

Press release
14/09/2016

FEP's reaction to European Commission proposal for Copyright in the Digital Single Market

The **Federation of European Publishers (FEP)** has taken note of today's proposed Directive on copyright in the digital Single Market. While we are undertaking to a careful analysis of the Directive, we are encouraged by the provision authorising the Member States to consider the transfer or license of a right by an author as a sufficient legal basis for the publisher to claim a share of the compensation for uses of a work under exceptions. This addresses partially the judgement of the CJEU in the Reprobel-HP case. In view of the publisher's essential role in the publication and dissemination of works created by authors, such a recognition of the harm caused by exceptions is absolutely crucial. Publishers are rights holders by virtue of the contract they have with their authors and this will need to be consistently reflected in the EU legislation as well as in Member States' implementation.

The proposed Directive sends a clear message in favour of negotiated solutions especially for out of commerce works and illustration for teaching. This is particularly important for the book sector which has been at the forefront of the negotiations of licences with the educational sector and with libraries. For out of commerce works, these licences will also allow authors to opt out if they so choose, thus respecting their moral rights. FEP will talk to the other institutions to insist that solutions such as the French Relire scheme for out of commerce works must be encouraged as well.

FEP will also stress the importance of licences as fair and balanced solutions. Some claim that users such as libraries or educators can only use works if they benefit from exceptions. Quite the opposite is true. In many countries in Europe, licences provide fair and affordable mechanisms to access literary works.

For Text and Data Mining, publishers regret that the commission has preferred an exception over licences. FEP will be attentive to the security and integrity of the published works and will work with the research organisations to support best practices.

The Directive regrettably fails to clarify legal access, i.e. the accessing of content under one exception does not give the user the right to make further use of that content under another exception. Each exception must stand alone. Publishers face great legal uncertainty without clarity in this respect. Publishers also regret that the status of innovative streaming/subscription services is not clearly addressed by the Directive.

FEP would like to stress that the different licensing schemes operating in the various Member States have been working satisfactorily and that therefore the proposed reform, was in fact not necessary. Now that it has been adopted by the Commission, FEP commits to working with the Parliament and the Council so that copyright remains an incentive and the future of the creative industries a formidable contribution to European society well-being.

FEP President Henrique Mota commented: 'As a publisher, I invest in talents. Every day, I work with extraordinary authors to publish the best books that will find the widest possible audience. At least



this is what the author, as well as us publishers, always hope for. Without the encouragement of authors' rights, this investment would have much less value, if any. I know that cultural institutions and educators will want to use these books to achieve their purposes. I am happy they want to use the books I publish. And I am happy to negotiate fair and affordable licences. Hopefully, a modernisation of copyright will encourage licensing over exceptions. I am counting now on the Parliament and Council to achieve a balanced proposal.”

FEP represents 28 national associations of books and learned journals' publishers and the voice of publishers in Europe.

For more information, call 003227701110