

Statement on the review of EU copyright rules

drafted by the ALLEA Permanent Working Group on Intellectual Property Rights

This statement summarises the Permanent Working Group's (PWG) views on the on-going review of EU copyright rules and points out certain issues that ought to be presented to national academies for comments. This statement is drafted in response to the Commission's questionnaire "Public Consultation on the Review of the EU Copyright Rules" (attached hereto), using the same numbering as in the questionnaire. Questions of no or only limited relevance for the academic community are omitted.

II, A. – The Commission asks whether citizens of the Member States face problems when accessing online services while they are **travelling in Europe and using an online service from another Member State** (for ex. a researcher stays in another Member States for a research project). The **PWG** is not aware of any such problems within the academic sector.

II, B, 1. – This question regards works that are subject to **two or more rights belonging to different rightholders**, so that two or several authorizations are required in order to exploit the works. The **PWG** is not aware of any practical problems of this sort with respect to scientific activities.

II, B, 2. – This question is about whether **linking and browsing** should be subject to the authorization of the rightholder. The **PWG** notes that this issue has been debated, and subject to litigation in the Member States. The issue has, however, recently been resolved by the ECJ in case C-466/12 (*Svensson*), stating that the provision on a website of clickable links to works freely available on another website is not subject to the authorization of the rightholder, provided that the links do not make the works available to a new public. The **PWG** welcomes the interpretation of the ECJ, which furthers the dissemination of information, including research results.

II, B, 4. – The Commission asks whether **restrictions occur** when citizens of the Member States want to **resell copies** they have bought via digital transmission. The **PWG** notes that rightholders are able to protect their legitimate interests by techniques known as Digital Rights Management Systems (DMRS). The **PWG** emphasises that DMRS should not be used to circumvent the limitations on copyright that are enshrined in the law. On the other hand, rules that are designed to limit copyright in physical copies are not always appropriate in the digital environment. The **PWG** is of the opinion that further studies are called for in this regard.

II, C. – By this question, the Commission invites comments on the possible **creation of a registration system** at EU level for copyrighted works. The **PWG** is of the opinion that a registration system, if introduced, must be voluntary and not be required for protection under copyright law. A registration system may offer certain advantages, for instance by facilitating the clearance of rights and thereby promote the dissemination of information. At the same time, there seems to be few disadvantages attached to such a system beyond the costs of administration, provided registration is voluntary.

II, D. – This question regards the **use of identifiers**, i.e. reference numbers embedded in digital works, which identifies the work, the owner of the work etc. The Commission invites views on the possible role of the EU in promoting the adoption of identifiers. The **PWG** notes that the use of identifiers may, at least in some sectors, offer greater advantages than a registration system. Thus, the **PWG** welcomes an EU initiative in this area.

II, E. – The Commission asks whether the **current term of protection** for copyrighted works – 70 years post mortem – is appropriate. The **PWG** is of the firm opinion that the existing term of protection is extending beyond any reasonable needs and expectations, and the **PWG** therefore strongly warns against further extending the term of protection.

III. – This section concerns **limitations and exceptions** to copyright. The **PWG** refers to its previous statement regarding Open Access¹, and notes that science and research benefit from the free dissemination of information. In particular, the **PWG** would favour the introduction of a mandatory right for the scientific community of making available published papers after a reasonable period of time. Such right should apply to all papers published in scientific journals, but would not be appropriate for [works published in] books.

The **PWG** notes that some Member States have introduced legislation that is aimed at facilitating the dissemination of publicly funded research. By way of example, The Netherlands are in the course of adopting a new provision giving authors of short scientific works that have been funded fully or partly by public means the unalienable right to make these works freely available to the public after a reasonable time from the first publication. To the extent necessary, other Member States should introduce similar arrangements.

III, A, 1. – This question regards possible problems experienced in connection with **preserving and archiving works** in libraries, educational institutions etc. The **PWG** notes that preservation of information is essential, but is not aware of any such problems related to copyright. It seems appropriate, however, to ask national academies whether any such problems have been experienced at national level.

III, A, 2. – The Commission asks whether copyright gives rise to problems with regard to **off-premises access** to library collections. The **PWG** notes that access to library collections is vital to the scientific community, and is of the opinion that such access must be preserved. A solution that avoids the need for individual licenses is required. This raises, however, important issues with respect to the rightholders' legitimate interests. The **PWG** is of the opinion that further studies should be conducted and empirical evidence be obtained before firm conclusions are drawn.

III, A, 4. – By this question, the Commission raises the issue of **mass digitization**, i.e. efforts by institutions in order to digitize the entire content or part of their collections [As to the adopted respective legislation in some Member States see above No. III.].

III, B. – This question regards the use of copyrighted works for **teaching purposes**. The **PWG** notes that such use is essential, but is not aware of any specific problems related to copyright.

¹ [ALLEA Statement on Enhancement of Open Access to Scientific Publications in Europe](#) (October 2013).

III, C. – This question regards the use of copyrighted works **for research purposes**. The **PWG** notes that the use of such works in research is subject to the ethics of science and that the author's moral rights must always be respected. If this is the case, copyright should not stand in the way for research. By way of example, the freedom of quotation (the "Zitatrecht") should be applied so that researchers can include parts of copyrighted works in their research in conformity with the ethics of science.

III, E. – The Commission raises the issue of what is known as "**text and data mining**". The **PWG** is of the opinion that the scientific community should not be prevented from using information that is lawfully accessible, provided the use is of a kind that is permitted by copyright legislation. Such right to use lawfully accessible information should be secured by mandatory rules.

IV. – This section concerns **private copying and reprography**. The **PWG** notes that the application of the private copying and reprography exceptions in the scientific and educational environment raises complicated issues. In the **PWG's** opinion, further studies are needed in order to evaluate the existing regulations before conclusions can be drawn.

VII. – The Commission asks whether the EU should establish a **single EU Copyright Title**. The **PWG** is of the opinion that the creation of a single EU Copyright Title is neither called for nor appropriate at the present stage of development in community law. The harmonisation of substantive copyright law should be pursued further before the need for a single Copyright Title is evaluated.

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