

Copyright rules for the digital environment: Council agrees its position

The Council's permanent representatives committee (Coreper) today agreed its position on a draft directive aimed at adapting EU copyright rules to the digital environment.

The common position will serve as a mandate for the presidency of the Council to start negotiations with the European Parliament, once the latter has agreed its own position.

All kinds of content are today easily made available online. The dissemination of creative content through the internet encourages cultural diversity. However, this has to be balanced against an appropriate level of protection and fair remuneration for those creating the content.

Boil Banov, Minister of culture of Bulgaria

The main objective of the directive is to modernise the European copyright framework and adapt it to the requirements of the digital age. By contributing to the harmonisation of practises across member states, it will also increase legal certainty in the digital single market.

The main issues of the Council mandate include the following:

Protection of press publications

The Council compromise text would create a new right for press publishers for the online use of their press publications, which is in line with the Commission original proposal. However, the protection would only last one year instead of the 20 years proposed by the Commission.

The protection would also cover the use of parts of press publications. However, insubstantial parts of press publications will not be covered. To determine whether a part of a press publication is insubstantial, member states will be able to apply either an originality criterion or a size criterion (for instance very short excerpts), or both criteria.

Value gap

The directive seeks to strike the right balance between the remuneration received by authors and performers and the profits made by internet platforms when they make their works accessible. This difference is known as the value gap.

The Council text targets online service providers whose main purpose (or one of whose main purposes) is to provide access to a large amount of copyright-protected content uploaded by their users for the purpose of making profits from organising and promoting it.

Examples of organising and promoting content include indexing the content, presenting it in a certain manner and categorising it.

It would not include services such as internet access providers, providers of cloud services which allow users, including businesses, to upload content for their own use, or online marketplaces whose main activity is online retail and which do not give access to copyright protected content.

Websites which store and provide access to content for non-for-profit purposes, such as online encyclopaedias, scientific or educational repositories, or open source software developing platforms, are also not included.

Improved cooperation between rightholders and online platforms

The Council text encourages collaboration between online content sharing service providers and rightholders.

Service providers will have to obtain authorisation from rightholders. When no authorisation has been given, for example because rightholders do not want to conclude a licence, the service provider will have to prevent the availability of the works identified by rightholders. Otherwise, they will be considered to be liable for copyright infringement. Nevertheless, exemptions from liability may be granted to platforms under certain conditions linked notably to their size.

Upon notification by rightholders of an unauthorised protected work, an online content sharing service provider will have to take urgent steps to remove the work and prevent it from becoming available in future.

Exceptions to copyright on text and data mining

New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data. This is generally known as text and data mining. Those technologies allow researchers to process large amounts of information with a view to securing new knowledge and discovering new trends.

In line with existing European research policy, which encourages universities and research institutes to develop collaboration with the private sector, research organisations should also benefit from the exception when their research activities are carried out in the framework of public-private partnerships. A mandatory exception for uses of text and data mining technologies in the fields of scientific research is included in the directive.

There will also be mandatory exceptions or limitations to the general copyright rules for illustrations used for teaching in the digital environment and for cultural heritage institutions such as public libraries, museums and archives.

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