

ROADMAP			
TITLE OF THE INITIATIVE	Review of the EU copyright framework		
LEAD DG – RESPONSIBLE UNIT	MARKT D.1	DATE OF ROADMAP	10/2013
<p><b>This indicative roadmap is provided for information purposes only and is subject to change. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content and structure.</b></p>			

### A. Context and problem definition

- (1) What is the political context of the initiative?
- (2) How does it relate to past and possible future initiatives, and to other EU policies?
- (3) What ex-post analysis of existing policy has been carried out? What results are relevant for this initiative?

(1) This initiative follows from the Intellectual Property Strategy "A Single Market for Intellectual Property Rights"<sup>1</sup>, published on 24 May 2011, in which the Commission set out a range of possible elements for the creation of a comprehensive framework for copyright in the digital Single Market, as well as from actions foreseen in the Digital Agenda with a view to completing the digital Single Market.

Most recently the Commission published on 18/12/2012 a "Communication on Content in the Digital Single Market" (COM (2012)789 final), noting that the Commission will complete its on-going review of the EU copyright framework, based on market studies and impact assessment and legal drafting work, with a view to a decision in 2014 whether to table the resulting legislative reform proposals.

In the Compact for Growth and Jobs in June 2012 the Heads of State or Government underlined, among other measures needed to achieve a well-functioning Digital Single Market by 2015, the importance of modernising Europe's copyright regime and facilitating licensing, while ensuring a high level of protection of intellectual property rights and taking into account cultural diversity.

(2) Following from the Intellectual Property Strategy, two legislative proposals have been put forward to address specific identified problems. In relation to problems related to digitisation of cultural heritage and its access across borders, the already adopted Orphan Works Directive enables the making available online of works whose author cannot be identified, thus facilitating the work of libraries and archives in digitising and providing access to their collections, including across borders. In complement to the Directive, a Memorandum of Understanding was concluded between publishers, authors, and libraries to facilitate the making available online of out-of-commerce works in the print sector, including across borders. These relate to the current review in that they have provided an important part of the framework for the making available of works online, including across borders. The proposal for a Directive on Collective Rights Management will, once adopted, facilitate the granting of licences by collecting societies for online uses of all works and subject matter (film, music, print material) by improving rights management, and will, in particular, facilitate the delivery of multi-territorial licences for musical works. The proposal on collective rights management is a necessary precursor to any measures emerging from the review process that depend upon collecting societies for the smooth management of copyright in the online world.

(3) The Commission has undertaken a number of consultations to assess the current EU copyright acquis. These include: the Green Paper on "Copyright in the Knowledge Economy" (2008), "Content Online" (2009) and the Green Paper on Audiovisual Works (2011). Pending the completion of the necessary detailed impact assessment, the current assessment is that while the copyright framework has served to enable an explosion in digital services over recent years, some adjustments may be envisaged in order to facilitate the availability of online services, both within and across borders.

The current review will analyse the extent to which the EU copyright acquis remains fit for the digital age and whether there is a need to update or clarify certain of its elements. It will focus on issues relating to: territoriality in the Internal Market; harmonisation, limitations and exceptions to copyright in the digital age; fragmentation of the EU copyright market; and how to improve the effectiveness and efficiency of enforcement while underpinning its legitimacy in the wider context of copyright reform.

<sup>1</sup> COM(2011) 287 final

What are the main problems which this initiative will address?
Online there are new ways of providing, creating and distributing content, and new ways to generate value. The emergence of new ways of delivering content represents a challenge and an opportunity for the creative industries, authors and artists as well as for the other actors in the digital economy. For example, the emergence of new business models which provide consumers with access to music libraries stored on remote servers, rather than selling files for download to local devices, has implications for the notion of the “private copy” of files by consumers. For libraries and archives, the scope for the digitisation of collections provides opportunities to enable remote consultations, but also raises challenges in terms of the interface with normal business channels.
Who will be affected by it?
Holders of copyright and related rights; distributors of content protected by copyright (commercial users of protected content); public institutions which provide access to protected works in the interest of fulfilling their public interest mission; consumers and end-users of protected content.
Is EU action justified on grounds of subsidiarity? Why can Member States not achieve the objectives of the proposed action sufficiently by themselves? Can the EU achieve the objectives better?
The EU copyright acquis has largely harmonised the protection of copyright and related rights, such that member States’ scope to act outside of this framework is limited. Some provisions may require updating to reflect the evolving potential of digital technologies.

<b>B. Objectives of the initiative</b>
What are the main policy objectives?
The objective is to ensure that copyright and copyright-related practices stay fit for purpose in the digital context. The Commission aims to consolidate a modern copyright framework that fosters innovative market practices, guarantees effective recognition and remuneration of rights holders; to provide sustainable incentives for creativity, cultural diversity and innovation; to increase the choice of and open up access to legal offers by end users; to allow new business models to emerge; and to more effectively contribute to combating illegal offers and piracy.
Do the objectives imply developing EU policy in new areas?
No. Copyright and related rights have already been largely harmonised in the EU through a series of nine directives.

<b>C. Options</b>
(1) What are the policy options (including exemptions/adapted regimes e.g. for SMEs) being considered? (2) What legislative or 'soft law' instruments could be considered? (3) How do the options respect the proportionality principle?
As indicated in the Commission communication of 18 December 2012 the Commission will take a decision in 2014 whether to table legislative proposals. Therefore, policy options that are being considered at the moment range from variations of a legislative instrument to update the copyright acquis, including amendments to existing Directives or the introduction of a new Directive to possible soft law instruments such as a white paper.

<b>D. Initial assessment of impacts</b>
What are the benefits and costs of each of the policy options?
The benefit of introducing legislation (either a self-standing Directive or amendments to existing Directives) would be to assure a high degree of harmonisation, thus providing certainty for market players and enhancing the functioning of the internal market. Soft law instruments could be a first step towards legislation to be proposed at a later stage.
Could any or all of the options have significant impacts on (i) simplification, (ii) administrative burden and (iii) on relations with other countries, (iv) implementation arrangements? And (v) could any be difficult to transpose for certain Member States?
Not expected.
(1) Will an IA be carried out for this initiative and/or possible follow-up initiatives? (2) When will the IA work start?

(3) When will you set up the IA Steering Group and how often will it meet? (4) What DGs will be invited?
Work on an IA started. A Steering Group will be set up and will meet regularly in Q3 and Q4 2013. DGs CNECT, COMM, COMP, EAC, ENTR, RTD, SANCO, SG, LS and TRADE will be invited.
(1) Is any option likely to have impacts on the EU budget above € 5m? (2) If so, will this IA serve also as an ex-ante evaluation, as required by the Financial Regulation? If not, provide information about the timing of the ex-ante evaluation.
No.

### E. Evidence base, planning of further work and consultation

- (1) What information and data are already available? Will existing IA and evaluation work be used?
- (2) What further information needs to be gathered, how will this be done (e.g. internally or by an external contractor), and by when?
- (3) What is the timing for the procurement process & the contract for any external contracts that you are planning (e.g. for analytical studies, information gathering, etc.)?
- (4) Is any particular communication or information activity foreseen? If so, what, and by when?

Responses to former Commission consultations in this area will be used. These include responses to:

Green Paper on copyright in the knowledge economy ([http://ec.europa.eu/internal\\_market/copyright/docs/copyright-infso/greenpaper\\_en.pdf](http://ec.europa.eu/internal_market/copyright/docs/copyright-infso/greenpaper_en.pdf)) (16/07/08) This included detailed questions on the relationship between exceptions to copyright and contractual licensing arrangements for the digitisation and making available of works in the EU by libraries and research institutions. These are the same issues that we will tackle in the current review process. The consultation yielded 372 responses. The Commission received replies from: (i) publishers (56); (ii) collecting societies and licensing agencies (47); (iii) universities (47); (iv) libraries, archives and museums (114); (v) industry and commercial federations (30); (vi) organisations representing persons with disabilities (4); (vii) Member States (11); and (viii) others (63).

Consultation on "Creative Content Online" (22/10/09 - This again raised the question as to whether there was a need to harmonise at EU level the "public interest" exceptions. 200 replies were received. The current review process will tackle this same set of questions.

Green Paper on the online distribution of audiovisual works (13/07/11) - This consultation asked specific questions about the territoriality of copyright, and options for mitigating its effects, and about the relationship between copyright exceptions and contractual licensing arrangements for the digitisation and making available of works in the EU by libraries and archives with respect to the audiovisual sector, and in particular Europe's film heritage. Over 220 replies were received. These are precisely the same questions that are being tackled in the current review. The issue set is also being tackled within the context of Licences for Europe, in which all relevant stakeholders are represented.

In addition, the Commission has commissioned a major study from an external contractor, tasked with assessing the current copyright framework with respect to the territoriality of copyright, existing exceptions to copyright, and the possibility of introducing new exceptions. This study is due to be finalised in September 2013. Further follow up studies on specific issues relating to the reproduction right in online transmissions, contractual practices/restrictions in the digital distribution value chain and text and data mining are currently being launched, with an expected completion date of November 2013. Studies on mechanisms to ensure fair copyright holders remuneration are also been launched and will be carried out in 2013-2014.

Which stakeholders & experts have been or will be consulted, how, and at what stage?
Stakeholders have been consulted on relevant topics, as outlined above. A further written public consultation will be carried out in Q3/Q4 2013.