



12.7.2017

# **OPINION**

of the Committee on Industry, Research and Energy

for the Committee on Legal Affairs

on the proposal for a directive of the European Parliament and of the Council  
on copyright in the Digital Single Market  
(COM(2016)0593 – C8-0383/2016 – 2016/0280(COD))

Rapporteur: Zdzisław Krasnodębski

PA\_Legam

## AMENDMENTS

The Committee on Industry, Research and Energy calls on the Committee on Legal Affairs, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### 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 authorisation would be required.

##### *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 **for 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 text and data mining can in particular benefit the research community and in so doing encourage innovation, **sustainable growth and jobs**. 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.

## Amendment 2

### 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 ***and a data economy leader*** will suffer unless steps are taken to address the legal uncertainty for text and data mining.

## Amendment 3

### Proposal for a directive Recital 9 a (new)

*Text proposed by the Commission*

*Amendment*

***(9 a) Union law should take into consideration that text and data mining has the huge potential to be used in both formal and informal research settings and should recognise the potential of text and data mining to stimulate significant innovation, growth and jobs.***

## Amendment 4

### 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. ***Most of the text and data mining carried out over the open internet does not involve permanent copies and thus differs largely from text and data mining on scientific publications.***

## **Amendment 5**

### **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 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

*Amendment*

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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.

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. ***Research organisations should cover universities, including start-up incubators attached to universities, and research institutes.***

## Amendment 6

### 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 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. ***These measures should not prevent or exclude the ability to develop text and data mining tools different from those offered by the rightholder as long as the security and integrity of the networks and databases is protected.***

## Amendment 7

### Proposal for a directive Recital 13

#### *Text proposed by the Commission*

(13) There is no need to provide for

#### *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*.

## Amendment 8

### 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.

compensation for rightholders as regards uses under the text and data mining exception introduced by this Directive given that ***there would be no unreasonable prejudice to the interests of rightholders. 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.***

#### *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 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. ***Alongside uneven application in 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*** teaching activities, including online and across borders.

## Amendment 9

### 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, ***and certified educational programmes recognised by the Member State, as well cultural heritage institutions and research organisations***, 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 10

### 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

*Amendment*

(16) The exception or limitation should cover ***all*** 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 ***establishments***



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 11

### 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 12

### Proposal for a directive Recital 19

**pursuing** educational **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 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*

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution, **research organization and educational establishments** and consequently the authorisation of the relevant rightholders. **These** 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.

*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, **research organisations 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. **Member States should facilitate the cross-border sharing of best-practices, new technologies and preservation techniques.**

**Amendment 13**

**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. **These entities should be also allowed to make internal organizational reproductions for varying purposes including insurance, rights clearance, and loans.** 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 **such reproduction. The reproduction activities can be carried out in partnership with other institutions established in the Member States.**

## Amendment 14

### 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, ***research organization and educational establishment*** when copies are owned, ***held on a long-term loan or permanently held by the entity, including*** transfer of ownership or licence agreements.

## Amendment 15

### 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 allowing for licences for out-of-commerce works to extend to the rights of rightholders that are ***either not represented or not adequately*** 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 16

### Proposal for a directive

#### Recital 25

*Text proposed by the Commission*

(25) Considering the variety of works and other subject-matter in the collections

*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, users and collective management organisations when doing so.

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 institutions*, users and collective management organisations when doing so.

## **Amendment 17**

### **Proposal for a directive Recital 33**

#### *Text proposed by the Commission*

(33) For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should *not* be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of hyperlinking which do not constitute communication to the public.

#### *Amendment*

(33) For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should *also* be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of hyperlinking which do not constitute communication to the public.

## **Amendment 18**

**Proposal for a directive**  
**Recital 33 a (new)**

*Text proposed by the Commission*

*Amendment*

***(33 a) The rights for press publishers should apply without prejudice to the rights of individuals for the reproduction, communication or providing links or extracts of a press publication to the public for private use or not-for-profit, non-commercial purposes.***

**Amendment 19**

**Proposal for a directive**  
**Recital 34**

*Text proposed by the Commission*

*Amendment*

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, ***insofar as digital uses are concerned***. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive. ***The protection granted to press publications under this Directive should also apply where the content is automatically generated by, for example, news aggregators.***

**Amendment 20**

**Proposal for a directive**  
**Recital 35**

*Text proposed by the Commission*

*Amendment*

(35) The protection granted to publishers of press publications under this

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Directive should not affect the rights of the authors and other rightholders in the works and other subject-matter incorporated therein, including as regards the extent to which authors and other rightholders can exploit their works or other subject-matter independently from the press publication in which they are incorporated. Therefore, publishers of press publications should not be able to invoke the protection granted to them against authors and other rightholders. This is without prejudice to contractual arrangements concluded between the publishers of press publications, on the one side, and authors and other rightholders, on the other side.

Directive should not affect the rights of the authors and other rightholders in the works and other subject-matter incorporated therein, including as regards the extent to which authors and other rightholders can exploit their works or other subject-matter independently from the press publication in which they are incorporated. Therefore, publishers of press publications should not be able to invoke the protection granted to them against authors and other rightholders. This is without prejudice to contractual arrangements concluded between the publishers of press publications, on the one side, and authors and other rightholders, on the other side. ***Member States should ensure that a fair share of remuneration, derived from the use of the press publishers right, is attributed to journalists, authors and other rightholders.***

## **Amendment 21**

### **Proposal for a directive Recital 36 a (new)**

*Text proposed by the Commission*

*Amendment*

***(36 a) Cultural and creative industries (CCIs) play a key role in reindustrialising Europe, are a driver for growth and are in a strategic position to trigger innovative spill-overs in other industrial sectors. Furthermore CCIs are a driving force for innovation and development of ICT in Europe. Cultural and creative industries in Europe provide more than 12 million full-time jobs, which amounts to 7.5 % of the EU's work force, creating approximately EUR 509 billion in value added to GDP (5.3 % of the EU's total GVA. The protection of copyright and related rights are at the core of the CCI's revenue.***

## **Amendment 22**

**Proposal for a directive**  
**Recital 37**

*Text proposed by the Commission*

(37) Over the last years, the functioning of the online content marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement of right holders have flourished and have become main sources of access to content online. This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for it.

*Amendment*

(37) Over the last years, the functioning of the online content marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement of right holders have flourished and have become main sources of access to content online. This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for it. ***Despite the fact that more creative content is being consumed today than ever before, on services such as user-uploaded content platforms and content aggregation services, the creative sectors have not seen a comparable increase in revenues from this increase in consumption. One of the main reasons is being referred to as a transfer of value that has emerged due to the lack of clarity regarding the status of these online services under copyright and e-commerce law. An unfair market has been created, threatening the development of the Digital Single Market and its main players: the cultural and creative industries.***

**Amendment 23**

**Proposal for a directive**  
**Recital 37 a (new)**

*Text proposed by the Commission*

*Amendment*

***(37 a) Digital platforms are means of providing wider access to cultural and creative works and offer great opportunities for cultural and creative industries to develop new business models. Therefore, consideration is to be***

*made of how this process can function with more legal certainty and respect for right holders. It is therefore of utmost importance to ensure transparency and a fair level playing field. The protection of right holders within the copyright and intellectual property framework is necessary in order to ensure recognition of values and stimulation of innovation, creativity, investment and production of content.*

## **Amendment 24**

### **Proposal for a directive Recital 38 – paragraph 1**

*Text proposed by the Commission*

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council<sup>34</sup>.

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<sup>34</sup> 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 (OJ L 178, 17.7.2000, p. 1–16).

*Amendment*

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public **and an act of reproduction**, they are obliged to conclude licensing agreements with rightholders unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council<sup>34</sup>.

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<sup>34</sup> 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 (OJ L 178, 17.7.2000, p. 1–16).

## **Amendment 25**

### **Proposal for a directive Recital 38 – paragraph 2**



*Text proposed by the Commission*

In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used *therefor*.

*Amendment*

In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used *therefore*. ***An information society service provider shall be obliged to acquire licenses for copyright protected content regardless of whether they have editorial responsibility for that content. The licenses acquired by information society service providers from rightsholders should be deemed to cover all user generated content by their users, including users that are acting for non-commercial purposes. This will provide legal certainty for individual users of such services whilst clarifying the liability of platforms.***

**Amendment 26**

**Proposal for a directive  
Recital 38 – paragraph 3**

*Text proposed by the Commission*

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to ***large*** amounts of copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, ***such as implementing effective technologies***. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

*Amendment*

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to ***significant*** amounts of copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

## Amendment 27

### Proposal for a directive Recital 39

*Text proposed by the Commission*

(39) Collaboration between information society service providers storing and providing access to the public to **large** amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the **functioning of technologies, such as content recognition technologies**. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed **technologies**, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of **technologies** used, the way they are operated and their success rate for the recognition of rightholders' content. Those **technologies** should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

*Amendment*

(39) Collaboration between information society service providers storing and providing access to the public to **significant** amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the **efficient implementation of these measures**. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed **measures**, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of **measures taken** used, the way they are operated and their success rate for the recognition of rightholders' content. Those **measures** technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement. ***Appropriate safeguards should however be put in place to ensure that measures applied do not infringe the fundamental rights of users, namely their right to protection of their personal data in accordance with Directive 95/46/EC, Directive 2001/58/EC and Regulation (EU) 2016/679, and their freedom to receive or impart information, in particular the possibility to benefit from an exception or limitation to copyright.***

## Amendment 28

### Proposal for a directive Recital 40

*Text proposed by the Commission*

(40) Certain rightholders such as authors and performers need information to assess the economic value of their rights which are harmonised under Union law. This is especially the case where such rightholders grant a licence or a transfer of rights in return for remuneration. As authors and performers *tend to be* in a weaker contractual position when they grant licences or transfer their rights, they need information to assess the continued economic value of their rights, compared to the remuneration received for their licence or transfer, but they often face a lack of transparency. Therefore, the sharing of adequate information by their contractual counterparts *or* their successors in title is important for the transparency and balance in the system that governs the remuneration of authors and performers.

*Amendment*

(40) Certain rightholders such as authors and performers need information to assess the economic value of their rights which are harmonised under Union law. This is especially the case where such rightholders grant a licence or a transfer of rights in return for remuneration. As authors and performers *are* in a weaker contractual position when they grant licences or transfer their rights, they need information to assess the continued economic value of their rights, compared to the remuneration received for their licence or transfer, but they often face a lack of transparency. Therefore, the sharing of adequate information by their contractual counterparts *and subsequent transferees or licensees, as well as* their successors in title is important for the transparency and balance in the system that governs the remuneration of authors and performers. ***The reporting and transparency obligation should follow the work across all forms of exploitation and across borders.***

**Amendment 29**

**Proposal for a directive**

**Recital 41**

*Text proposed by the Commission*

(41) When implementing transparency obligations, the specificities of different content sectors and of the rights of the authors and performers in each sector should be considered. Member States should consult all relevant stakeholders as that should help determine sector-specific requirements. Collective bargaining should be considered as an option to reach an agreement between the relevant stakeholders regarding transparency. To enable the adaptation of current reporting

*Amendment*

(41) When implementing transparency obligations, the specificities of different content sectors and of the rights of the authors and performers in each sector should be considered. Member States should consult all relevant stakeholders as that should help determine sector-specific requirements, ***standard reporting statements and procedures.*** Collective bargaining should be considered as an option to reach an agreement between the relevant stakeholders regarding

practices to the transparency obligations, a transitional period should be provided for. The transparency obligations do not need to apply to agreements concluded with collective management organisations as those are already subject to transparency obligations under Directive 2014/26/EU.

transparency. To enable the adaptation of current reporting practices to the transparency obligations, a transitional period should be provided for. The transparency obligations do not need to apply to agreements concluded with collective management organisations as those are already subject to transparency obligations under Directive 2014/26/EU. ***Directive 2014/26/EU, on the condition that Member States have transposed Directive 2014/26/EU and taken all necessary measures to ensure that the management of all collective management organisations is carried out in an effective and equitable manner. Member States should also ensure that collective management organisations act in the best interest of the rightsholders, ensuring the accurate and regular distribution of payment and production of an annual public transparency report, in compliance with Directive 2014/26/EU.***

## Amendment 30

### Proposal for a directive Recital 46

#### *Text proposed by the Commission*

(46) Any processing of personal data under this Directive should respect fundamental rights, including the right to respect for private and family life and the right to protection of personal data under Articles 7 and 8 of the Charter of Fundamental Rights of the European Union and must be in compliance with Directive 95/46/EC of the European Parliament and of the Council<sup>35</sup> and Directive 2002/58/EC of the European Parliament and of the Council<sup>36</sup>.

#### *Amendment*

(46) Any processing of personal data under this Directive should respect fundamental rights, including the right to respect for private and family life and the right to protection of personal data under Articles 7 and 8 of the Charter of Fundamental Rights of the European Union and must be in compliance with Directive 95/46/EC of the European Parliament and of the Council<sup>35</sup> and Directive 2002/58/EC of the European Parliament and of the Council<sup>36</sup>. ***In the future, the provisions of the General Data Protection Regulation, including the "right to be forgotten" should be respected.***

<sup>35</sup> Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31–50). This Directive is repealed with effect from 25 May 2018 and shall be replaced by Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1–88).

<sup>36</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37–47), called, as amended by Directives 2006/24/EC and 2009/136/EC, the “e-Privacy Directive”.

<sup>35</sup> Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31–50). This Directive is repealed with effect from 25 May 2018 and shall be replaced by Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1–88).

<sup>36</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37–47), called, as amended by Directives 2006/24/EC and 2009/136/EC, the “e-Privacy Directive”.

## **Amendment 31**

### **Proposal for a directive Recital 46 a (new)**

*Text proposed by the Commission*

*Amendment*

***(46 a) It is important to stress out the importance of anonymity, when handling personal data for commercial purposes. Additionally, the "by default" not sharing option with regards to personal data while using online platform interfaces should be promoted.***

## **Amendment 32**

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

*Text proposed by the Commission*

1. 'research organisation' means a university, a research institute or any other organisation the primary goal of which is to conduct scientific research or to conduct scientific research and provide educational services:

*Amendment*

1. 'research organisation' means a university, ***including start-up incubators attached to universities***, a research institute or any other organisation the primary goal of which is to conduct scientific research or to conduct scientific research and provide educational services:

**Amendment 33**

**Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

***(2 a) 'start-up company' means for the purpose of this Directive any company with fewer than 10 employees and an annual turnover or balance sheet below €2 million and which was established not earlier than three years before benefiting from the exception in Art. 3, paragraph 1.***

**Amendment 34**

**Proposal for a directive**

**Article 2 – paragraph 1 – point 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***(4 a) "lawful access" means access to content acquired in a lawful manner***

**Amendment 35**

**Proposal for a directive**

**Article 3**

*Text proposed by the Commission*

*Amendment*

Article 3

Article 3

Text and data mining

Text and data mining

1. Member States shall provide for an exception to the rights provided for in Article 2 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC and Article 11(1) of this Directive for reproductions and extractions made by research organisations in order to carry out text and data mining of works or other subject-matter to which they have lawful access for the purposes of scientific research.

2. Any contractual provision contrary to the exception provided for in paragraph 1 shall be unenforceable.

3. Rightholders shall be allowed to apply measures to ensure the security and *integrity* of the networks and databases where the works or other subject-matter are hosted. Such measures shall not go beyond what is necessary to achieve that objective.

**4. Member States shall encourage rightholders and research organisations to define commonly-agreed best practices concerning the application of the measures referred to in paragraph 3.**

1. Member States shall provide for an exception to the rights provided for in Article 2 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC and Article 11(1) of this Directive for reproductions and extractions made by research organisations, *not-for-profit organisations and start-up companies* in order to carry out text and data mining of works or other subject-matter to which they have lawful access *acquired* for the purposes of scientific research.

2. Any contractual provision contrary to the exception provided for in paragraph 1 shall be unenforceable.

3. Rightholders shall be allowed to apply measures to ensure the security and integrity of the networks and databases where the works or other subject-matter are hosted. Such measures shall not go beyond what is necessary to achieve that objective *and should not prevent or unreasonably restrict beneficiaries from benefiting from the exception provided in paragraph 1 and their ability to develop text and data mining tools different from those offered by rightholders.*

**4 a. Beneficiaries of the exception referred to in paragraph 1 conducting text and data mining shall apply measures ensuring data retrieved by the text and data mining process is kept in a secure way and is not being stored longer than necessary for the purposes of the research. The exception referred to in paragraph 1 does not affect acts of text and data mining carried out in relation to mere facts or data which are not protected by copyright or acts of text and data mining which do not involve any act of reproduction or extraction. Authorisation of rightholders or authors of databases is**

*not required for temporary acts of reproduction covered by exceptions under Union law and for acts of extraction that are necessary for the purposes of access to and normal use of the contents of a database by the lawful user.*

## Amendment 36

### Proposal for a directive

#### Article 4 – paragraph 1 – introductory part

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

1. Member States shall provide for an exception or limitation to the rights provided for in Articles 2 and 3 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC, Article 4(1) of Directive 2009/24/EC and Article 11(1) of this Directive in order to allow for the digital use of works and other subject-matter for the sole purpose of illustration for teaching, to the extent justified by the non-commercial purpose to be achieved, provided that the use:

##### *Amendment*

1. Member States shall provide for an exception or limitation to the rights provided for in Articles 2 and 3 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC, Article 4(1) of Directive 2009/24/EC and Article 11(1) of this Directive in order to allow for the digital use of works and other subject-matter for the sole purpose of illustration for teaching *or scientific research*, to the extent justified by the non-commercial purpose to be achieved, provided that the use:

## Amendment 37

### Proposal for a directive

#### Article 4 – paragraph 1 – point a

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

(a) takes place *on the premises* of an educational establishment or through a secure electronic network accessible only by *the educational establishment's pupils or students* and teaching staff;

##### *Amendment*

(a) takes place *at a learning space* of an educational establishment or *a certified educational programme recognised by the Member State, as well as cultural heritage institution or research organisation*, or through a secure electronic network accessible only by *their registered learners* and teaching staff;

## Amendment 38



**Proposal for a directive**  
**Article 4 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

Member States availing themselves of the provision of the first subparagraph shall take the necessary measures to ensure appropriate availability and visibility of the licences authorising the acts described in paragraph 1 for educational establishments.

*Amendment*

Member States availing themselves of the provision of the first subparagraph shall take the necessary measures to ensure appropriate availability and visibility of the licences, ***through an easily accessible database***, authorising the acts described in paragraph 1 for educational establishments.

**Amendment 39**

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

*Text proposed by the Commission*

3. The use of works and other subject-matter for the sole purpose of illustration for teaching through secure electronic networks undertaken in compliance with the provisions of national law adopted pursuant to this Article shall be deemed to occur solely in the Member State where the educational establishment is established.

*Amendment*

3. The use of works and other subject-matter for the sole purpose of illustration for teaching ***or scientific research*** through secure electronic networks undertaken in compliance with the provisions of national law adopted pursuant to this Article shall be deemed to occur solely in the Member State where the educational establishment, ***certified educational programme, cultural heritage institution or research organisation*** is established.

**Amendment 40**

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

*Text proposed by the Commission*

Member States shall provide for an exception to the rights provided for in Article 2 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC, Article 4(1)(a) of Directive 2009/24/EC and Article 11(1) of this Directive, permitting cultural heritage institutions, to make copies of any works or other subject-matter

*Amendment*

Member States shall provide for an exception to the rights provided for in Article 2 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC, Article 4(1)(a) of Directive 2009/24/EC and Article 11(1) of this Directive, permitting cultural heritage institutions, ***research organizations and educational***

that are permanently in their collections, in any format or medium, for the sole purpose of the preservation of such works or other subject-matter and to the extent necessary for such preservation.

*establishments* to make copies of any works or other subject-matter that are permanently in their collections, in any format or medium, for the sole purpose of the preservation of such works or other subject-matter and to the extent necessary for such preservation, *as well as internal organizational reproductions for purposes related to the implementation of their public interest mission.*

## Amendment 41

### Proposal for a directive

#### Article 7 – paragraph 2 – subparagraph 2

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

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

##### *Amendment*

Member States shall, in consultation with rightholders, collective management organisations and cultural heritage institutions, ensure that the requirements used to determine whether works and other subject-matter can be licensed in accordance with paragraph 1 do not extend beyond what is necessary and reasonable and do not preclude the possibility to determine the out-of-commerce status of a collection as a whole, when it is reasonable to presume that all works or other subject-matter in the collection are out of commerce. *In the event that a collective management organisation does not exist or adequately represent the rights of rightholders, Member States should provide exceptions for cultural heritage institutions, research organisations and educational establishments, both formal and non-formal, to distribute, communicate to the public or make available out-of-commerce-works for non-commercial purposes. Member States should ensure appropriate remuneration for any unreasonable prejudice to the legitimate interests of the rightholders and ensure that all rightholders may at any time object to the use of their works.*

## Amendment 42

### Proposal for a directive Article 9 – paragraph 1

*Text proposed by the Commission*

Member States shall ensure a regular dialogue between representative users' and rightholders' organisations, and any other relevant stakeholder organisations, to, on a sector-specific basis, foster the relevance and usability of the licensing mechanisms referred to in Article 7(1), ensure the effectiveness of the safeguards for rightholders referred to in this Chapter, notably as regards publicity measures, and, where applicable, assist in the establishment of the requirements referred to in the second subparagraph of Article 7(2).

*Amendment*

Member States shall ensure a regular dialogue between representative users' and rightholders' organisations, and any other relevant stakeholder organisations, to, on a sector-specific basis, foster the relevance and usability of the licensing mechanisms referred to in Article 7(1), ***including resolving issues where cultural heritage institutions activities in line with Article 7 and Article 8 are not being reasonably enabled, and*** ensure the effectiveness of the safeguards for rightholders referred to in this Chapter, notably as regards publicity measures, and, where applicable, assist in the establishment of the requirements referred to in the second subparagraph of Article 7(2).

## Amendment 43

### Proposal for a directive Article 11 – title

*Text proposed by the Commission*

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

*Amendment*

Protection of press publications

*Justification*

*Print editions are worth as much protection as digital editions. For this reason it is essential to ensure that rights are granted for both digital and non-digital use and remove any wording that can exclude non-digital uses.*

## Amendment 44

### Proposal for a directive Article 11 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

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

*Justification*

*Print editions are worth as much protection as digital editions. For this reason it is essential to ensure that rights are granted for both digital and non-digital use and remove any wording that can exclude non-digital uses.*

**Amendment 45**

**Proposal for a directive  
Article 11 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2 a. The rights to referred in paragraph 1 shall not extend to acts of hyperlinking as they do not constitute communication to the public.**

**Amendment 46**

**Proposal for a directive  
Article 11 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**4 a. Member States should ensure that a fair share of the revenue derived from the uses of the press publishers rights is attributed to journalists.**

**Amendment 47**

**Proposal for a directive  
Article 12 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

Member States may provide that where an

Member States may provide that where an

author has transferred or licensed a right to a publisher, such a transfer or a licence constitutes a sufficient legal basis for the publisher to claim a share of the compensation for the uses of the work made under an exception or limitation to the transferred or licensed right.

author has transferred or licensed a right to a publisher, ***this publisher is right holder by virtue and to the extent of*** such a transfer or a licence. ***Therefore, this transfer of licence*** constitutes a sufficient legal basis for the publisher to claim a share of the compensation for the uses of the work made under an exception ***or statutory collective licensing*** or limitation to the transferred or licensed right.

## Amendment 48

### Proposal for a directive Article 13 – title

#### *Text proposed by the Commission*

Use of protected content by information society service providers storing and giving access to ***large*** amounts of works and other subject-matter uploaded by their users

#### *Amendment*

Use of protected content by information society service providers storing and giving access to ***significant*** amounts of works and other subject-matter uploaded by their users.

## Amendment 49

### Proposal for a directive Article 13 – paragraph 1

#### *Text proposed by the Commission*

1. Information society service providers that store and provide to the public access to ***large*** amounts of works or other subject-matter uploaded by their users shall, in cooperation with rightholders, take measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter or to prevent the availability on their services of works or other subject-matter identified by rightholders through the cooperation with the service providers. ***Those measures, such as the use of effective content recognition technologies, shall be appropriate and proportionate.*** The

#### *Amendment*

1. Information society service providers that store and provide to the public access to ***significant*** amounts of ***copyright -protected*** works or other subject-matter, uploaded by their users, ***and where that storage and that provision of access constitutes an essential part of their activities,*** shall, in cooperation with rightholders, take ***appropriate and proportionate*** measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter or to prevent the availability on their services of works or other subject-matter identified by rightholders through the cooperation with

service providers shall provide **rightholders** with adequate information on the functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the works and other subject-matter.

the service providers. **At the request of rightholders**, the service providers shall provide **them** with adequate information on the functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the works and other subject-matter.

## Amendment 50

### Proposal for a directive Article 13 – paragraph 2

*Text proposed by the Commission*

2. Member States shall ensure that the service providers referred to in paragraph 1 put in place complaints and redress mechanisms that are available to users in case of disputes over the application of the measures referred to in paragraph 1.

*Amendment*

2. Member States shall ensure that the service providers referred to in paragraph 1 put in place complaints and redress mechanisms that are available to users in case of disputes over the application of the measures referred to in paragraph 1. **These mechanisms shall in particular ensure that where the removal of the content referred to in paragraph 1 is not justified, the content in question shall be reinstated online within a reasonable time.**

## Amendment 51

### Proposal for a directive Article 13 – paragraph 3

*Text proposed by the Commission*

3. Member States shall facilitate, where appropriate, the cooperation between the information society service providers and rightholders through stakeholder dialogues to define best practices, **such as appropriate and proportionate content recognition technologies**, taking into account, among others, the nature of the services, the availability of the technologies and their effectiveness in light of technological developments.

*Amendment*

3. **The Commission together with** Member States shall facilitate, where appropriate, the cooperation between the information society service providers and rightholders through stakeholder dialogues to define best practices **for the measures referred to in paragraph 1** taking into account, among others, the nature of the services, the availability of the technologies and their effectiveness in light of technological developments.

## Amendment 52

### Proposal for a directive Article 14 – paragraph 1

*Text proposed by the Commission*

1. Member States shall ensure that authors and performers receive on a regular basis and taking into account the specificities of each sector, timely, adequate and sufficient information on the exploitation of their works and performances from those to whom they have licensed or transferred their rights, notably as regards modes of exploitation, revenues generated and remuneration due.

*Amendment*

1. Member States shall ensure that authors and performers receive on a regular basis and taking into account the specificities of each sector, **accurate**, timely, adequate and sufficient information on the exploitation **and promotion** of their **works, including scientific** works and performances from those to whom they have licensed or transferred their rights, **including subsequent transferees or licensees**, notably as regards modes of exploitation, **promotion**, revenues generated and remuneration due.

## Amendment 53

### Proposal for a directive Article 14 – paragraph 2

*Text proposed by the Commission*

2. The obligation in paragraph 1 shall be proportionate and effective and shall ensure **an appropriate** level of transparency in every sector. However, in those cases where the administrative burden resulting from the obligation would be disproportionate in view of the revenues generated by the exploitation of the work or performance, Member States may adjust the obligation in paragraph 1, provided that the obligation remains effective and ensures an appropriate level of transparency.

*Amendment*

2. The obligation in paragraph 1 shall be proportionate and effective and shall ensure **a high** level of transparency in every sector, **as well as a right of the author and performer to audit**. However, in those cases where the administrative burden resulting from the obligation would be disproportionate in view of the revenues generated by the exploitation of the work or performance, Member States may adjust the obligation in paragraph 1, provided that the obligation remains effective, **enforceable** and ensures an appropriate level of transparency.

## Amendment 54

**Proposal for a directive**  
**Article 14 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2 a. Member States shall ensure that sector-specific standard reporting statements and procedures are developed through stakeholder dialogues.**

**Amendment 55**

**Proposal for a directive**  
**Article 14 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 14 a**

**Unwaivable right to fair remuneration for authors and performers**

- 1. Member States shall ensure that when authors and performers transfer or assign their right of making available to the public, they retain the right to obtain a fair remuneration derived from the exploitation of their work.**
- 2. The right of an author or performer to obtain a fair remuneration for the making available of their work is inalienable and cannot be waived.**
- 3. The administration of this right to fair remuneration for the making available of an authors or performers work shall be entrusted to their collective management organisations, unless other collective agreements, including voluntary collective management agreements, guarantee such remuneration to authors, audio-visual authors and performers for their making available right.**
- 4. Collective management organisations shall collect the fair remuneration from information society services making works available to the public.**



## Amendment 56

### Proposal for a directive Article 15 – paragraph 1

*Text proposed by the Commission*

Member States shall ensure that authors and performers are entitled to request additional, **appropriate** remuneration from the party with whom they entered into a contract for the exploitation of the rights when the remuneration originally agreed is disproportionately low compared to the subsequent relevant revenues and benefits derived from the exploitation of the works or performances.

*Amendment*

Member States shall ensure that authors and performers, **or representatives they appoint**, are entitled to request additional, **fair** remuneration from the party with whom they entered into a contract for the exploitation of the rights when the remuneration originally agreed is disproportionately low compared to the subsequent relevant revenues and benefits derived from the exploitation of the works or performances.

## Amendment 57

### Proposal for a directive Article 15 a (new)

*Text proposed by the Commission*

*Amendment*

#### *Article 15 a*

##### *Rights reversion mechanism*

- 1. Member States shall ensure that authors and performers that are in a contractual relationship with ongoing payment obligations, may terminate the contract by which they have licensed or transferred their rights when there is a complete absence of exploitation of their works and performances, a persistent failure to pay the remuneration agreed or a complete lack of reporting and transparency.**
- 2. The right to terminate the contract on the transfer of licencing of rights may be exercised if within a year from the notification by the performer or author of this intention to terminate the contract, the contracting party fails to fulfil its contractual obligation with regards to the payment of the remuneration agreed.**

*With regards to the absence of exploitation of a work and the complete lack of reporting and transparency the right to terminate the contract on the transfer or licencing of rights may be exercised if within five years from the notification by the performer or author of their intention to terminate the contract, the contracting party fails to fulfil its contractual obligations.*

*3. Member States may decide that the obligation in paragraph 1 does not apply when the contribution of the author or performer is not significant having regard to the overall work or performance.*

## Amendment 58

### Proposal for a directive Article 16 – paragraph 1

#### *Text proposed by the Commission*

Member States shall provide that disputes concerning the transparency obligation under Article 14 and the contract adjustment mechanism under Article 15 may be submitted to a voluntary, alternative dispute resolution procedure.

#### *Amendment*

Member States shall provide that disputes concerning the transparency obligation under Article 14 and the contract adjustment mechanism under Article 15 may be submitted to a voluntary, alternative dispute resolution procedure. ***Member States shall ensure that authors and performers can submit the dispute anonymously through an authorized person or organization.***



## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Copyright in the Digital Single Market
<b>References</b>	COM(2016)0593 – C8-0383/2016 – 2016/0280(COD)
<b>Committee responsible</b> Date announced in plenary	JURI 6.10.2016
<b>Opinion by</b> Date announced in plenary	ITRE 6.10.2016
<b>Rapporteur</b> Date appointed	Zdzisław Krasnodębski 1.12.2016
<b>Discussed in committee</b>	22.3.2017
<b>Date adopted</b>	11.7.2017
<b>Result of final vote</b>	+: 39 –: 18 0: 6
<b>Members present for the final vote</b>	Zigmantas Balčytis, Nicolas Bay, Bendt Bendtsen, Xabier Benito Ziluaga, José Blanco López, Cristian-Silviu Buşoi, Reinhard Bütikofer, Jerzy Buzek, Angelo Ciocca, Edward Czesak, Jakop Dalunde, Pilar del Castillo Vera, Christian Ehler, Fredrick Federley, Ashley Fox, Adam Gierek, Theresa Griffin, András Gyürk, Roger Helmer, Eva Kaili, Kaja Kallas, Barbara Kappel, Krišjānis Kariņš, Seán Kelly, Jeppe Kofod, Jaromír Kohlíček, Zdzisław Krasnodębski, Miapetra Kumpula-Natri, Janusz Lewandowski, Paloma López Bermejo, Edouard Martin, Nadine Morano, Dan Nica, Angelika Niebler, Morten Helveg Petersen, Miroslav Poche, Paul Rübig, Massimiliano Salini, Sven Schulze, Neoklis Sylikiotis, Dario Tamburrano, Patrizia Toia, Evžen Tošenovský, Claude Turmes, Vladimir Urutchev, Kathleen Van Brempt, Henna Virkkunen, Martina Werner, Lieke Wierinck, Hermann Winkler, Anna Záborská, Flavio Zanonato, Carlos Zorrinho
<b>Substitutes present for the final vote</b>	Pascal Arimont, Pilar Ayuso, Pervenche Berès, Werner Langen, Florent Marcellesi, Marisa Matias, Maria Spyraki
<b>Substitutes under Rule 200(2) present for the final vote</b>	Czesław Hoc, Jan Huitema, Julia Reda, Yana Toom, Kazimierz Michał Ujazdowski, Julie Ward

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

<b>39</b>	<b>+</b>
ENF	Angelo Ciocca, Barbara Kappel
PPE	Pascal Arimont, Bendt Bendtsen, Cristian-Silviu Buşoi, Christian Ehler, András Gyürk, Krišjānis Kariņš, Seán Kelly, Werner Langen, Janusz Lewandowski, Nadine Morano, Angelika Niebler, Luděk Niedermayer, Paul Rübig, Massimiliano Salini, Sven Schulze, Vladimir Urutchev, Henna Virkkunen, Hermann Winkler, Anna Záborská, Pilar del Castillo Vera
S&D	Zigmantas Balčytis, Pervenche Berès, José Blanco López, Adam Gierek, Theresa Griffin, Eva Kaili, Jeppe Kofod, Miapetra Kumpula-Natri, Edouard Martin, Dan Nica, Miroslav Poche, Patrizia Toia, Kathleen Van Brempt, Julie Ward, Martina Werner, Flavio Zanonato, Carlos Zorrinho

<b>18</b>	<b>-</b>
ALDE	Fredrick Federley, Jan Huitema, Kaja Kallas, Morten Helveg Petersen, Yana Toom, Lieve Wierinck
EFDD	Roger Helmer, Dario Tamburrano
ENF	Nicolas Bay
GUE/NGL	Jaromír Kohlíček, Paloma López Bermejo, Marisa Matias, Neoklis Sylikiotis
Verts/ALE	Reinhard Bütikofer, Jakop Dalunde, Florent Marcellesi, Julia Reda, Claude Turmes

<b>6</b>	<b>0</b>
ECR	Edward Czesak, Ashley Fox, Czesław Hoc, Zdzisław Krasnodębski, Evžen Tošenovský, Kazimierz Michał Ujazdowski

Key to symbols:

+ : in favour

- : against

0 : abstention