

# **The Industry and Industrial Relations aspects of Copyright:**

**The added value and options for improving enforcement and fair remuneration/compensation in the EU Copyright system**

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# Summary of findings

- Copyright infringements represent a **disincentive to content creation**.
- Online piracy causes **shortfalls in expected revenues** from digital content.
- The development of new online forms of exploitation and the differences in bargaining power along the copyright value chain, can lead to **unfair conditions** for the creators of copyrighted works.
- An effective and balanced civil enforcement system and a fairer system for the remuneration for authors and performers could contribute to the **completion of the EU Digital Single Market**.

# Summary of findings II: The current copyright framework

- The overall objective of the InfoSoc Directive to **strengthen copyright protection** in the EU was not achieved.
- EU provisions have not been **implemented in a uniform manner** throughout the EU.
- Many aspects of copyright protection are still left to **national legislation**.
- The InfoSoc Directive did not provide a framework to ensure an **adequate remuneration and compensation** of authors and performers.
- The **contractual aspects** of the remuneration of authors and performers have not been subject to overall harmonisation at EU level.

# Data availability

- Lack of data on the diffusion of **legally consumed versus infringing content**.
- Lack of reliable data to quantify the **industry's revenue losses**.
- Lack of data on the **allocation of revenues** along the value chain in different sectors.
- Lack of **transparency in contractual arrangements** along the value chain.

# Industry aspects of Copyright enforcement

- Improve **interpretation and implementation** of the existing framework.
- Ensuring the future **compatibility** of the InfoSoc and IPRED Directives with other EU legislation.
- Limit **legal uncertainty** in the EU copyright framework also as regards the responsibility of online intermediaries.

# Policy options to improve copyright enforcement

1) Non legislative measures	2) Legislative measures
<i>a. Self-regulation: Code of conduct/code of practice</i>	<i>a. Alignment and adaptation of the relevant Directives</i> <ul style="list-style-type: none"><li>- Involvement of intermediaries</li></ul>
<i>b. Encourage the set up of specialised courts</i>	<ul style="list-style-type: none"><li>- Blocking of payments</li></ul>
<i>c. Undertake awareness-raising actions</i>	<ul style="list-style-type: none"><li>- Procedural rules on notice and take down.</li><li>- Data protection law</li></ul>
<i>d. Provide guidelines on existing legislation to foster harmonised practices</i>	<ul style="list-style-type: none"><li>- Facilitate cross-border injunctions</li></ul>

# Remuneration/Compensation for authors and performers

- Increase authors and performers **bargaining power** vis-à-vis producers, publishers, and online intermediaries.
- Improve transparency in **revenue allocation**.
- Take into account the emergence of **new forms of digital content distribution**.
- Improve clarity as regards the **scope of transfer** and the remuneration to be paid to authors and performers in copyright contracts.

# Policy options for remuneration/compensation

1) Non-legislative measures	2) Legislative measures
a. Continuous dialogue with stakeholders	<i>a. Explicit recognition of authors' and performers' rights to adequate remuneration</i>
b. Undertake awareness raising actions	<i>b. Determination of the remuneration of authors and performers for each mode of exploitation</i>
c. Promotion of collective bargaining agreements	<i>c. Inclusion of clauses in copyright contracts</i> (revert back, supplementary royalty, additional remuneration for unknown forms of exploitation)
	<i>d. Unwaivable rights to remuneration</i>



# Overall assessment of proposed policy options

## *No new policy action*

- The gaps in copyright enforcement impact Europe's growth, job creation and competitiveness.
- Unlikely that the Member States will implement new provisions and/or provisions that are much different from those already in place.
- If the status quo is maintained, authors and performers' position is unlikely to improve.
- The increase in cross-border cultural exchange has the potential to increase divergences in remuneration across the Member States.

# Overall assessment of proposed policy options II

## "Soft law" measures

- Quick adaptation to a fast-changing environment.
- Dependent on the degree of involvement of the private sector.
- May increase fragmentation.
- Likely to fall short in taking into account the interests of consumers and society at large.

## EU legislative action

- Emphasis on the enforcement of existing provisions crucial for IPR enforcement.
- Could ensure more legal certainty to ISPs, rightholders and users.
- Requires more time
- May encounter the opposition of some stakeholders along the value chain.

*Thank you!*