



Dear Commissioner [insert name],

The 'Copyright4Creativity' initiative represents libraries, scientific and research institutions, consumers, digital rights groups, technology businesses and educational institutions. The list of signatories and our joint declaration can be found on the coalition's website at <http://www.copyright4creativity.eu/>.

We are writing to you as we have read with great interest the speech of Commissioner Michel Barnier on copyright at the Centre for European Policy Studies (CEPS) on 7th November 2012 and we note that there will be a debate between Commissioners on this topic on 5th December. We welcome the European Commission's engagement with this important topic.

The position that Commissioner Barnier has set out, 'Licensing Europe', is one that we believe does not adequately reflect the complexity of this debate. We believe that to set a direction towards a 'Licensing Europe' before debating the alternatives is premature and that a deeper reflection and consultation is required. Licensing has an important role to play, but a fact based assessment of alternatives to licensing, particularly exceptions and limitations, is also required to establish appropriate balance. Exceptions and limitations serve the public policy purpose of securing access to digital content; an outcome that should not be left entirely to the market.

The signatories of the 'Copyright4Creativity' declaration believe copyright should be made more flexible to take into account changes to modes of accessing information, business practices, educational needs and of safeguarding cultural heritage that have occurred since the 2001 Information Society Directive. A review of this Directive is now essential to bring copyright into the 21st century.



Reasons for a more flexible copyright regime include:

**Access to information in the digital age** - Lending by libraries is a core activity that supports education, life-long learning, work and leisure. In the physical world, the principle of exhaustion, a longstanding and important part of copyright law, permits libraries to buy and lend printed works. In the digital environment, there are no safeguards to protect equivalent activities of acquiring and "lending" e-books. As a result, a number of the biggest trade publishers are refusing to sell e-books to public libraries in European and other countries. Publishers, not librarians, are deciding library e-book collection policies from a commercial standpoint rather than in the best interests of the community. As e-books become the norm, this is deeply worrying for the future of public library services and will diminish Europe's healthy reading culture fostered through libraries' work. To address this problem, libraries require an exception to the right of communication to the public to permit e-lending, and protection from licence terms that undermine statutory exceptions.

**Consumers in the Single Market** - Consumption of digital media may occur under an exception in one member state of the EU that does not exist in another. This presents problems for consumers exercising their freedom of movement. Careful consideration should be given to harmonisation of exceptions to avoid 'accidental' illegality and consumer rejection of copyright.

**Media pluralism** - an extension of copyright to 'snippets' as is currently proposed by the Leistungsschutzrecht being debated in Germany could result in thousands of smaller publications being removed from search engine and aggregation indexes thus damaging media pluralism.

**Growth and jobs** - The Internet and the ICT industries play a key role in job creation and growth. A flexible regime that applies consistently across the European Union is indispensable to the completion of the Digital Single Market.

**Visually impaired** - Even in the most developed markets, only about 5% of published books are available to persons who are print disabled. The resulting "book famine" is aggravated by a lack of harmonisation of copyright exceptions for print disabled people across Europe. Because the EU Copyright Directive does not mandate exceptions for print disabled people in national law, there is a



great deal of variation among Members States, which, among other things, makes it illegal to transfer material made accessible across borders.

**Research** - Text and data mining and data-driven innovation are drivers of growth and scientific advance. 'Licensing Europe' implies broadening copyright protection to cover these practices and is in conflict with initiatives around open data and open government. To protect facts and ideas, against a well-established public interest enshrined in international agreements to which the EU is a party, relegates the interests of citizens, consumers and users protected under existing exceptions to copyright. Such activities do not conflict with the way works are sold, rented or otherwise normally exploited by right holders.

**Cultural Heritage** - Long accepted cataloguing and indexing activities by cultural institutions require that copyright is manageable. For example, archives are especially dependent upon exceptions and limitations because for most material in their collections, such as unpublished letters or family films, there are no representative bodies to provide licensing and there is little prospect of new licensing models. A 'Licensing Europe', could therefore develop into a serious drawback for free information exchange. Rather than simplifying the activities of cultural institutions new rights, such as those for press publishers being discussed in Germany, could obstruct.

We hope that the ideas contained in this letter will help to generate a broad debate on the direction of any reform to copyright. Our coalition would be pleased to provide more input on the specific areas of interest if it would be of assistance.

Yours Sincerely,

Nick Ashton-Hart

On behalf of the Copyright4Creativity Coalition