

Amendments to draft report on the implementation of Directive 2001/29/EC (InfoSoc Directive)

Not included in the original draft due to space constraints.

Recitals

after .C

Ca: Whereas Article 11 of the Charter of Fundamental Rights defines the right of freedom of expression as including the freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers;

after .D

Da: Whereas Article 52 of the Charter of Fundamental Rights establishes a principle of proportionality, according to which any limitation on the exercise of the rights and freedoms recognised by this Charter must be provided for by law and respect the essence of those rights and freedoms, only if they are necessary and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others;

Exclusive Rights

after .3

3a: Calls for the introduction of Community provisions in the area of contract law applicable to copyright, particularly safeguarding authors' rights to bring their works to the market in case a rightholder has refrained from making use of an exclusive right to the work in question for an extended period of time;

3b: Notes that the existing definitions and scope of the exclusive rights for reproduction, for the communication to the public and for the making available to the public, and for distribution, need clarification to better fit the technological and cross-border nature of digital exploitation acts, and to facilitate the clearance of rights;

3c: Suggests to further investigate the effects and benefits from a country of origin approach in rights clearance to facilitate pan-European commercial services; recommends building upon existing best-practice solutions to cross-border access in the area of satellite broadcasting and cable retransmission;

after .4

4a: Notes the adoption by the Commission of legal instruments aiming at removing obstacles to bringing out the full economic potential from the exploitation of public sector information, and allowing the re-use of such information even in the presence of intellectual property rights;

after .6

6a: Considers that the registration of works should be encouraged, in order to clearly identify and locate right holders, as well as to distinguish between copyrighted and non-copyrighted works, thus improving legal certainty, facilitating the licensing of rights and limiting the spread of orphan works; more broadly, is of the opinion that mechanisms allowing to identify the initial rightholder, the transfer of rights and the publication date of the work, should serve as a presumption of authorship;

Exceptions

after .7

7a: Notes that the current legal Acquis recognises the full harmonisation of exclusive rights, whereas exceptions and limitations to exclusive rights remain optional and not harmonised;

7b: Notes the significant number of suggestions that have been put forward in the replies to the consultation of the Commission on the review of the EU copyright rules, to introduce new exceptions and limitations to exclusive rights, as well as broadening the scope of existing exceptions;

after .21

21a: Deplores the lack of harmonisation between Member States as regards the interpretation of Article 5.2 b of Directive 2001/29/EC on exceptions for reproductions on any medium made by a natural person for private use, and as regards the remuneration schemes to compensate for the prejudice to rightholders put in place in some Member States to allow for the fair compensation of the rightholders in relation to these acts of copying, which affects the functioning of the internal market;

after .22

22a: Proposes to strengthen authors' rights by making remuneration rights tied to exceptions and limitations non-transferable to other rightholders;