

Public consultation on the role of publishers in the copyright value chain and on the 'panorama exception'

Fields marked with * are mandatory.

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Fields marked with * are mandatory.

*

I'm responding as:

- An individual in my personal capacity
- A representative of an organisation/company/institution

*Please provide your first name:

Irina

*Please provide your last name:

Kupiainen

*

Please indicate your preference for the publication of your response on the Commission's website:

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- Anonymously: I consent to publication of all information in my contribution and I declare that none of it is subject to copyright restrictions that prevent publication.
- Please keep my contribution confidential. (it will not be published, but will be used internally within the Commission)

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*Please enter the name of your institution/organisation/business.

CSC - IT Center for Science Ltd.

What is your institution/organisation/business website, etc.?

www.csc.fi

*What is the primary place of establishment of the entity you represent?

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Italy
- Ireland
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden
- United Kingdom
- Other

*

My institution/organisation/business operates in: *(Multiple selections possible)*

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Italy
- Ireland
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden
- United Kingdom
- Other

*

Is your organisation registered in the [Transparency Register](#) of the European Commission and the European Parliament?

- Yes
- No

*

Please indicate your organisation's registration number in the Transparency Register.

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The role of publishers in the copyright value chain

In its Communication Towards a modern, more European copyright framework of 9 December 2015, the Commission has set the objective of achieving a well-functioning market place for copyright, which implies, in particular, "the possibility for right holders to license and be paid for the use of their content, including content distributed online." [1]

Further to the Communication and the related stakeholders' reactions, the Commission wants to gather views as to whether publishers of newspapers, magazines, books and scientific journals are facing problems in the digital environment as a result of the current copyright legal framework with regard notably to their ability to licence and be paid for online uses of their content. This subject was not specifically covered by other public consultations on copyright issues the Commission has carried out over the last years. In particular the Commission wants to consult all stakeholders as regards the impact that a possible change in EU law to grant publishers a new neighbouring right would have on them, on the whole publishing value chain, on consumers/citizens and creative industries. The Commission invites all stakeholders to back up their replies, whenever possible, with market data and other economic evidence. It also wants to gather views as to whether the need (or not) for intervention is different in the press publishing sector as compared to the book/scientific publishing sectors. In doing so, the Commission will ensure the coherence of any possible intervention with other EU policies and in particular its policy on open access to scientific publications. [3]

*

Selection

Do you wish to respond to the questionnaire "The role of publishers in the copyright value chain"?

- Yes *(Please allow for a few moments while questions are loaded below)*
- No

[1] [COM\(2015\)626 final](#).

[2] Neighbouring rights are rights similar to copyright but do not reward an authors' original creation (a work). They reward either the performance of a work (e.g. by a musician, a singer, an actor) or an organisational or financial effort (for example by a producer) which may also include a participation in the creative process. EU law only grants neighbouring rights to performers, film producers, record producers and broadcasting organisations. Rights enjoyed by neighbouring rightholders under EU law generally include (except in specific cases) the rights of reproduction, distribution, and communication to the public/making available.

[3] See Communication [COM\(2012\) 401](#), Towards better access to scientific information: Boosting the benefits of public investments in research, and Recommendation [C\(2012\) 4890](#) on access to and preservation of scientific information.

Category of respondents

*Please choose the category that applies to your organisation and sector.

- Member State
- Public authority
- Library/Cultural heritage institution (or representative thereof)
- Educational or research institution (or representative thereof)
- End user/consumer/citizen (or representative thereof)
- Researcher (or representative thereof)
- Professional photographer (or representative thereof)
- Writer (or representative thereof)
- Journalist (or representative thereof)
- Other author (or representative thereof)
- Collective management organisation (or representative thereof)
- Press publisher (or representative thereof)
- Book publisher (or representative thereof)
- Scientific publisher (or representative thereof)
- Film/audiovisual producer (or representative thereof)
- Broadcaster (or representative thereof)
- Phonogram producer (or representative thereof)
- Performer (or representative thereof)
- Advertising service provider (or representative thereof)
- Content aggregator (e.g. news aggregators, images banks or representative thereof)
- Search engine (or representative thereof)
- Social network (or representative thereof)
- Hosting service provider (or representative thereof)
- Other service provider (or representative thereof)
- Other

If other service provider, please specify

Questions

1. On which grounds do you obtain rights for the purposes of publishing your press or other print content and licensing it? (*Multiple selections possible*)

- transfer of rights from authors
- licensing of rights from authors (exclusive or non-exclusive)
- self-standing right under national law (e.g. author of a collective work)
- rights over works created by an employee in the course of employment
- not relevant
- other

Please explain

2. Have you faced problems when licensing online uses of your press or other print content due to the fact that you were licensing or seeking to do so on the basis of rights transferred or licensed to you by authors?

- yes, often
- yes, occasionally
- hardly ever
- never
- no opinion
- not relevant

If so, please explain what problems and provide examples indicating in particular the Member State, the uses you were licensing, the type of work and licensee.

3. Have you faced problems enforcing rights related to press or other print content online due to the fact that you were taking action or seeking to do so on the basis of rights transferred or licenced to you by authors?

- yes, often
- yes, occasionally
- hardly ever
- never
- no opinion
- not relevant

If so, please explain what problems and provide examples indicating in particular the Member State, the type of use and the alleged infringement to your rights.

4. What would be the impact on publishers of the creation of a new neighbouring right in EU law (in particular on their ability to license and protect their content from infringements and to receive compensation for uses made under an exception)?

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

Granting neighbouring rights would mean, that the scope of copyright is widened. Thus websites, such as aggregators, and individuals linking content on websites, could be charged a fee for doing it. This would have a strong negative impact on press publishers, especially small ones. The ability to link and share content ensure that the content reaches the intended audience and drives revenue-generating traffic to the websites. If neighbouring rights were implemented, it means a fee could be charged for this, and this would create a barrier for innovation and startup activity - thus the negative impact goes beyond the publishing sector. Less traffic will end up seeing the content of independent and new entrants to the market, making it harder for smaller publishers to compete with larger ones.

5. Would the creation of a new neighbouring right covering publishers in all sectors have an impact on authors in the publishing sector such as journalists, writers, photographers, researchers (in particular on authors' contractual relationship with publishers, remuneration and the compensation they may be receiving for uses made under an exception)?

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

If the neighbouring rights were implemented, publishers would strengthen their charging for reuse of scientific materials. This would endanger the free movement of scientific knowledge and results, and have a negative impact on competitiveness, bringing also possible new costs due to building new processes within the existing research infrastructure, and these costs might be taken from the research budgets. All this is in severe conflict with the political and strategic principles that the EU wants to promote under the Europe 2020 Strategy, the Digital Single Market, the Investment Plan and the Horizon2020 program.

6. Would the creation of a neighbouring right limited to the press publishers have an impact on authors in the publishing sector (as above)?

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

Granting neighbouring rights to publishers, especially big publication houses, would make the publishing process complex and unclear, and complicate also the process of providing services for research, especially in the re-use of scientific materials.

7. Would the creation of a new neighbouring right covering publishers in all sectors have an impact on right holders other than authors in the publishing sector?

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

The neighbouring rights would have a strong negative impact on rightsholders, posing a potential risk of less traffic to their websites, thus hindering their competitiveness, and in addition, constituting an obstacle for new innovative potential startup companies in the publishing sector. The effect on other industries is unclear, and should be thoroughly inspected.

8. Would the creation of a neighbouring right limited to the press publishers have an impact on rightsholders other than authors in the publishing sector?

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

9. Would the creation of a new neighbouring right covering publishers in all sectors have an impact on researchers and educational or research institutions?

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

Europe needs to foster an open, collaborative platform for the management, analysis, sharing, reuse and preservation of research data on which innovative products and services can be developed and delivered. The suggested neighbouring rights are strongly in conflict with the current strategic principles and aims of EU, stated explicitly under e.g. the Digital Single Market, Horizon 2020, Competitiveness Council Conclusions 27th May 2016. The neighbouring rights would seriously endanger the plans expressed in the EC communication "towards a modern European Copyright framework", because they would create a barrier for the free flow of data and digital goods, which is one of the key factors in today's research, as well as a widely acknowledged crucial tool for growth and innovation. Based on unfair and unmoral practices of exploiting researches' intellectual work, the neighbouring rights would not help in exploiting the opportunities of Open science, Open innovation and Open to the world. Instead, they would create barriers, hindering the development and welfare of the European Union and its citizens.

10. Would the creation of a neighbouring right limited to press publishers have an impact on researchers and educational or research institutions?

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

It is not relevant whether it is press publishers or all, the impact would be negative.

11. Would the creation of new neighbouring right covering publishers in all sectors have an impact on online service providers (in particular on their ability to use or to obtain a licence to use press or other print content)?

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

The neighbouring rights would have a strong negative impact on creative and online industries, that wish to be able to reuse small amounts of information such as an url. The financial and administrative burden for small publishers and non-profit university publishers will hinder their competitiveness, and in addition, this will constitute an obstacle for new innovative potential startup companies in the publishing sector. This is not in line with European innovation policies. The effect on other industries is unclear, and should be thoroughly inspected.

12. Would the creation of such a neighbouring right limited to press publishers have an impact on online service providers (in particular on their ability to use or to obtain a licence to use press content)?

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

13. Would the creation of new neighbouring right covering publishers in all sectors have an impact on consumers/end-users/EU citizens?

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

Charging an extra fee for using content would definitely create a barrier for free movement of digital goods and materials, and would not be in line with the strategic priorities of the Digital Single Market.

14. Would the creation of new neighbouring right limited to press publishers have an impact on consumers/end-users/EU citizens?

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

15. In those cases where publishers have been granted rights over or compensation for specific types of online uses of their content (often referred to as "ancillary rights") under Member States' law, has there been any impact on you/your activity, and if so, what?

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain, indicating in particular the Member State.

In our national legislation there are no neighbouring rights.

16. Is there any other issue that should be considered as regards the role of publishers in the copyright value chain and the need for and/or the impact of the possible creation of a neighbouring right for publishers in EU copyright law?

- Yes
- No

If so, please explain and whenever possible, please back up your replies with market data and other economic evidence.

Europe needs to foster an open, collaborative platform for the management, analysis, sharing, reuse and preservation of research data on which innovative products and services can be developed and delivered. The suggested neighbouring rights are strongly in conflict with the strategic principles and aims of EU, because they would create a barrier for the free flow of data and digital goods. Neighbouring rights would cause serious potential damage to European competitiveness.

Use of works, such as works of architecture or sculpture, made to be located permanently in public places (the 'panorama exception')

EU copyright law provides that Member States may lay down exceptions or limitations to copyright concerning the use of works, such as works of architecture or sculpture, made to be located permanently in public places (the 'panorama exception') [1] . This exception has been implemented in most Member States within the margin of manoeuvre left to them by EU law.

In its Communication Towards a modern, more European copyright framework, the Commission has indicated that it is assessing options and will consider legislative proposals on EU copyright exceptions, among others in order to "clarify the current EU exception permitting the use of works that were made to be permanently located in the public space (the 'panorama exception'), to take into account new dissemination channels." [2]

This subject was not specifically covered by other public consultations on copyright issues the Commission has carried out over the last years. Further to the Communication and the related stakeholder reactions, the Commission wants to seek views as to whether the current legislative framework on the "panorama" exception gives rise to specific problems in the context of the Digital Single Market. The Commission invites all stakeholders to back up their replies, whenever possible, with market data and other economic evidence.

*

Selection

Do you wish to respond to this questionnaire "Use of works, such as works of architecture or sculpture, made to be located permanently in public places (the 'panorama exception')?"

- Yes *(Please allow for a few moments while questions are loaded below)*
- No

[1] Article 5(3)(h) of [Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society](#).

[2] [COM\(2015\) 626 final](#).

Submission of questionnaire

End of survey. Please submit your contribution below.

Useful links

[Webtext EN \(https://ec.europa.eu/digital-agenda/news-redirect/29674\)](https://ec.europa.eu/digital-agenda/news-redirect/29674)

Background Documents

[Privacy Statement DE \(/eusurvey/files/08c163a2-8983-4d3b-ae3e-21f69b5957cd\)](/eusurvey/files/08c163a2-8983-4d3b-ae3e-21f69b5957cd)

[Privacy Statement EN \(/eusurvey/files/217d6300-2bbe-4a51-aba4-0371c246dc9d\)](/eusurvey/files/217d6300-2bbe-4a51-aba4-0371c246dc9d)

[Privacy Statement FR \(/eusurvey/files/43cedbae-8123-4596-94ce-b526019329e5\)](/eusurvey/files/43cedbae-8123-4596-94ce-b526019329e5)

[Webtext DE \(/eusurvey/files/3abc4c0f-c0e6-4ece-99a3-2bebbba8c65d3\)](/eusurvey/files/3abc4c0f-c0e6-4ece-99a3-2bebbba8c65d3)

[Webtext FR \(/eusurvey/files/df02a573-838f-45e7-912d-8231ee8cdbcd\)](/eusurvey/files/df02a573-838f-45e7-912d-8231ee8cdbcd)

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