

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 (it will not be published, but will be used internally within the Commission)

(Please note that regardless the option chosen, your contribution may be subject to a request for access to documents under [Regulation 1049/2001 on public access to European Parliament, Council and Commission documents](#). In this case the request will be assessed against the conditions set out in the Regulation and in accordance with applicable [data protection rules](#).)

* Please indicate your country of residence

- 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

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

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.

Wikipedia content is licensed under CC-BY-SA, requiring reusers to mention the author names. Reusers sometime "forget" to do so or mention "Wikipedia" as the author. There are several cases when we followed-up with reusers and were told they will only change the attribution on request from the original author.

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

While there might be some positive financial impact, it will be at least partially offset by the higher cost of reuse (retribution for author+publisher), which will decrease the appeal of licensing this kind of content

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

In order to keep the final prices down, the publishers will make pressures on the authors to accept lower remuneration. This will be especially problematic for researchers, where the publishers already have significant power over the authors, as only a limited number of journals count for promotion in the academic world.

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

Limiting the right to press publishers will not have the same impact as on the previous questions, as journalists can use 3rd party tools to reach their public. However, this will create a discrimination between journalists and other authors.

7. Would the creation of a new neighbouring right covering publishers in all sectors have an impact on rightholders 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

For the same reasons as for authors: the publisher will pressure the rightholders to give up part of their remuneration.

8. Would the creation of a neighbouring right limited to the press publishers have an impact on rightholders 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

For the same reasons as for authors: the publisher will pressure the rightholders to give up part of their remuneration and will create a discrimination between the press and other publishers

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

As explained in question 5, researchers are doubly bound to a few ISI-ranked journals on one hand they need to publish in those magazines in order to progress in their career and on the other hand, they need to subscribe to the same magazines in order to have access to cutting-edge research in their respective field. Educational institutions, especially in humanistic studies, will be hard hit by yet another right they have to assess before using certain materials in their syllabus.

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

While the impact on the researchers themselves is hard to gauge, educational institutions, especially in humanistic studies but not only, will be hard hit by yet another right they have to assess before using certain materials in their syllabus. If this right is adopted, it is imperative for the Commission to ensure exemptions for educational and research institutions.

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

While established online service providers have the financial capability to pay the new fees and/or become publishers themselves in order to compete with the publishers, new, innovative services will take longer to arrive on the market (if they arrive at all), as the providers will need to first identify the financial resources needed to pay the publishers.

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

While established online service providers have the financial capability to pay the new fees and/or become publishers themselves in order to compete with the publishers, new, innovative services will take longer to arrive on the market (if they arrive at all), as the providers will need to first identify the financial resources needed to pay the publishers.

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

The citizens will be the worse-off if such a right is adopted:

- directly, because not all the information that is currently reaching them will be available (due to financial constraints); for example, they will be forced to follow several websites instead of an aggregator to find the articles they are interested in; if they currently pay for access to a news website, in the future they will have to pay more and/or pay several subscriptions to access the same quantity of information.
- directly (for the citizens working in the publishing/online services domain), as lower innovation will mean fewer jobs in the area (by lower competition and/or automation of tasks) and higher costs for online service provider could mean lower wages for their employees
- indirectly, because innovation will slow down in this field (see answer to question 11 for the reasoning)
- indirectly, on the long term, because research and education will be affected as describe in the answers to questions 9 and 10)

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

The same answer as for question 13, with the observation that limiting the right to press publisher will have more direct impact and less indirect impact.

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.

As a Wikipedian, I found the sources for some of my articles where moved behind paywalls due to the additional payments the online publishers had to make.

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.

There is no specific need for a new, ancillary right to be adopted, as copyright itself has been used in the past to remunerate publishers (for example, the journals employed journalists, thus having the right to take advantage of the financial rights related to copyright for a certain span of time). If the Commission finds the role of publishers in the value chain is under-represented, it can act on the interaction between employer's and employees' rights over content produced without adding new limitations for reusers.

No matter what the decision is, the rules need to establish a clear and simple procedure for reusers to obtain rights to the content, as well as establishing exceptions for education and research, as the pillars of the future development of Europe.

The Commission should also take into account the realities of how content is distributed between private persons, by sending a link and a short excerpt, and should ensure these actions are still legal.

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](#).

Category of respondents

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

- Member State
- Public authority
- Owner or manager of works made to be located permanently in public places (or representative thereof)
- Library or Cultural heritage institution (or representative thereof)
- Educational or research institution (or representative thereof)
- End user/consumer/citizen (or representative thereof)
- Visual artist (e.g. painter, sculptor or representative thereof)
- Architect (or representative thereof)
- Professional photographer (or representative thereof)
- Other authors (or representative thereof)
- Collective management organisation (or representative thereof)
- 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

Questions

1. When uploading your images of works, such as works of architecture or sculpture, made to be located permanently in public places on the internet, have you faced problems related to the fact that such works were protected by copyright?

- 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 and the type of work concerned.

Member state: Romania

Type of work: architectural works (buildings, bridges etc.) as well as paintings (graffiti, murals etc.) and sculptures

Images of protected works are not accepted in some photography competitions due to concerns over what qualifies as "commercial use" (non-commercial uses are allowed in Romania). An example of such a competition is Wiki Loves Monuments, the largest photo competition in the world.

Also, Wikimedia Commons does not accept such images, making it very difficult to illustrate Wikipedia articles about such works of art.

Some of the images I upload on Flickr, a large image repository, cannot be licensed for use by Getty images due to copyright concerns.

2. When providing online access to images of works, such as works of architecture or sculpture, made to be located permanently in public places, have you faced problems related to the fact that such works were protected by copyright?

- 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 and the type of work concerned

Member state: Romania

Type of work: architectural works (buildings, bridges etc.) as well as paintings (graffiti, murals etc.) and sculptures

As a Wikipedian, I face two categories of problems:

- on one hand, the rules of the online Encyclopedia do not allow me to publish such images unless I follow very strict rules (one image per work, low-resolution, a lengthy "fair use" justification for each image etc.), which sometimes prevent proper illustration of all the relevant information about that work
- on the other hand, 3rd party authors are reluctant to license their images under a license that allows commercial reuse due to potential legal issues with the authors of the work.

3. Have you been using images of works, such as works of architecture or sculpture, made to be located permanently in public places, in the context of your business/activity, such as publications, audiovisual works or advertising?

- Yes, on the basis of a licence
- Yes, on the basis of an exception
- Never
- Not relevant

If so, please explain, indicating in particular the Member State and what business/activity, and provide examples.

Member state: Romania

Type of work: architectural works (buildings, bridges etc.) as well as paintings (graffiti, murals etc.) and sculptures

Activity: Publishing information about the works in Wikipedia articles

I use images based on "fair use" exceptions in the Romanian that allow non-commercial use of such work.

4. Do you license/offer licences for the use of works, such as works of architecture or sculpture, made to be located permanently in public places?

- Yes
- No
- Not relevant

If so, please provide information about your licensing agreements (Member State, licensees, type of uses covered, revenues generated, etc.).

5. What would be the impact on you/your activity of introducing an exception at the EU level covering non-commercial uses of works, such as works of architecture or sculpture, made to be located permanently in public places?

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

Please explain

The Romanian law already has a non-commercial exception

6. What would be the impact on you/your activity introducing an exception at the EU level covering both commercial and non-commercial uses of works, such as works of architecture or sculpture, made to be located permanently in public places?

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

Please explain

As described in previous questions, such an exception would allow:
- better coverage of the respective works in articles written about them
- licensing of more photographs using specialized websites.

7. Is there any other issue that should be considered as regards the 'panorama exception' and the copyright framework applicable to the use of works, such as works of architecture or sculpture, made to be permanently located in public places?

- Yes
- No

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

In Romanian there is no public data available regarding the income made by authors by licensing they publicly-displayed works nor of any court decisions on such subjects, so the impact of any decision is hard to calculate.

Also, due to the (excessive) current length of the copyright in the EU (author's death+70 years) and the lack of information on old buildings

(sometimes not even the City Hall archives have information about the architect of some buildings and in other cases the buildings were simply build illegally) it becomes very difficult for reusers to track the right holders. Since theoretically copyrightable works placed in public places needed approval from the local authorities, if an exception on the mater of the freedom of panorama is not enforced, the local authorities should be tasked with helping reusers identify the right holders.

Submission of questionnaire

End of survey. Please submit your contribution below.

Useful links

Webtext EN (<https://ec.europa.eu/digital-agenda/news-redirect/29674>)

Background Documents

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

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

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

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

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

Contact

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