European Commission: New proposals for the modernisation of EU copyright rules in the Digital Single Market

IRIS 2016-9:1/4

Sophie Valais
European Audiovisual Observatory

On 14 September 2016, the European Commission proposed two directives and two regulations to adapt the EU copyright rules to the realities of the Digital Single Market. This draft “copyright package” was published together with an explanatory Communication, as well as an extensive Impact Assessment on the modernisation of EU copyright rules.

A proposal for a Directive on copyright in the Digital Single Market (COM(2016) 593 final) and a proposal for a Regulation laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes (COM(2016) 594 final) aim at increasing cultural diversity and content available online, while bringing clearer rules for all online players.

Through these proposals, the Commission pursues three general objectives: (i) allow for wider online access to protected content across the EU, focusing on TV and radio programmes, European audiovisual works and cultural heritage; (ii) facilitate digital uses of protected content for education, research and preservation in the single market; and (iii) ensure that the online copyright marketplace works efficiently for all players and gives the right incentives for investment in and dissemination of creative content.

The new set of proposals addresses a number of issues linked to the functioning of EU copyright rules in the Digital Single Market.

In relation to exceptions and limitations to copyright, the proposed Directive introduces three new mandatory exceptions: an exception for teaching activities covering digital uses undertaken in the context of illustration for teaching with the option for Member States to make it subject to the availability of adequate licenses covering the same uses (digital and cross-border); an exception for text and data mining applicable to research organisations acting in the public interest (e.g. universities, research institutes); and an exception for preservation purposes by cultural heritage institutions.

Concerning the functioning of the copyright marketplace, the Commission aims at ensuring a fair sharing of the value in the online environment, notably through the

© European Audiovisual Observatory (Council of Europe) 2026

introduction of specific obligations on certain types of online services or on those contracting with authors and performers. In relation to the use of content by user uploaded content services, the Commission proposes to create a new obligation on online services storing and giving access to large amount of content uploaded by their users to put in place appropriate and proportionate technologies, and to increase transparency vis à vis right holders. The Commission also proposes the introduction in EU law of a related right for publishers (news, books, scientific, etc.) to receive a share in the compensation for uses under an exception. Finally, the Commission foresees the introduction in EU law of transparency obligations on the creators' contractual counterparties (notably producers and publishers), supported by a contract adjustment and dispute resolution mechanism.

In the area of access to content online, the Commission proposes in relation to online transmission of broadcasting organisations the application of the country of origin principle to the clearing of rights for their online services which are ancillary to their initial broadcast. The ancillary online services covered by the proposed Regulation are those services offered by broadcasting organisations which have a clear and subordinate relationship to the broadcast (e.g. so called catch-up services or services which give access to material which enriches or otherwise expands television and radio programmes broadcast). As for the digital retransmission of TV/radio programmes, the Commission proposes in the Regulation the application of the mandatory collective management of rights to retransmission services provided over "closed" electronic communications networks. The Commission proposes to achieve these objectives, through a Regulation, which will directly apply in the Member States, in order to reduce legal fragmentation and provide greater uniformity in the EU. The Commission shall undertake in the future a review of the Regulation in order to assess its impact on the cross border provision of ancillary online services in the EU.

For the licensing of VoD rights, the Commission proposes a European stakeholders' dialogue and a negotiation mechanism that would facilitate the conclusion of licenses for the online exploitation of audiovisual works by removing contractual blockages. Finally for out-of-commerce works, the Commission proposes to enable Member States to put in place specific legal mechanisms for the conclusion of collective licensing agreements for the use of these works by cultural heritage institutions and the introduction of a cross-border effect for such agreements.

At the same time, two legislative proposals have been adopted for the implementation of the WIPO Marrackesh Treaty in EU law, to facilitate access to published works for persons who are blind, visually impaired or otherwise print disabled, to allow people with print disabilities to access books and other print material in formats that are accessible to them. A proposal for a Directive on permitted uses of works and other subject-matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired, or print

© European Audiovisual Observatory (Council of Europe) 2026

disabled will amend Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society (the “InfoSoc Directive”), by introducing a mandatory exception. It will be accompanied by a proposal for a Regulation aimed at permitting the cross-border exchange of such accessible-format copies between the Union and third countries that are parties to the Treaty.

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Promoting a fair, efficient and competitive European copyright-based economy in the Digital Single Market - COM(2016)592

http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=COM:2016:592:FIN&rid=1

Proposal for a Directive of the European Parliament and of the Council on copyright in the Digital Single Market, COM(2016) 593 final, 14 September 2016

http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=COM:2016:593:FIN&rid=1

Proposal for a Regulation laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions, COM(2016) 594 final, 14 September 2016

http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=COM:2016:594:FIN&rid=1

Proposal for a Directive of the European Parliament and of the Council on certain permitted uses of works and other subject-matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society - COM(2016)596

http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=COM:2016:596:FIN&rid=1

Proposal for a Regulation of the European Parliament and of the Council on the cross-border exchange between the Union and third countries of accessible format copies of certain works and other subject-matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print disabled - COM(2016)595

http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=COM:2016:595:FIN&rid=1

Commission Staff Working Document - Impact Assessment on the modernisation of EU copyright rules - Accompanying the document "Proposal for a Directive of the European Parliament and of the Council on copyright in the Digital Single Market" and "Proposal for a Regulation

© European Audiovisual Observatory (Council of Europe) 2026

of the European Parliament and of the Council laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes" - SWD(2016)301

http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52016SC0301&qid=1476262578664&from=EN

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026