

# European Copyright Reforms

## Seven Ways to Promote Innovation, Creativity and Heritage



### Article 3 – Text and Data Mining

We are concerned that in focusing an exception on the mining of scholarly journals by research institutions, the Commission's proposal accidentally makes all other mining activities – for example by library users, journalists, and other citizens, of other content, notably the open Internet – illegal, unless there is some way of signing a licence. This is unfeasible, in particular in the case of the Internet.

The easier solution, would be to provide **a simple exception available to anyone with legitimate access to a work**. This would allow that the potential value to be 'extracted' through mining can be factored into the original price of access to work, and avoid creating unnecessary complexity or uncertainty. Licensing only works for those with the resources to pay for them, while tools such as CrossRef only work if rightholders have already given permission to mine works.

In addition, we must **avoid the deletion of datasets used in the text and data mining process**. Given the importance of the possibility to replicate experiments in order to check their validity, such destruction would encourage malpractice and bad science.

### Article 4 – Illustration for Teaching

We share the Commission's goal of simplifying the rules for teachers either using digital tools in the classroom, or teaching remotely. However, the current proposals will mean different rules for digital and non-digital uses, and do not reflect the priority given to informal and life-long learning in the Education and Training 2020 Strategy.

By **extending a well-defined illustration for teaching exception to all uses** (rather than discriminating between digital and non-digital ones), and allowing the vast majority of Europe's 65 000 public libraries which are already offering skills training to enjoy their benefits, it will be possible to expand opportunities for learning across the continent.



We also need to **be careful about allowing licences to come before exceptions**. When uses of work are fair (for example, taking multiple copies of a whole textbook would not count as such), or when, otherwise, licensing options are inadequate, educators should be able to benefit from the exception.



## Article 5 – Public Interest Copying, Dedicated Terminals and Document Supply

The Commission’s move to make it clear that preservation copying should fall under an exception is good news for libraries and cultural heritage institutions, and opens the way to much more efficient ways of safeguarding Europe’s cultural heritage. The European Parliament should **extend this exception to other necessary, non-commercial copying, for example for cataloguing or insurance purposes.**

Furthermore, in order to respond to legitimate user expectations in a digital age, and where this does not destabilise markets, libraries and cultural heritage institutions should enjoy wider possibilities. These include, notably, **sharing individual articles or chapters for personal or research purposes across borders, upon request, for non-commercial personal study or research, or to let people access their digital collections on the premises using their own devices**, not just ‘dedicated terminals’. In order to ensure that these rules are effective, we need to **ensure that these activities cannot be prevented by the terms of contracts or technological protection measures.**

## Articles 7-9 – Out of Commerce Works

The Commission’s proposals put too much faith in the ability of Europe’s current collective management infrastructure to deliver representative and effective extended collective licensing of uses of out-of-commerce works. **Unless there is a ‘fall-back’ possibility – an exception allowing libraries and cultural heritage institutions to make out-of-commerce digitised works available online – much of Europe’s heritage, especially in smaller countries, will continue to be locked away, benefitting no-one.** The JURI draft report authored by Ms Comodini addresses these concerns and we would hope that this can serve as a basis for the final report.



## Article 11 – Ancillary Rights

We share the general concern about the situation of news media today, and the need for properly resourced, quality journalism. Libraries are active in promoting media and information literacy. We are worried that the current proposals will make it more difficult (and costly) for libraries to do this work.

They may also make it harder for library users to quote other works, create non-commercial guides to information resources, and impose costs retroactively on libraries with press collections. If, as the ITRE committee has suggested, the right is extended to academic publishers (who face no difficulty in

enforcing their rights, given that authors usually sign these away), the harm could be much more extensive. **The proposal should be withdrawn and fundamentally reconsidered.**

### Article 13 – Content Filtering

As with Article 11, we are aware that there is a much bigger debate taking place around the creation and sharing of value over the short and longer term between creators, publishers and distributors. Libraries and research institutions are concerned that the current proposals will inadvertently also apply to repositories of Open Access content, managed by universities, libraries and other research institutions. Such repositories play a key role in facilitating the sharing of knowledge (the underlying rationale for open access in the first place).



Under the proposals, these repositories would either need to implement expensive filtering technologies (which may not even be well suited to spotting permitted uses of works), or face legal liability each time a researcher uploads the wrong version of their paper. Repositories are not usually equipped to take on these burdens and are likely to close. **The proposal should be withdrawn and reconsidered in order to avoid causing unnecessary damage to innovation and freedom of expression in Europe.**



### New Article – eLending

The judgement of the Court of Justice of the European Union in November has seen little if any progress towards effective solutions to allow libraries to lend eBooks. Moreover, the decision does not clarify if libraries are allowed to override contract terms or circumvent technological protection measures which prevent them from lending legally acquired content, in line with the one-copy-one-user model established by the Court.

**European legislation clarifying the Court of Justice decision in this area would reduce legal uncertainty and allow libraries both to respond to demand, and to bring new readers in touch with new writers.**

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