal education*** to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Or. en

Amendment 184

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational ***establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose.*** The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Amendment

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. ***Such tools are also used in scientific research and private study activities.*** The exception or limitation provided for in this Directive should therefore benefit all educational, ***scientific and private study activities for a non-commercial purpose. Access to works and other subject matter should take place through a secure electronic network.*** The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Or. en

Amendment 185

Julia Reda

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational ***establishments*** in primary, secondary, vocational and higher education ***to the***

Amendment

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all ***research and educational activities, including*** in primary, secondary, vocational and higher

extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

education, as well as citizens science and non-formal education, to the extent they pursue their educational activity.

Or. en

Amendment 186
Kosma Zlotowski

Proposal for a directive
Recital 15

Text proposed by the Commission

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Amendment

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all **persons and entities providing an educational activity**, educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Or. en

Amendment 187
Kosma Zlotowski

Proposal for a directive
Recital 15

Text proposed by the Commission

Amendment

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of *an* educational *establishment* are not the decisive factors to determine the non-commercial nature of the activity.

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of *the person or entity providing the* educational *activity* are not the decisive factors to determine the non-commercial nature of the activity.

Or. en

Amendment 188
Sajjad Karim, Angel Dzhambazki

Proposal for a directive
Recital 15

Text proposed by the Commission

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Amendment

(15) While distance learning, *e-learning*, and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Or. en

Amendment 189
Tiemo Wölken, Dietmar Köster

Proposal for a directive
Recital 15

Text proposed by the Commission

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should **therefore** benefit **all** educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Amendment

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should **also** benefit **entities providing educational activities, such as museums, libraries, archives and civil society organisations**. The organisational structure and the means of funding of an educational establishment **or an entity providing educational activities** are not the decisive factors to determine the non-commercial nature of the activity.

Or. en

Amendment 190
Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive
Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover digital **uses** of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. **The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational**

Amendment

(16) The exception or limitation should cover **all uses, including digital and online ones**, of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities, **the scientific research and private study**. The exception should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for

establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception *or limitation* should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

teaching *or scientific research, as well as private study.*

Or. en

Amendment 191
Sajjad Karim, Angel Dzhambazki

Proposal for a directive
Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of

Amendment

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities ***to the extent justified by the non-commercial purpose to be achieved.*** The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. ***Member States should be able to provide for limits regarding the amount of work which could be copied in their national law, as long as these achieve a fair balance between the interests of users and rightsholders.*** The exception or limitation should cover both uses through digital means in the classroom and online uses, ***e-learning and*** through the educational

illustration for teaching.

establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Or. en

Amendment 192
Antanas Guoga, Eva Maydell

Proposal for a directive
Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover **digital** uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Amendment

(16) The exception or limitation should cover **all** uses of works and other subject-matter, **digital or otherwise**, such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments **as well as libraries that provide non-formal learning activities**, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom **or learning area** and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Or. en

Amendment 193

Julia Reda

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover **digital** uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, **including the related learning activities**. The use of the works or other subject-matter under the exception or limitation should **be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including** during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both **uses through digital means** in the classroom and online uses **through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures**. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of **illustration for teaching**.

Amendment

(16) The exception or limitation should cover uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the **research and education activities such as teaching, related learning activities and academic collaboration**. The use of the works or other subject-matter under the exception or limitation should **include uses** during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both **offline uses such as uses** in the classroom and online uses. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of **research and education**.

Or. en

Amendment 194

Virginie Rozière, Sylvie Guillaume, Pervenche Berès, Marc Tarabella

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or

Amendment

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or

extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

extracts of works to support, enrich or complement the teaching, including the related learning activities, **but excluding musical scores**. The use of the works or other subject-matter **or extracts** under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. **Thus, for example, the exception should be limited to the use of short extracts for written works, except in the case of plays and poems**. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Or. en

Amendment 195

Jiří Maštálka, Kostas Chrysogonos, Kostadinka Kuneva

Proposal for a directive Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover **digital** uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during

Amendment

(16) The exception or limitation should cover **all** uses of works and other subject-matter, **digital or otherwise**, such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, **including organizations**

examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

such as libraries and other cultural heritage institutions providing non-formal or informal education, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Or. en

Amendment 196
Emil Radev

Proposal for a directive
Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as

Amendment

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including *entities such as libraries and other cultural heritage institutions which provide non-formal or self-study education*, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which

covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Or. bg

Amendment 197

József Szájer, Andrea Bocskor

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means ***in the classroom*** and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Amendment

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means ***where the teaching activity is physically provided, including where it takes place outside the premises of the educational establishment*** and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Or. en

Justification

Teaching activities may be carried out outside of the premises of educational institutions. Respecting this phenomenon more educational establishments could enjoy the benefits of the exception in a reasonable way.

Amendment 198

Tiemo Wölken, Dietmar Köster

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Amendment

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, ***or entities providing educational activities*** and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Or. en

Amendment 199

Marie-Christine Boutonnet, Dominique Bilde, Gilles Lebreton

Proposal for a directive

PE603.009v01-00

94/148

AM\1123343EN.docx

Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of *the* works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Amendment

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of *extracts from* works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Or. fr

Amendment 200

Julia Reda

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of

Amendment

deleted

educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering at least the same uses as those allowed under the exception. This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

Or. en

Amendment 201

Tiemo Wölken, Dietmar Köster

Proposal for a directive

Recital 17

Text proposed by the Commission

Amendment

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further

deleted

uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering at least the same uses as those allowed under the exception. This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

Or. en

Amendment 202

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 17

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to **digital** uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper **the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering at least the same uses as those allowed under the exception. This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.**

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to **all** uses and cross-border teaching activities, **scientific research and private study**, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper **in any way the effective application of the exception or cross-border uses.**

Or. en

Amendment 203

Jiří Maštálka, Kostas Chrysogonos, Kostadinka Kuneva

PE603.009v01-00

98/148

AM\1123343EN.docx

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. ***This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering at least the same uses as those allowed under the exception. This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.***

Amendment

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. ***As such, any other compensation mechanisms should be limited to cases where there is a risk of unreasonable prejudice to the legitimate interests of right-holders.***

Or. en

Amendment 204

József Szájer, Andrea Bocskor

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering at least the same uses as those allowed under the exception. This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing

PE603.009v01-00

Amendment

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering at least the same uses as those allowed under the exception. This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing

100/148

AM\1123343EN.docx

schemes.

schemes. ***In order to ensure the availability and accessibility of such licences for beneficiaries, Member States are encouraged to develop appropriate tools, such as a single portal or database.***

Or. en

Justification

The suggested amendment would increase the accessibility of licences, however, at the same time, the decision would be left to Member States which tools they consider to be appropriate. The issue of developing a single portal or database should be carried out on a voluntary basis, since not every Member State has the capacity (or the funding) to develop such tools.

Amendment 205

Virginie Rozière, Sylvie Guillaume, Pervenche Berès, Marc Tarabella, Robert Rochefort

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering

Amendment

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering

at least the same uses as those allowed under the exception. This mechanism **would, for example, allow giving precedence to licences for** materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

at least the same uses as those allowed under the exception. This mechanism **should not apply to** materials which are primarily intended for the educational market, **for which it should be possible to arrange licences**. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

Or. en

Amendment 206

Marie-Christine Boutonnet, Dominique Bilde, Gilles Lebreton

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. **Whereas it is essential to harmonise the scope of the new mandatory** exception or limitation in relation to digital uses **and cross-border teaching activities**, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation **or cross-border uses**. This should allow Member States to build on the existing arrangements

Amendment

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. **While this new optional** exception or limitation in relation to digital uses **in an educational context may apply in all Member States**, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide

concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering at least the same uses as those allowed under the exception. This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering at least the same uses as those allowed under the exception. This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of *extracts from* works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

Or. fr

Amendment 207 **Constance Le Grip**

Proposal for a directive **Recital 17**

Text proposed by the Commission

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective

Amendment

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective

application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering at least the same uses as those allowed under the exception. This mechanism **would, for example, allow giving precedence** to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering at least the same uses as those allowed under the exception. This mechanism **should not hamper the use of** licences for materials which are primarily intended for the educational market **and sheet music**. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

Or. en

Amendment 208

József Szájer, Andrea Bocskor

Proposal for a directive

Recital 17 a (new)

Text proposed by the Commission

Amendment

(17 a) In order to guarantee legal certainty when a Member State decides to subject the application of the exception to the availability of adequate licences, it is necessary to specify under which conditions an educational establishment may use protected works or other subject-matter under that exception and, conversely, when it should act under a licensing scheme.

Or. en

Justification

The proposed amendment is needed in order to provide legal certainty in cases when a Member State decides to subject the application of the exception to the availability of adequate licences.

Amendment 209

Julia Reda

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of ***their collections*** for future generations. Digital technologies offer new ways to preserve the heritage contained in ***those*** collections but they also create new challenges. In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction ***in order to allow those acts of preservation.***

Amendment

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of ***cultural heritage*** for future generations. Digital technologies offer new ways to preserve the heritage contained in ***the*** collections ***of cultural heritage institutions***, but they also create new challenges. ***One such challenge is the systematic collection and preservation of works which are not originally published by traditional analogue means, but originate in a digital form (so-called born-digital works). Whereas publishers in Member States are typically obliged to provide a reference copy of each published work to certain cultural heritage institutions for archiving purposes, such obligations often do not apply to born-digital works. In the absence of the provision of reference copies by the authors or publishers of born-digital works, cultural heritage institutions should be allowed to make reproductions of born-digital works at their own initiative whenever they are openly available on the Internet, in order to add them to their permanent collections. Cultural heritage institutions also engage in making internal reproductions for many varying purposes including insurance, rights clearance,***

and loans. In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction.

Or. en

Amendment 210
Emil Radev

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also create new challenges. In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction *in order to allow those acts of preservation.*

Amendment

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions, *research organisations and educational establishments* are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also create new challenges. *Cultural heritage institutions, research organisations and educational establishments are also engaged in the reproduction of works externally for various purposes including insurance, rights-related arrangements and lending.* In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction.

Or. bg

Amendment 211
Marie-Christine Boutonnet, Dominique Bilde, Gilles Lebreton

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution **and** consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also create new challenges. ***In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction in order to allow those acts of preservation.***

Amendment

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution ***or libraries, which sometimes preserve the regional and/or national heritage, and may*** consequently ***require*** the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also create new challenges. ***An optional exception may enable Member States to act in a proportionate manner, consistently with national legal traditions, with the aim of preserving the cultural heritage.***

Or. fr

Amendment 212

Jiří Maštálka, Kostas Chrysogonos, Kostadinka Kuneva

**Proposal for a directive
Recital 18**

Text proposed by the Commission

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also create new challenges. In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction in order to allow those acts of preservation.

Amendment

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also create new challenges. In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction in order to allow those acts of preservation ***as well as reproductions for other purposes such as insurance and rights clearance and including long-term***

and cross border loans.

Or. en

Amendment 213

Jean-Marie Cavada, Robert Rochefort, António Marinho e Pinto

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also create new challenges. In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction in order to allow those acts of preservation.

Amendment

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also create new challenges. In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction in order to allow those acts of preservation *for these cultural heritage institutions.*

Or. fr

Amendment 214

Antanas Guoga, Eva Maydell

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for

Amendment

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for

future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also create new challenges. In view of *these* new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction in order to allow those acts of preservation.

future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they *could* also create new challenges. In view of *possible* new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction in order to allow those acts of preservation.

Or. en

Amendment 215

Kostas Chrysogonos, Jiří Maštálka, Kostadinka Kuneva

Proposal for a directive

Recital 19

Text proposed by the Commission

(19) Different approaches in the Member States for acts of preservation by cultural heritage institutions hamper cross-border cooperation and the sharing of means of preservation *by cultural heritage institutions* in the internal market, leading to an inefficient use of resources.

Amendment

(19) Different approaches in the Member States for acts of preservation, *including reproduction* by cultural heritage institutions, *research organizations and educational establishments*, hamper cross-border cooperation and the sharing of means of preservation in the internal market, leading to an inefficient use of resources. *The collections of cultural heritage institutions, research organizations and educational establishments, if not unique, are likely to be replicated and sit in other institutions, including those in other Member States. Cultural heritage institutions, research organizations, and educational establishments could also want to create cross border preservation networks, to use resources effectively.*

Or. en

Amendment 216

Marie-Christine Boutonnet, Dominique Bilde, Gilles Lebreton

Proposal for a directive

Recital 19

Text proposed by the Commission

(19) *Different approaches in the Member States for acts of preservation by cultural heritage institutions hamper cross-border cooperation and the sharing of means of preservation by cultural heritage institutions in the internal market, leading to an inefficient use of resources.*

Amendment

(19) *Article 1(h) of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, to which a number of Member States, and also the Union, are parties, reaffirms 'the sovereign rights of States to maintain, adopt and implement policies and measures that they deem appropriate for the protection and promotion of the diversity of cultural expressions on their territory'. Accordingly, to comply with legal requirements, it is imperative that this directive should not conflict with obligations under international law to protect and preserve the cultural heritage.*

Or. fr

Amendment 217

Julia Reda

Proposal for a directive

Recital 19

Text proposed by the Commission

(19) Different approaches in the Member States for acts of *preservation* by cultural heritage institutions hamper cross-border cooperation *and the sharing of means of preservation by cultural heritage institutions in the internal market, leading to an inefficient use of resources.*

Amendment

(19) Different approaches in the Member States for acts of *reproduction* by cultural heritage institutions *and educational establishments* hamper cross-border cooperation. *The collections of cultural heritage institutions, if not unique, are likely to be replicated and sit in other institutions, including those in other Member States. It is possible that cultural heritage institutions would also wish to create preservation networks cross borders, to use resources efficiently.*

Or. en

Amendment 218

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

PE603.009v01-00

110/148

AM\1123343EN.docx

Proposal for a directive
Recital 19

Text proposed by the Commission

(19) Different approaches in the Member States for acts of preservation by cultural heritage institutions hamper cross-border cooperation and the sharing of means of preservation by cultural heritage institutions in the internal market, leading to an inefficient use of resources.

Amendment

(19) Different approaches in the Member States for acts of preservation by cultural heritage institutions hamper cross-border cooperation and the sharing of means of preservation by cultural heritage institutions in the internal market, leading to an inefficient use of resources **and risking to negatively affect the preservation of cultural heritage.**

Or. en

Amendment 219

Kostas Chrysogonos, Jiří Maštálka, Kostadinka Kuneva

Proposal for a directive
Recital 20

Text proposed by the Commission

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence or the degradation of original supports. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only.

Amendment

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions, **research organizations and educational establishments** to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence or the degradation of original supports **or for the purpose of digitalization, research or education.** Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only. **Such an exception should cover in particular both cultural heritage institutions, including archeological or other museum institutions of universities and colleges holding the works or other subject-matter,**

and third party cultural heritage institutions or service providers, which could be requested to perform the act of reproduction on behalf of a cultural heritage institution, research organization or educational establishment, within the scope of the exception.

Or. en

Amendment 220
Julia Reda

Proposal for a directive
Recital 20

Text proposed by the Commission

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation *purposes*, for example to address technological obsolescence or the degradation of original supports. *Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and* at any point in the life of a work or other subject-matter to the extent required *in order to produce a copy for preservation purposes only*.

Amendment

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions *and educational establishments* to reproduce works and other subject-matter permanently in their collections for *the purpose of carrying out their public interest mission in* preservation, *research, education, culture and teaching*, for example to address technological obsolescence or the degradation of original supports, *to build collections of born-digital works or for the purpose of digitisation. Such an exception should allow for the making of copies in any format or medium* at any point in the life of a work or other subject-matter *and* to the extent required *for such reproduction, including via partnerships with other institutions or third parties, which could be requested to perform the act of reproduction on behalf of a cultural heritage institution within the scope of the exception*.

Or. en

Amendment 221
József Szájer, Andrea Bocskor

PE603.009v01-00

112/148

AM\1123343EN.docx

Proposal for a directive
Recital 20

Text proposed by the Commission

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence or the degradation of original supports. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only.

Amendment

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence or the degradation of original supports. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only. ***Such an exception should cover both cultural heritage institutions holding the works or other subject-matter and third party cultural heritage institutions or service providers, which could be requested to perform the act of reproduction on behalf of a cultural heritage institution within the scope of the exception.***

Or. en

Justification

It is both necessary and practical that other third parties requested by cultural institutions may also act based on this exception on behalf of these institutions.

Amendment 222
Emil Radev

Proposal for a directive
Recital 20

Text proposed by the Commission

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter

Amendment

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions, ***research organisations and educational***

permanently in their collections for preservation ***purposes***, for example to address technological obsolescence or the degradation of original supports. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required ***in order to produce a copy for preservation purposes only***.

establishments to reproduce works and other subject-matter permanently in their collections for ***the purpose of carrying out their public interest mission in preservation, research, education, culture and teaching***, for example to address technological obsolescence or the degradation of original supports ***or for the purpose of digitisation***. Such an exception should allow for the making of copies ***in any format or medium*** by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required ***for such reproduction of the work, including in partnership with other institutions or third countries***.

Or. bg

Amendment 223

Laura Ferrara, Isabella Adinolfi, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 20

Text proposed by the Commission

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence ***or*** the degradation of original supports. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes ***only***.

Amendment

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation purposes, ***such as traditions and intangible cultural heritage***, for example to address technological obsolescence, the degradation of original supports ***or the loss of oral or intangible heritage***. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation, ***consultation, cataloguing and filing*** purposes.

Or. it

Amendment 224
Antanas Guoga, Eva Maydell

Proposal for a directive
Recital 20

Text proposed by the Commission

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence or the degradation of original supports. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only.

Amendment

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions **and educational establishments** to reproduce works and other subject-matter, **digitally or otherwise**, permanently in their collections for preservation purposes, for example to address technological obsolescence or the degradation of original supports. Such an exception should allow for the making of copies **in any format** by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only.

Or. en

Amendment 225
Marie-Christine Boutonnet, Dominique Bilde, Gilles Lebreton

Proposal for a directive
Recital 20

Text proposed by the Commission

(20) Member States should therefore **be required to provide** for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence or the degradation of original supports. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a

Amendment

(20) Member States should therefore **have the option of providing** for an exception to permit cultural heritage institutions **and libraries** to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence or the degradation of original supports. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required

work or other subject-matter to the extent required in order to produce a copy for preservation purposes only.

number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only.

Or. fr

Amendment 226

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 20

Text proposed by the Commission

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence *or* the degradation of original supports. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only.

Amendment

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence, the degradation of original supports *and digitisation*. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only.

Or. en

Amendment 227

Jean-Marie Cavada, Robert Rochefort, António Marinho e Pinto

Proposal for a directive

Recital 21

Text proposed by the Commission

(21) For the purposes of this Directive, works and other subject-matter should be considered to be permanently in the collection of a cultural heritage institution when copies are owned or permanently

Amendment

(21) For the purposes of this Directive, works and other subject-matter should be considered to be permanently in the collection of a cultural heritage institution when copies *of these protected works or*

held by the cultural heritage institution, for example as a result of a transfer of ownership or licence agreements.

other subject-matter are owned or permanently held by the cultural heritage institution, for example as a result of a transfer of ownership *of the work or other subject-matter* or licence agreements, *thereby enabling the file to be stored on the institution's server.*

Or. fr

Amendment 228

Jiří Maštálka, Kostas Chrysogonos, Kostadinka Kuneva

Proposal for a directive

Recital 21

Text proposed by the Commission

(21) For the purposes of this Directive, works and other subject-matter should be considered to be permanently in the collection of a cultural heritage institution when copies are owned *or* permanently held by the cultural heritage institution, for example as a result of a transfer of ownership or licence agreements.

Amendment

(21) For the purposes of this Directive, works and other subject-matter should be considered to be permanently in the collection of a cultural heritage institution when copies are owned, *held on long term loan or are* permanently held by the cultural heritage institution, *research organization, or educational establishment*, for example as a result of a transfer of ownership or licence agreements.

Or. en

Amendment 229

Emil Radev

Proposal for a directive

Recital 21

Text proposed by the Commission

(21) For the purposes of this Directive, works and other subject-matter should be considered to be permanently in the collection of a cultural heritage institution when copies are owned or permanently held by the cultural heritage institution, for example as a result of a transfer of

Amendment

(21) For the purposes of this Directive, works and other subject-matter should be considered to be permanently in the collection of a cultural heritage institution when copies are owned or permanently held by the cultural heritage institution, *research organisation or educational*

ownership *or licence agreements*.

establishment, for example as a result of a transfer of ownership, *licence agreements or a compulsory deposit*.

Or. bg

Amendment 230

Julia Reda

Proposal for a directive

Recital 21

Text proposed by the Commission

(21) For the purposes of this Directive, works and other subject-matter should be considered to be permanently in the collection of a cultural heritage institution when copies are owned *or* permanently held by the cultural heritage institution, for example as a result of a transfer of ownership or licence agreements.

Amendment

(21) For the purposes of this Directive, works and other subject-matter should be considered to be permanently in the collection of a cultural heritage institution when copies are owned, *held on long-term loan or are* permanently held by the cultural heritage institution, *or educational establishment*, for example as a result of a transfer of ownership or licence agreements.

Or. en

Amendment 231

Marie-Christine Boutonnet, Dominique Bilde, Gilles Lebreton

Proposal for a directive

Recital 21

Text proposed by the Commission

(21) For the purposes of this Directive, works and other subject-matter should be considered to be permanently in the collection of a cultural heritage institution when copies are owned or permanently held by the *cultural heritage* institution, for example as a result of a transfer of ownership or licence agreements.

Amendment

(21) For the purposes of this Directive, works and other subject-matter should be considered to be permanently in the collection of a cultural heritage institution *or library* when copies are owned or permanently held by the institution, for example as a result of a transfer of ownership or licence agreements.

Or. fr

Amendment 232
Julia Reda

Proposal for a directive
Recital 21 a (new)

Text proposed by the Commission

Amendment

(21 a) Cultural heritage institutions, and educational establishments have long been involved in making reproductions for individual researchers in their collections, upon their request and on an ad hoc basis. This serves to support and enrich an individual's scientific research, as a researcher who cannot travel to where a work or related subject matter is held is able to request that a reproduction be made for them in compliance with current Union rules on exceptions and limitations. Research, education and learning is increasingly taking place in a cross border environment. There is however a lack of clarity as to whether the existing exceptions or limitations in Member States provide for a cross-border effect. This situation hampers scientific research and the development of the European Research Area. This legal uncertainty should be addressed, and researchers provided with a clear framework that allows them to request a cultural heritage institution, or educational establishment to make and supply them with a reproduction of a work or other subject matter for the purposes of their research, including in a cross border context.

Or. en

Amendment 233
Therese Comodini Cachia

Proposal for a directive
Recital 21 a (new)

Text proposed by the Commission

Amendment

(21 a) Given the existence of divergences between collective management practices across Member States and creative and cultural sectors, a solution needs to be provided for where licencing mechanisms are not effective solutions because of, for example a lack of collective licensing or the fact that no collective management organisation has been able to achieve recognition in a Member State or for a sector. In such instances, where licensing mechanisms are lacking, it is necessary to provide for an exception that allows cultural heritage institutions to make out of commerce works held in their collection available online on their own secure technology networks. Yet in doing so, it is also necessary to provide authors with the possibility to provide licenses or to form a collective management organisation as well as to involve them in the determination of whether such licences are available or not. In addition, rightholders should be able to object to the inclusion of their work on the secure technology networks of the cultural heritage institutions.

Or. en

Amendment 234

Jean-Marie Cavada, Robert Rochefort, Frédérique Ries, António Marinho e Pinto

Proposal for a directive

Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) Where content generated or made available by a user involves the short and proportionate use of a quotation or of an extract of a protected work or other subject-matter for a legitimate purpose, such use should be protected by the exception provided in this Directive. This exception should only be applied in certain special cases which do not conflict with normal exploitation of the work or other subject-matter concerned and do not

unreasonably prejudice the legitimate interests of the rightholder. For the purpose of assessing such prejudice, the degree of originality of the content concerned, the length/extent of the quotation or extract used, the professional nature of the content concerned or the degree of economic harm must be examined, where relevant, while not precluding the legitimate enjoyment of the exception. This exception should be without prejudice to the moral rights of the authors of the work or other subject-matter.

Or. fr

Amendment 235
Jean-Marie Cavada, Robert Rochefort

Proposal for a directive
Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) Technological developments have given rise to information society services enabling their users to upload content and make it available in diverse forms and for various purposes, including to illustrate an idea, criticism, parody or pastiche. Such content may include short extracts of pre-existing protected works or other subject-matter that these users might have altered, combined or otherwise transformed.

Or. fr

Amendment 236
Julia Reda

Proposal for a directive
Recital 21 b (new)

Text proposed by the Commission

Amendment

(21 b) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC, are in place in a number of Member States in order to facilitate cultural heritage institutions, and educational establishments to give on site access to works and other subject-matter on the premises. Such arrangements exist as educational establishments and cultural heritage institutions are involved in preserving and giving access to their digital collections on the premises. Digital technologies provide new ways of giving access to those collections on the premises, for example the use of WIFI networks to give users access to collections on their own portable devices, such as mobile phones and laptops. The requirement to use dedicated terminals for giving access to content on the premises has proven impractical and outdated. At the same time, the maturity of digital preservation requires cultural heritage institutions to preserve and give access not just to digitised analogue works and other subject matter, but also to born-digital materials. Member States should therefore be required to provide for an exception to permit cultural heritage institutions, and educational establishments to give access to all digitised and born-digital collections on the premises or online. Such an exception should allow copies to be delivered on any technology to members of the public.

Or. en

Amendment 237

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 21 b (new)

Text proposed by the Commission

Amendment

(21 b) It should be acknowledged the importance of certain exceptions and

limitations already provided for in Directive 2001/29/EC, and the need to ensure legal certainty and harmonisation within the internal market. To this end such exceptions and limitations should be made mandatory. It should also be recognised that new technologies are enhancing and changing the ways in which the uses of copyrighted works or other subject matter can take place and be enjoyed, which often are not detrimental to rightholders. Therefore a general de minimis exception should be introduced in order to take into account technological developments.

Or. en

Amendment 238

Jean-Marie Cavada, Robert Rochefort, António Marinho e Pinto

Proposal for a directive

Recital 21 b (new)

Text proposed by the Commission

Amendment

(21 b) Despite some overlapping with existing exceptions or limitations, any content that is uploaded or made available by a user that reasonably includes extracts of protected works or other subject-matter is not covered by Article 5 of Directive 2001/29/EC. A situation of this type creates legal uncertainty for both users and rightholders. It is therefore necessary to provide a new specific exception to permit the legitimate uses of extracts of pre-existing protected works or other subject-matter within content that is uploaded or made available by users.

Or. fr

Amendment 239

Jean-Marie Cavada, Robert Rochefort, António Marinho e Pinto

Proposal for a directive

AM\1123343EN.docx

123/148

PE603.009v01-00

EN

Recital 21 b (new)

Text proposed by the Commission

Amendment

(21 b) Information society service providers cannot claim to be covered by the exception provided for in this directive, for the use of quotations or extracts from protected works or other subject-matter in content that is uploaded or made available by users, to relieve them of their responsibility or reduce the scope of their obligations according to the provisions of Article 13 of this directive.

Or. fr

Amendment 240

Julia Reda

Proposal for a directive

Recital 21 c (new)

Text proposed by the Commission

Amendment

(21 c) In its ruling in Case C-174/15, Vereniging Openbare Bibliotheken v Stichting Leenrecht^{1a}, the Court of Justice recognised that the lending of e-books can fall under the same rules as the lending of physical books. When Member States apply the limitation to copyright in Article 6 of Directive 2006/115/EC of the European Parliament and of the Council^{1b}, libraries are able to buy any physical book on the market. Once purchased, they can lend it without restrictions linked to contract terms or other measures of protection which prevent the exercise of exceptions and limitations to copyright. That provision should also apply to e-books. Moreover, with the objective of ensuring that all citizens of the Union have access to a full selection of books and other resources, all Member States should ensure that the limitation to the exclusive public lending right in Article 6 of Directive 2006/115/EC is made mandatory.

^{1a} Judgement of the Court of Justice of 10 November 2016, Vereniging Openbare Bibliotheken v Stichting Leenrecht, ECLI:EU:C:2016:856.

^{1b} Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ L 376, 27.12.2006, p. 28).

Or. en

Amendment 241

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 21 a (new)

Text proposed by the Commission

Amendment

(21 a) In view of allowing citizens and consumers to fully benefit from the opportunities offered by new technologies, public lending of literary works, including e-lending, should be permitted within the internal market.

The concept of lending, within the meaning of Articles 1(1), 2(1)(b) and 6(1) of Directive 2006/115/EC, covers the lending not only of physical books, but also of a digital copy thereof. When Member States apply the derogation set out in Article 6 of Directive 2006/115/EC, libraries should be able to buy any physical book on the market. Once purchased, they can lend it without restrictions linked to contract terms or other measures of protection which prevent the exercise of exceptions and limitations to copyright. These provisions should also apply to e-books. In order to achieve legal certainty and harmonisation within the internal market, Member States should ensure that the exception to the exclusive public lending right set out in

article 6 of Directive 2006/115/EC should be mandatory.

Or. en

Amendment 242

Julia Reda, Dita Charanzová, Marietje Schaake

Proposal for a directive

Recital 21 d (new)

Text proposed by the Commission

Amendment

(21 d) The reconciliation of the public's interest to participate in the public sphere by means of an exception regarding the use of depictions of buildings and permanent structures is necessary. Professional photographers and other authors, rightholders, consumers, institutional users and service providers are predominantly using depictions of works on the basis of a national 'freedom of panorama' exceptions and rely on legal certainty for cross-border usage.

Or. en

Amendment 243

Julia Reda, Nessa Childers, Max Andersson, Michel Reimon, Brando Benifei

Proposal for a directive

Recital 21 e (new)

Text proposed by the Commission

Amendment

(21 e) Following technological developments and evolving user behaviour, a significant phenomenon of cultural creation has emerged, which relies on users uploading or displaying content, in various forms, to online services. Such user-generated content may comprise extracts or quotations of protected works or other subject-matter, which may be altered, combined or transformed for different purposes by

users. Such uses of extracts or quotations within user-generated content, for various purposes such as the illustration of an idea, review or entertainment, are now widespread online and, provided that the use of such extracts or quotations of protected works or other subject-matter is proportionate, do not cause significant economic harm to the rightholders concerned and may even advertise the work used within the user-generated content.

Or. en

Amendment 244

Julia Reda, Nessa Childers, Max Andersson, Michel Reimon, Brando Benifei

Proposal for a directive

Recital 21 f (new)

Text proposed by the Commission

Amendment

(21 f) Despite some overlap with existing voluntary exceptions or limitations, such as the ones for quotation and parody, the use of protected works or other subject-matter within user-generated content is nonetheless not properly covered by the existing list of exceptions or limitations, creating legal uncertainty for users. Particularly the voluntary nature of existing exceptions and limitations is significantly curtailing the development of user-generated content, which is typically disseminated in a borderless online environment. It is therefore necessary to provide a new mandatory specific exception to authorise the legitimate uses of extracts or quotations of protected works or other subject-matter within user-generated content.

Or. en

Amendment 245

Julia Reda

Proposal for a directive
Recital 21 g (new)

Text proposed by the Commission

Amendment

(21 g) Numerous Member States exempt certain works or other subject matter, such as official works, from copyright protection in line with Article 4 (2) of the Berne Convention. Such rules create scenarios in which content is in the public domain in a Member State, which usually results in that content not being released under permissible licenses. If other Member States lack corresponding provisions, the legal cross-border reuse of such content is prohibited. Mutual recognition of the public domain status of works resolves any inconsistencies in the cross-border use of works exempted from copyright protection.

Or. en

Amendment 246
Julia Reda

Proposal for a directive
Recital 22

Text proposed by the Commission

Amendment

(22) Cultural heritage institutions should benefit from a clear framework for the digitisation and dissemination, including across borders, of out-of-commerce works or other subject-matter. However, the particular characteristics of the collections of out-of-commerce works mean that obtaining the prior consent of the individual rightholders may be very difficult. This can be due, for example, to the age of the works or other subject-matter, their limited commercial value or the fact that they were never intended for commercial use. It is therefore necessary to provide for ***measures*** to facilitate the ***licensing of rights in*** out-of-commerce

(22) Cultural heritage institutions should benefit from a clear framework for the digitisation and dissemination, including across borders, of out-of-commerce works or other subject-matter. However, the particular characteristics of the collections of out-of-commerce works mean that obtaining the prior consent of the individual rightholders may be very difficult. This can be due, for example, to the age of the works or other subject-matter, ***the fact that copyright terms by far exceed the average commercial availability of works***, their limited commercial value or the fact that they were never intended for commercial use. It is

works that are in the collections of cultural heritage institutions *and thereby to allow the conclusion of agreements with cross-border effect in the internal market.*

therefore necessary to provide for *a mandatory exception with cross-border effect* to facilitate the *re-use of* out-of-commerce works that are in the collections of cultural heritage institutions. *In order to take account of the difference between the timespan of commercial availability of the vast majority of works and their much longer copyright protection terms, works or other subject matter that were first published at least 10 years ago should be deemed to be out of commerce.*

Or. en

Amendment 247

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 22

Text proposed by the Commission

(22) Cultural heritage institutions should benefit from a clear framework for the digitisation and dissemination, including across borders, of out-of-commerce works or other subject-matter. However, the particular characteristics of the collections of out-of-commerce works mean that obtaining the prior consent of the individual rightholders may be very difficult. This can be due, for example, to the age of the works or other subject-matter, their limited commercial value or the fact that they were never intended for commercial use. It is therefore necessary to provide for measures to facilitate the *licensing of rights in* out-of-commerce works that are in the collections of cultural heritage institutions and thereby to allow the conclusion of agreements with cross-border effect in the internal market.

Amendment

(22) Cultural heritage institutions, *educational establishments or other non-commercial documentation centers* should benefit from a clear framework for the digitisation and dissemination, including across borders, of out-of-commerce works or other subject-matter. However, the particular characteristics of the collections of out-of-commerce works mean that obtaining the prior consent of the individual rightholders may be very difficult. This can be due, for example, to the age of the works or other subject-matter, their limited commercial value or the fact that they were never intended for commercial use. It is therefore necessary to provide for measures to facilitate the *availability of* out-of-commerce works that are in the collections of cultural heritage institutions, *educational establishments or other non-commercial documentation centers* and thereby to allow the conclusion of agreements with cross-border effect in the internal market.

Amendment 248**Marie-Christine Boutonnet, Dominique Bilde, Gilles Lebreton****Proposal for a directive****Recital 22***Text proposed by the Commission*

(22) Cultural heritage institutions should benefit from a clear framework for the digitisation and dissemination, **including across borders**, of out-of-commerce works or other subject-matter. However, the particular characteristics of the collections of out-of-commerce works mean that obtaining the prior consent of the individual rightholders may be very difficult. This can be due, for example, to the age of the works or other subject-matter, their limited commercial value or the fact that they were never intended for commercial use. It is therefore necessary to provide for measures to facilitate the licensing of rights in out-of-commerce works that are in the collections of cultural heritage institutions **and thereby to allow the conclusion of agreements with cross-border effect in the internal market.**

Amendment

(22) Cultural heritage institutions **or libraries** should benefit from a clear framework for the digitisation and dissemination of out-of-commerce works or other subject-matter. However, the particular characteristics of the collections of out-of-commerce works mean that obtaining the prior consent of the individual rightholders may be very difficult. This can be due, for example, to the age of the works or other subject-matter, their limited commercial value or the fact that they were never intended for commercial use. It is therefore necessary to provide for measures to facilitate the licensing of rights in out-of-commerce works that are in the collections of cultural heritage institutions **or libraries.**

Or. fr

Amendment 249**Antanas Guoga, Eva Maydell****Proposal for a directive****Recital 22***Text proposed by the Commission*

(22) Cultural heritage institutions should benefit from a clear framework for the digitisation and dissemination, including across borders, of out-of-commerce works or other subject-matter. However, the particular characteristics of the collections

Amendment

(22) Cultural heritage institutions should benefit from a clear framework for the digitisation and dissemination, including across borders, of out-of-commerce works or other subject-matter. However, the particular characteristics of the collections

of out-of-commerce works mean that obtaining the prior consent of the individual rightholders may be very difficult. This can be due, for example, to the age of the works or other subject-matter, their limited commercial value or the fact that they were never intended for commercial use. It is therefore necessary to provide for measures to facilitate ***the licencing of rights in*** out-of-commerce works that are in the collections of cultural heritage institutions and thereby to allow the conclusion of agreements with cross-border effect in the internal market.

of out-of-commerce works mean that obtaining the prior consent of the individual rightholders may be very difficult. This can be due, for example, to the age of the works or other subject-matter, their limited commercial value or the fact that they were never intended for commercial use. It is therefore necessary to provide for measures to facilitate ***online availability*** out-of-commerce works that are in the collections of cultural heritage institutions and thereby to allow the conclusion of agreements with cross-border effect in the internal market.

Or. en

Amendment 250
Julia Reda

Proposal for a directive
Recital 22 a (new)

Text proposed by the Commission

Amendment

(22 a) Several Member States have already adopted extended collective licencing regimes, legal mandates or legal presumptions facilitating the licencing of out-of-commerce works. However considering the variety of works and other subject-matter in the collections of cultural heritage institutions and the variance between collective management practices across Member States and sectors of cultural production it is necessary to provide a more efficient mechanism that can reduce complexities and also apply in sectors or for types of works where the licencing mechanisms do not provide a solution, for example, because there is no practice of collective licencing or because collective management organisations are unable to achieve sufficient representation. It is therefore necessary to provide for a mandatory exception that allows cultural heritage institutions to make out of commerce works held in their collection

available online. Whereas it is essential to harmonise the scope of the new mandatory exception in order to allow cross-border uses of out of commerce works, Member States should be allowed to build on the existing extended collective licencing arrangements for certain categories of works concluded at national level. Any uses under this exception should be subject to the same opt out and publicity requirements as uses authorised by a licensing mechanism.

Or. en

Amendment 251
Julia Reda

Proposal for a directive
Recital 22 b (new)

Text proposed by the Commission

Amendment

(22 b) Taking into account the specificities of national collective management organisations, the needs and requirements of cultural heritage institutions, and different types of works, Member States should be able to diverge from the mandatory exception provided for in this Directive and rely on extended collective licensing, legal mandates or legal presumptions, provided that they cover at least the same uses as those allowed under the exception, including cross-border uses. Any works not covered by such arrangements should be subject to the exception.

Or. en

Amendment 252
Virginie Rozière, Sylvie Guillaume, Pervenche Berès, Marc Tarabella

Proposal for a directive
Recital 23

(23) Member States *should, within the framework provided for in this Directive, have flexibility in choosing the specific type of mechanism allowing for licences for out-of-commerce works to extend to the rights of rightholders that are not represented by the collective management organisation*, in accordance to their legal traditions, practices or circumstances. Such mechanisms can include extended collective licensing and presumptions of representation.

(23) *This directive is without prejudice to specific solutions developed by Member States in order to deal with the issues raised by mass digitisation, such as systems for out-of-commerce works. Such solutions take into account the specific characteristic of the various types of work or other subject-matter and of the various users; they are devised on the basis of consensus between the stakeholders. This approach has already been adopted in the Memorandum of Understanding on Key Principles on the Digitisation and Making Available of Out-of-Commerce Works, signed on 20 September 2011 by representatives of European libraries, authors, publishers and collective management organisations under the aegis of the Commission. This directive should be without prejudice to that Memorandum of Understanding, which calls on Member States and the Commission to ensure that voluntary agreements concluded between users, rightholders and collective management organisations to authorise the use of out-of-commerce works on the basis of the principles contained in the Memorandum have the benefit of legal certainty in the national and cross-border context. Member States should have a certain margin of discretion to choose the specific type of arrangement* in accordance to their legal traditions, practices or circumstances. Such mechanisms can include extended collective licensing and presumptions of representation.

Or. en

Amendment 253

Kostas Chrysogonos, Jiří Maštálka, Kostadinka Kuneva

Proposal for a directive

Recital 23

(23) Member States should, within the framework provided for in this Directive, have flexibility in choosing the specific type of mechanism allowing ***for licences for out-of-commerce works to extend to the rights of rightholders that are not represented by the collective management organisation***, in accordance to their legal traditions, practices or circumstances. Such mechanisms ***can*** include extended collective licensing and presumptions of representation.

(23) Member States should, within the framework provided for in this Directive, have flexibility in choosing the specific type of mechanism allowing ***cultural heritage institutions, research organizations or educational establishments to disseminate their out of commerce collections***, in accordance to their legal traditions, practices or circumstances. Such mechanisms ***should allow rightholders to exclude their works and could*** include extended collective licensing and presumptions of representation, ***and limitations and exceptions where:***

- a) no collective management organizations exist***
- b) a collective management organization is unable to achieve sufficient representativity, or***
- c) a collective management organization is unable to offer adequate licenses to cultural heritage institutions for the types of works and other subject matter held in their collections.***

Or. en

Amendment 254

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 23

(23) Member States should, within the framework provided for in this Directive, have flexibility in choosing the specific type of mechanism allowing ***for licences for out-of-commerce works to extend to the rights of rightholders that are not represented by the collective management organisation***, in accordance to their legal traditions, practices or circumstances. Such mechanisms can include extended collective licensing and presumptions of

(23) Member States should, within the framework provided for in this Directive, have flexibility in choosing the specific type of ***legal*** mechanism allowing ***cultural heritage institutions, educational establishments or other non-commercial documentation centers to digitise, distribute, communicate to the public or make available the out-of-commerce works permanently in their collection***, in accordance to their legal traditions,

representation.

practices or circumstances. Such mechanisms *should allow rightholders to exclude their works, on the basis of reasonable evidence, and* can include extended collective licensing and presumptions of representation. *In any case, Member States should be required to provide for a mandatory general exception, applying where collective management organisations do not exist, or are unable to achieve sufficient representativity, or to offer easily available licences to cultural heritage institutions, educational establishments or other non-commercial documentation centers for the types of works and other subject matter held in their collections.*

Or. en

Amendment 255

Jean-Marie Cavada, Robert Rochefort, Joëlle Bergeron, António Marinho e Pinto

Proposal for a directive

Recital 23

Text proposed by the Commission

(23) Member States should, within the framework provided for in this Directive, have flexibility in choosing the specific type of mechanism *allowing for licences* for out-of-commerce works *to extend to the rights of rightholders that are not represented by the collective management organisation*, in accordance to their legal traditions, practices or circumstances. Such mechanisms can include extended collective licensing and presumptions of representation.

Amendment

(23) Member States should, within the framework provided for in this Directive, have flexibility in choosing the specific type of mechanism *to be used* for out-of-commerce works, in accordance to their legal traditions, practices or circumstances. Such mechanisms can include extended collective licensing and presumptions of representation. *This directive should not anticipate any specific solutions developed in Member States to handle the mass digitisation of out-of-commerce works.*

Or. fr

Amendment 256

Jens Rohde

Proposal for a directive

AM\1123343EN.docx

135/148

PE603.009v01-00

EN

Recital 24

Text proposed by the Commission

(24) For the purpose of those licensing mechanisms, a rigorous and well-functioning collective management system is important. That system includes in particular rules of good governance, transparency and reporting, as well as the regular, diligent and accurate distribution and payment of amounts due to individual rightholders, as provided for by Directive 2014/26/EU. Additional appropriate safeguards should be available for all rightholders, who should be given the opportunity to exclude the application of such mechanisms to their works or other subject-matter. Conditions attached to those mechanisms should not affect their practical relevance for cultural heritage institutions.

Amendment

(24) For the purpose of those licensing mechanisms, a rigorous and well-functioning collective management system is important. That system includes in particular rules of good governance, transparency and reporting, as well as the regular, diligent and accurate distribution and payment of amounts due to individual rightholders ***and make use of available technological developments***, as provided for by Directive 2014/26/EU. Additional appropriate safeguards should be available for all rightholders, who should be given the opportunity to exclude the application of such mechanisms to their works or other subject-matter. Conditions attached to those mechanisms should not affect their practical relevance for cultural heritage institutions.

Or. en

Justification

Technological developments should be exploited in as much as possible in order to guarantee appropriate remuneration for authors and performers.

Amendment 257

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 24

Text proposed by the Commission

(24) For the purpose of those licensing mechanisms, a rigorous and well-functioning collective management system is important. That system includes in particular rules of good governance, transparency and reporting, as well as the regular, diligent and accurate distribution and payment of amounts due to individual rightholders, as provided for by Directive 2014/26/EU. Additional appropriate

Amendment

(24) For the purpose of those ***possible*** licensing mechanisms, a rigorous and well-functioning collective management system is important. That system includes in particular rules of good governance, transparency and reporting, as well as the regular, diligent and accurate distribution and payment of amounts due to individual rightholders, as provided for by Directive 2014/26/EU. Additional appropriate

safeguards should be available for all rightholders, who should be given the opportunity to exclude the application of such mechanisms to their works or other subject-matter. Conditions attached to those mechanisms should not affect their practical relevance for cultural heritage institutions.

safeguards should be available for all rightholders, who should be given the opportunity to exclude the application of such mechanisms to their works or other subject-matter. Conditions attached to those mechanisms should not affect their practical relevance for cultural heritage institutions.

Or. en

Amendment 258

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 25

Text proposed by the Commission

(25) Considering the variety of works and other subject-matter in the collections of cultural heritage institutions, it is important that the licensing mechanisms ***introduced by this Directive are*** available and can be used in practice for different types of works and other subject-matter, including photographs, sound recordings and audiovisual works. In order to reflect the specificities of different categories of works and other subject-matter as regards modes of publication and distribution and to facilitate the usability of those mechanisms, specific requirements and procedures may have to be established by Member States for the practical application of those licensing mechanisms. It is appropriate that Member States consult rightholders, users and collective management organisations when doing so.

Amendment

(25) Considering the variety of works and other subject-matter in the collections of cultural heritage institutions, it is important that the ***potential*** licensing mechanisms ***are easily*** available and can be used in practice for different types of works and other subject-matter, including photographs, sound recordings and audiovisual works. In order to reflect the specificities of different categories of works and other subject-matter as regards modes of publication and distribution and to facilitate the usability of those mechanisms, specific requirements and procedures may have to be established by Member States for the practical application of those ***potential*** licensing mechanisms. It is appropriate that Member States consult rightholders, users, ***cultural heritage institutions, educational establishments, other non-commercial documentation centers*** and collective management organisations when doing so.

Or. en

Amendment 259

Jiří Maštálka, Kostas Chrysogonos, Kostadinka Kuneva

Proposal for a directive
Recital 25

Text proposed by the Commission

(25) Considering the variety of works and other subject-matter in the collections of cultural heritage institutions, it is important that the licensing mechanisms introduced by this Directive are available and can be used in practice for different types of works and other subject-matter, including photographs, sound recordings and audiovisual works. In order to reflect the specificities of different categories of works and other subject-matter as regards modes of publication and distribution and to facilitate the usability of those mechanisms, specific requirements and procedures may have to be established by Member States for the practical application of those licensing mechanisms. It is appropriate that Member States consult rightholders, users and collective management organisations when doing so.

Amendment

(25) Considering the variety of works and other subject-matter in the collections of cultural heritage institutions, it is important that the licensing mechanisms introduced by this Directive are available and can be used in practice for different types of works and other subject-matter, including photographs, sound recordings and audiovisual works. In order to reflect the specificities of different categories of works and other subject-matter as regards modes of publication and distribution and to facilitate the usability of those mechanisms, specific requirements and procedures may have to be established by Member States for the practical application of those licensing mechanisms. It is appropriate that Member States consult rightholders, ***cultural heritage institutions***, users and collective management organisations when doing so.

Or. en

Amendment 260
Marie-Christine Boutonnet, Dominique Bilde, Gilles Lebreton

Proposal for a directive
Recital 25

Text proposed by the Commission

(25) Considering the variety of works and other subject-matter in the collections of cultural heritage institutions, it is important that the licensing mechanisms introduced by this Directive are available and can be used in practice for different types of works and other subject-matter, including photographs, sound recordings and audiovisual works. In order to reflect the specificities of different categories of works and other subject-matter as regards

Amendment

(25) Considering the variety of works and other subject-matter in the collections of cultural heritage institutions ***and libraries***, it is important that the licensing mechanisms introduced by this Directive are available and can be used in practice for different types of works and other subject-matter, including photographs, sound recordings and audiovisual works. In order to reflect the specificities of different categories of works and other subject-

modes of publication and distribution and to facilitate the usability of those mechanisms, specific requirements and procedures may have to be established by Member States for the practical application of those licensing mechanisms. It is appropriate that Member States consult rightholders, users and collective management organisations when doing so.

matter as regards modes of publication and distribution and to facilitate the usability of those mechanisms, specific requirements and procedures may have to be established by Member States for the practical application of those licensing mechanisms. It is appropriate that Member States consult rightholders, users and collective management organisations when doing so.

Or. fr

Amendment 261

Kostas Chrysogonos, Jiří Maštálka, Kostadinka Kuneva

Proposal for a directive

Recital 25 a (new)

Text proposed by the Commission

Amendment

(25 a) Given the existence of divergences between collective management practices across Member States and creative and cultural sectors, a solution needs to be provided for where licensing mechanisms are not effective solutions, because of, for example, a lack of collective licensing or the fact that no collective management organization has been able to achieve recognition in a Member State or for a sector. In such instances, where licensing mechanisms are lacking, it is necessary to provide for an exception that allows cultural heritage institutions, research organizations, and educational establishments to make out of commerce works held in their collection available online. Nevertheless, in doing so, it is also necessary to provide authors and performers with the possibility to provide collective licenses or to form a collective management organization as well as to involve them in the determination of whether such licenses are available or not. Therefore, right-holders should be able to object to the dissemination of their works online in this way.

Amendment 262

Julia Reda

Proposal for a directive

Recital 25 a (new)

Text proposed by the Commission

Amendment

(25 a) In order to provide legal clarity for the legitimate use of extracts or quotations of copyright-protected works, it is necessary to acknowledge the position and role of user-generated content in the online environment.

Or. en

Amendment 263

Julia Reda

Proposal for a directive

Recital 26

Text proposed by the Commission

Amendment

(26) For reasons of international comity, the licensing mechanisms for the digitisation and dissemination of out-of-commerce works provided for in this Directive should not apply to works or other subject-matter that are first published or, in the absence of publication, first broadcast in a third country or, in the case of cinematographic or audiovisual works, to works the producer of which has his headquarters or habitual residence in a third country. Those mechanisms should also not apply to works or other subject-matter of third country nationals except when they are first published or, in the absence of publication, first broadcast in the territory of a Member State or, in the case of cinematographic or audiovisual works, to works of which the producer's

deleted

headquarters or habitual residence is in a Member State.

Or. en

Amendment 264

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 26

Text proposed by the Commission

(26) For reasons of international comity, the licensing mechanisms for the digitisation and dissemination of out-of-commerce works provided for in this Directive should not apply to works or other subject-matter that are first published or, in the absence of publication, first broadcast in a third country or, in the case of cinematographic or audiovisual works, to works the producer of which has his headquarters or habitual residence in a third country. *Those mechanisms should also not apply to works or other subject-matter of third country nationals except when they are first published or, in the absence of publication, first broadcast in the territory of a Member State or, in the case of cinematographic or audiovisual works, to works of which the producer's headquarters or habitual residence is in a Member State.*

Amendment

(26) For reasons of international comity, the licensing mechanisms for the digitisation and dissemination of out-of-commerce works provided for in this Directive should not apply to works or other subject-matter that are first published or, in the absence of publication, first broadcast in a third country or, in the case of cinematographic or audiovisual works, to works the producer of which has his headquarters or habitual residence in a third country.

Or. en

Amendment 265

Julia Reda

Proposal for a directive

Recital 27

Text proposed by the Commission

(27) *As mass digitisation projects can entail significant investments by cultural*

Amendment

deleted

heritage institutions, any licences granted under the mechanisms provided for in this Directive should not prevent them from generating reasonable revenues in order to cover the costs of the licence and the costs of digitising and disseminating the works and other subject-matter covered by the licence.

Or. en

Amendment 266

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 27

Text proposed by the Commission

(27) As mass digitisation projects can entail significant investments by cultural heritage institutions, any licences granted under the mechanisms provided for in this Directive should not prevent them from generating reasonable revenues *in order* to cover the costs of the licence and the costs of digitising and disseminating the works and other subject-matter covered by the licence.

Amendment

(27) As mass digitisation projects can entail significant investments by cultural heritage institutions, any licences granted under the mechanisms provided for in this Directive should not prevent them from generating reasonable revenues *that should be allocated only* to cover the costs of the licence and the costs of digitising and disseminating the works and other subject-matter covered by the licence.

Or. en

Amendment 267

Marie-Christine Boutonnet, Dominique Bilde, Gilles Lebreton

Proposal for a directive

Recital 28

Text proposed by the Commission

(28) Information regarding the future and ongoing use of out-of-commerce works and other subject-matter by cultural heritage institutions on the basis of the licensing mechanisms provided for in this Directive and the arrangements in place for all rightholders to exclude the application

Amendment

(28) Information regarding the future and ongoing use of out-of-commerce works and other subject-matter by cultural heritage institutions *or libraries* on the basis of the licensing mechanisms provided for in this Directive and the arrangements in place for all rightholders to exclude the

of licences to their works or other subject-matter should be adequately publicised. *This is particularly important when uses take place across borders in the internal market. It is therefore appropriate to make provision for the creation of a single publicly accessible online portal for the Union to make such information available to the public for a reasonable period of time before the cross-border use takes place. Under Regulation (EU) No 386/2012 of the European Parliament and of the Council³³, the European Union Intellectual Property Office is entrusted with certain tasks and activities, financed by making use of its own budgetary measures, aiming at facilitating and supporting the activities of national authorities, the private sector and Union institutions in the fight against, including the prevention of, infringement of intellectual property rights. It is therefore appropriate to rely on that Office to establish and manage the European portal making such information available.*

application of licences to their works or other subject-matter should be adequately publicised. *Member States are therefore asked, if necessary, to establish a portal to provide information on the subject.*

³³ *Regulation (EU) No 386/2012 of the European Parliament and of the Council of 19 April 2012 on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights, including the assembling of public and private-sector representatives as a European Observatory on Infringements of Intellectual Property Rights (OJ L 129, 16.5.2012, p. 1–6).*

Or. fr

Amendment 268
Julia Reda

Proposal for a directive
Recital 28

(28) Information regarding the future and ongoing use of out-of-commerce works and other subject-matter by cultural heritage institutions on the basis of the licensing mechanisms provided for in this Directive and the arrangements in place for all rightholders to exclude the application of licences to their works or other subject-matter should be *adequately* publicised. This is particularly important when uses take place across borders in the internal market. It is therefore appropriate to make provision for the creation of a single publicly accessible online portal for the Union to make such information available to the public for *a reasonable period* of time before the cross-border use takes place. Under Regulation (EU) No 386/2012 of the European Parliament and of the Council³³, the European Union Intellectual Property Office is entrusted with certain tasks and activities, financed by making use of its own budgetary measures, aiming at facilitating and supporting the activities of national authorities, the private sector and Union institutions in the fight against, including the prevention of, infringement of intellectual property rights. It is therefore appropriate to rely on that Office to establish and manage the European portal making such information available.

(28) Information regarding the future and ongoing use of out-of-commerce works and other subject-matter by cultural heritage institutions on the basis of the licensing mechanisms provided for in this Directive and the arrangements in place for all rightholders to exclude the application of licences to their works or other subject-matter should be *effectively* publicised. This is particularly important when uses take place across borders in the internal market. It is therefore appropriate to make provision for the creation of a single publicly accessible online portal for the Union to make such information *widely and explicitly* available to the public for *at least 6 months* of time before the cross-border use takes place. Under Regulation (EU) No 386/2012 of the European Parliament and of the Council³³, the European Union Intellectual Property Office is entrusted with certain tasks and activities, financed by making use of its own budgetary measures, aiming at facilitating and supporting the activities of national authorities, the private sector and Union institutions in the fight against, including the prevention of, infringement of intellectual property rights. *The single online portal should provide authors and other rightholders with means to oppose the making available of their works and other subject matter.* It is therefore appropriate to rely on that Office to establish and manage the European portal making such information available *and provide such functionality to rightholders and cultural heritage institutions.*

³³ Regulation (EU) No 386/2012 of the European Parliament and of the Council of 19 April 2012 on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights, including the assembling of public and private-sector representatives as a European Observatory on

³³ Regulation (EU) No 386/2012 of the European Parliament and of the Council of 19 April 2012 on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights, including the assembling of public and private-sector representatives as a European Observatory on

Amendment 269

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 28

Text proposed by the Commission

(28) Information regarding the future and ongoing use of out-of-commerce works and other subject-matter by cultural heritage institutions ***on the basis of the licensing mechanisms*** provided for in this Directive and the arrangements in place for all rightholders to exclude ***the application of licences to*** their works or other subject-matter should be adequately publicised. This is particularly important when uses take place across borders in the internal market. It is therefore appropriate to make provision for the creation of a single ***publicly accessible*** online portal for the Union to make such information available to the public ***for a reasonable period of time*** before the cross-border use takes place. Under Regulation (EU) No 386/2012 of the European Parliament and of the Council³³, the European Union Intellectual Property Office is entrusted with certain tasks and activities, financed by making use of its own budgetary measures, aiming at facilitating and supporting the activities of national authorities, the private sector and Union institutions in the fight against, including the prevention of, infringement of intellectual property rights. It is therefore appropriate to rely on that Office to establish and manage the European portal making such information available.

³³ Regulation (EU) No 386/2012 of the European Parliament and of the Council of
AM\1123343EN.docx

Amendment

(28) Information regarding the future and ongoing use of out-of-commerce works and other subject-matter by cultural heritage institutions, ***educational establishments, other non-commercial documentation centers*** provided for in this Directive and the arrangements in place for all rightholders to exclude their works or other subject-matter should be adequately publicised. This is particularly important when uses take place across borders in the internal market. It is therefore appropriate to make provision for the creation of a single ***public*** online portal for the Union to make such information ***permanently, easily and effectively*** available to the public, ***in any case for at least six months*** before the cross-border use takes place. Under Regulation (EU) No 386/2012 of the European Parliament and of the Council³³, the European Union Intellectual Property Office is entrusted with certain tasks and activities, financed by making use of its own budgetary measures, aiming at facilitating and supporting the activities of national authorities, the private sector and Union institutions in the fight against, including the prevention of, infringement of intellectual property rights. It is therefore appropriate to rely on that Office to establish and manage the European portal making such information available.

³³ Regulation (EU) No 386/2012 of the European Parliament and of the Council of

19 April 2012 on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights, including the assembling of public and private-sector representatives as a European Observatory on Infringements of Intellectual Property Rights (OJ L 129, 16.5.2012, p. 1–6).

19 April 2012 on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights, including the assembling of public and private-sector representatives as a European Observatory on Infringements of Intellectual Property Rights (OJ L 129, 16.5.2012, p. 1–6).

Or. en

Amendment 270

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 28 a (new)

Text proposed by the Commission

Amendment

(28 a) In order to substantiate the general public goal of increasing access to, and favouring the dissemination of, creative content, information and knowledge and to ensure legal certainty within the internal market, a definition of public domain should be introduced. It should also be highlighted that the ultimate goal of most authors, performers and creators is primarily the human and societal development and prosperity rather than the potential economic gain.

Or. en

Amendment 271

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 28 b (new)

Text proposed by the Commission

Amendment

(28 b) It is of the utmost importance to clarify that once a work or other subject matter is in the public domain, any faithful reproduction, whether analogical

or digital, of that work or subject matter, which does not constitute a new or transformative work or subject matter, should remain in the public domain. Public domain should encompass works or other subject matter whose copyright have expired, or have never existed or have been voluntarily relinquished by rightholders.

Or. en

Amendment 272

Isabella Adinolfi, Laura Ferrara, David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 28 c (new)

Text proposed by the Commission

Amendment

(28 c) When the copyright expires on a work or other subject matter, it could be extremely difficult to establish that such work or subject matter has passed into the public domain. Public domain works or other subject matter could never be identified, thus hindering access to content, information and knowledge. Member States should allow authors, performers and producers, who do not intend to copyright their work or other subject matter, to dedicate it, in whole or in part, to the public domain. Indeed, it should be acknowledged that the ultimate goal of most authors, performers and creators is primarily the human and societal development and prosperity rather than the potential economic gain. In light of this, Member States should encourage the use of appropriate public domain equivalent licences (e.g. creative commons). This would help authors, performers and producers to makes it clear to potential re-users that the work is in the public domain, thus spreading the dissemination of content, information and knowledge.

