Copyright and access to creative works

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Structure

I) Historical trend towards loosening of exclusivity

II) Principal mechanisms for facilitation of access
From privileges to copyright (1)

Protection:

- **Printing privileges** --- arbitrary grant of monopolies by a sovereign to a few privileged; censorship; duration: several months or years

- **Copyright** --- automatic grant (recognition) of rights by the law to all authors; no censorship; duration: life + 50 (international) and life + 70 (EU) years
From privileges to copyright (2)

Access:

- **Printing privileges** --- everything not protected by the privileges could be freely used

- **Copyright** --- everything not-covered by copyright can be freely used
Underuse

- Increased instances of (licit) **underuse** of created works, due to the system of fragmented and lasting ownership with uncertain exceptions and limitations.
- **Disuse undermines the remuneration** rationale of copyright: no (licit) use = no revenue for authors = decreased value of exclusive rights.
- **Decreased legitimacy** of the system in eyes of the public.
Trend

More access:

EU Directive on orphan works

Marrakesh Treaty

Treaty / Directive on exceptions and limitations for libraries???
Mechanisms for facilitation of access

- Changes to substantive law
- Changes to the exercise of rights
Substantive law

• Definition of rights

• Exceptions or limitations:
  – “external”/”internal”;
  – international / national / national EU / EU
Exercise of rights

- **Individual** (traditional / public copyright licenses)

- **Collective** management (voluntary / mandatory / extended)
Way forward

Combination of exceptions or limitations with collective management of rights:

• Facilitation of licit use and access
• Revenues for authors
• Control and transparency requirements over activities of collective management organisations