

Press release

## Directive on Copyright: good elements and more to be done

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The European Commission proposal to modernise copyright in the Digital Single Market published on 14 September shows that the institution listened to authors and their representatives and has taken their concerns into account. It is an important step into the right direction for a more balanced situation allowing more access to works and ensuring that authors are sharing in profits made in the digital economy.

The 3 new exceptions on text and data mining, distance learning and preservation of cultural heritage have been drafted. Their effect in practice needs to be analysed; we will advise on how to ensure that authors' incomes are not prejudiced.

We noted with disappointment that the Commission did not address the negative consequences both for authors and cultural heritage institutions caused by the interpretation of the right of making available by recent judgements of the European Court of Justice. Cultural heritage institutions face difficulties in obtaining - and authors have problems with granting - licenses for internet uses as long as framing and/or similar acts of hyperlinking are not understood as independent copyright-relevant acts. References to previous acts of making available should always - and technology neutral - qualify as new acts of making available when they are appropriating the works and its inherent value.

EVA much welcomes that the Commission decided not to interfere with the optional panorama exception. We are pleased that the Commission withstands to legislate unnecessarily in an area where no problems require such action and would only lead to further weaken visual authors' competences to make a living out of their works.

We welcome that the Commission recognises that collective management is an efficient means to solve legal questions occurring for the use of works out of commerce by cultural heritage institutions. Cross-border uses and inclusion of non-members are matters to the collective managements best practise solutions, serving the needs of libraries and archives as well as the general public and the artists.

Collective management should also be applied for closing the value gap which is addressed by the Commission's draft but not yet in a way which would ensure that the urgently needed changes will follow. The French new law on collective management for the use of visual works in search engines is a best practise solution that does not hinder dissemination of works but ensures that authors are not circumvented and are paid for the highly profit gaining uses made by search engines.

We appreciate that the Commission has recognised the lack of contractual law as a threat for authors to ensure their incomes in the electronic commerce. Illustrators, photographers and designers need to be supported and their position strengthened. However, we fear that the elements of transparency, adaptation of contract conditions and dispute settlement are not enough to achieve the goal. Guaranteed remuneration rights, limits of contractual rights transfer in time and contents are some further elements needed. In an environment where authors are facing giant counterparts authors are unlikely to enforce rights ex post. Guaranteed remuneration managed by collective management are a useful and efficient means to ensure the authors rights.

EVA's members are prepared to provide information and discuss with legislators the proposed directive.

#### *ABOUT EVA*

European Visual Artists (EVA) represents the interests of authors' collective management societies for the visual arts. 23 European societies are gathered under this roof as members or observers. They manage collectively authors' rights of 100 000 creators of works of fine art, illustration, photography, design, architecture and other visual works.

EVA's members are non-profit organisations and are managing authors' rights as fiduciary or trustee of the artists. Individual artists and artists' professional associations have founded their collective management organisation themselves with the aim to set up a well-functioning rights management and efficient defence of their own artists' rights.

The mission of EVA's members is to facilitate access to works, create legal certainty and ensure that the artists receive an equitable share of any profit generated by others with the exploitation of the works. Authors' rights are the artists' income. EVA's task is also to improve the European visual authors' rights.

EVA is active since the beginning of the 90ties and was founded formally in 1997 by 9 European collective management societies for visual arts. EVA represents its members towards the institutions of the European Union and informs about their artists' situation, working conditions, rights, needs and interests. EVA also provides information about the work of the collective management societies in the field of visual authors and their activities to defend author's rights. Collective management societies play an important role to maintain the Cultural Diversity in Europe. Europe's artists deserve receiving appropriate moral and financial recognition of the added value they create for society. EVA is also formal observer of WIPO and cooperates with WIPO in its tasks to protect the authors' rights.

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