



Press Release: A Strong Rationale Needs Strong Resolve

14 September 2016 - The European Commission has released its long awaited draft proposals for a Directive on Copyright and the Digital Single Market. LIBER has released a statement in response to this development, outlining the need to go further to ensure that legal certainty is achieved.

A well-functioning and competitive market for research and innovation; legal clarity for citizens, libraries and authors; enabling the delivery of online education across borders; and the efficient preservation and digitisation of our collective cultural heritage all form a solid rationale on which to base the recent proposal for a Directive on Copyright and the Digital Single Market.

Such a rationale resonates strongly with LIBER, the Association of European Research Libraries, as we believe that by implementing effective legislative measures to address these issues our members will be more strongly positioned to achieve their mission of enabling world class research in Europe and making available its rich cultural heritage through mass-digitisation.

Text and Data Mining

In proposing an exception for text and data mining the European Commission presents a solid supporting case in the form of the protection of the competitiveness of the European Union as a research area. Europe has strived to ensure a strong link between research and innovation, fostering knowledge transfer and investing heavily in infrastructure such as the European Open Science Cloud to support the two way flow of data between research and business. We should not now balk at eliminating the barriers to realising the goals of the digital single market by limiting the scope of this proposed reform to apply to only public interest research institutions. Knowledge discovery as enabled by digital technologies should not be siloed in public institutions. To outlaw private companies from mining data on the web or elsewhere they already have access to, flies in the face of university-industry knowledge transfer agenda and the economy-wide needs of the big data economy.

Mandatory Exceptions & Licences

We note that the proposed exceptions are mandatory. This a hugely important step towards addressing the lack of legal clarity needed for our libraries to support the international activities of their researchers. Anything less would defeat the purpose of the directive. As LIBER and other library organisations have repeatedly stated, the pick and mix nature of the exceptions and limitations contained in the InfoSoc Directive are a hindrance to the effective delivery of library services and to international research. The logical conclusion of this is that all existing copyright exceptions should be made mandatory, in particular the exception for research. A mandatory exception, that goes hand in hand with teaching, is notably absent from the current proposal.

Perhaps the single most important aspect of the proposed exception for TDM is that contracts will not be able to override the exception. Having demonstrated the unsustainable transaction





costs of addressing TDM in licences, we strongly applaud that this problem is being addressed here as it should be elsewhere. Any exception that can easily be overridden by contract will fail to provide legal certainty and increase overheads for universities and research institutions.

Time for Resolve

The primary rationale for the proposal that has been tabled by the European Commission is strong in most instances. As a hurried, and unacceptable, addition to these considered proposals, only in the case of the new rights for newspaper publishers, the so-called link tax, does this rationale fall down.

We stand ready to work with members of the European Parliament to act with the resolve needed to make real progress on the rationale of the proposed directive and to:

- Follow through on the promise of an exception for TDM by ensuring that all citizens who have legal access to content can avail of the exception for knowledge discovery
- Bolster the preservation exception by ensuring that it enables all institutions that have a preservation mandate to take the necessary steps to preserve our history, and also encompass the need for shared preservation networks between member states
- Moderate any push towards the imposition of complex licences as an alternative to clear and sensible legislative solutions

The content of the proposal for a Directive on Copyright in the Digital Single Market is far from a total solution. Many issues previously identified by the Commission remain to be addressed and further work will need to be done to ensure that Europe has a copyright framework fit for the digital age. However, we view a Directive on Copyright and the Digital Single Market as a worthwhile endeavour and stand ready to engage with the European Parliament towards achieving the best possible outcome for libraries and for the researchers we support.

Background Notes

LIBER (Ligue des Bibliothèques Européennes de Recherche – Association of European Research Libraries) is the main network for research libraries in Europe. Founded in 1971, LIBER represents the interests of more than 400 national, university and research institute libraries from over 40 countries.

We speak to policymakers about issues such as Copyright and Open Access, participate in EU-funded projects and, through events such as our Annual Conference, we create opportunities for library professionals to meet and learn from each other.

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