

TITLE I

GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Directive lays down rules which aim at further harmonising the Union law applicable to copyright and related rights in the framework of the internal market, taking into account in particular digital and cross-border uses of protected content. It also lays down rules on exceptions and limitations, on the facilitation of licences as well as rules aiming at ensuring a well-functioning marketplace for the exploitation of works and other subject-matter.
2. Except in the cases referred to in Article 17, this Directive shall leave intact and shall in no way affect existing rules laid down in the Directives currently in force in this area, in particular Directives 96/9/EC, 2000/31/EC, 2001/29/EC, 2006/115/EC, 2009/24/EC, 2012/28/EU and 2014/26/EU.

Article 2

Definitions

For the purposes of this Directive, the following definitions shall apply:

- (1) ‘research organisation’ means a university, including its libraries, a research institute or any other entity the primary goal of which is to conduct scientific research or to carry out educational activities involving also the conduct of scientific research:
 - (a) on a non-for-profit basis or by reinvesting all the profits in its scientific research; or

(b) pursuant to a public interest mission recognised by a Member State;

in such a way that the access to the results generated by the scientific research cannot be enjoyed on a preferential basis by an undertaking exercising a decisive influence upon such organisation;

- (2) ‘text and data mining’ means any automated analytical technique aiming to analyse text and data in digital form in order to generate information, including, but not limited to, patterns, trends and correlations;
- (3) ‘cultural heritage institution’ means a publicly accessible library or museum, an archive or a film or audio heritage institution;
- (4) ‘press publication’ means a collection composed mainly of literary works of a journalistic nature which:
- (a) may also include other works or subject matter;
 - (b) constitutes an individual item within a periodical or regularly updated publication under a single title, such as a newspaper or a general or special interest magazine;
 - (c) has the purpose of providing the general public with information related to news or other topics; and
 - (d) is published in any media under the initiative, editorial responsibility and control of a service provider.

Periodicals which are published for scientific or academic purposes, such as scientific journals, shall not be considered as press publications for the purposes of this Directive.

- (5) ‘online content sharing service provider’ means a provider of an information society service whose main or one of the main purposes is to store and give the public access to a large amount of copyright protected works or other protected subject-matter uploaded by its users which it organises and promotes for profit-making purposes.

Providers of services such as not-for profit online encyclopedias, not-for profit educational and scientific repositories, open source software developing and sharing platforms, electronic communication service providers as defined in Directive 2018/1972 establishing the European Electronic Communication Code, online marketplaces and business-to business cloud services and cloud services which allow users to upload content for their own use shall not be considered online content sharing service providers within the meaning of this Directive.

- (6) ‘information society service’ means a service within the meaning of Article 1(1)(b) of Directive (EU) 2015/1535¹⁸.

TITLE II

MEASURES TO ADAPT EXCEPTIONS AND LIMITATIONS TO THE DIGITAL AND CROSS-BORDER ENVIRONMENT

Article 3

Text and data mining for the purposes of scientific research

1. Member States shall provide for an exception to the rights provided for in Article 2 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC and Article 11(1) of this Directive for reproductions and extractions made by research organisations and cultural heritage institutions in order to carry out text and data mining of works or other subject-matter to which they have lawful access, for the purposes of scientific research.

¹⁸ Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

- 1a. Copies of works or other subject-matter made in compliance with paragraph 1 shall be stored with an appropriate level of security and may be retained for the purposes of scientific research, including for the verification of research results.
2. *[Paragraph 2 of the Commission proposal was moved to Article 6(1)]*
3. Rightholders shall be allowed to apply measures to ensure the security and integrity of the networks and databases where the works or other subject-matter are hosted. Such measures shall not go beyond what is necessary to achieve that objective.
4. Member States shall encourage rightholders and, research organisations and cultural heritage institutions to define commonly-agreed best practices concerning the application of the obligation and measures referred to respectively in paragraphs 1a and 3.

Article 3a

Exception or limitation for text and data mining

1. Member States shall provide for an exception or a limitation to the rights provided for in Article 2 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC, Article 4(1)(a) and (b) of Directive 2009/24/EC and Article 11(1) of this Directive for reproductions and extractions of lawfully accessible works and other subject-matter for the purposes of text and data mining.
2. Reproductions and extractions made pursuant to paragraph 1 may be retained as long as necessary for the purposes of text and data mining.
- 2.* The exception or limitation provided for in paragraph 1 shall apply provided that the use of works and other subject matter referred to therein has not been expressly reserved by their rightholders in an appropriate manner, such as machine readable means for the content made publicly available online.

3.* This Article shall not affect the application of Article 3 of this Directive.

**[to be renumbered]*

Article 4

Use of works and other subject-matter in digital and cross-border teaching activities

1. Member States shall provide for an exception or limitation to the rights provided for in Articles 2 and 3 of Directive 2001/29/EC, Articles 5(a), (b), (d) and (e) and 7(1) of Directive 96/9/EC, Article 4(1) of Directive 2009/24/EC and Article 11(1) of this Directive in order to allow the digital use of works and other subject-matter for the sole purpose of illustration for teaching, to the extent justified by the non-commercial purpose to be achieved, provided that such use:
 - (a) takes place under the responsibility of an educational establishment, on its premises or other venues, or through a secure electronic environment accessible only by the educational establishment's pupils or students and teaching staff; and
 - (b) is accompanied by the indication of the source, including the author's name, unless this turns out to be impossible.
2. Notwithstanding Article 6(1), Member States may provide that the exception adopted pursuant to paragraph 1 does not apply generally or as regards specific uses or types of works or other subject-matter, such as material which is primarily intended for the educational market or sheet music, to the extent that suitable licences authorising the acts described in paragraph 1 covering the needs and specificities of educational establishments are easily available in the market.

Member States availing themselves of the provision of the first subparagraph shall take the necessary measures to ensure appropriate availability and visibility of the licences authorising the acts described in paragraph 1 for educational establishments.

3. The use of works and other subject-matter for the sole purpose of illustration for teaching through secure electronic environments undertaken in compliance with the provisions of national law adopted pursuant to this Article shall be deemed to occur solely in the Member State where the educational establishment is established.
4. Member States may provide for fair compensation to rightholders due to the use of their works or other subject-matter pursuant to paragraph 1.

Article 5

Preservation of cultural heritage

Member States shall provide for an exception to the rights provided for in Article 2 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC, Article 4(1)(a) of Directive 2009/24/EC and Article 11(1) of this Directive, permitting cultural heritage institutions to make copies of any works or other subject-matter that are permanently in their collections, in any format or medium, for purposes of preservation of such works or other subject-matter and to the extent necessary for such preservation.

Article 6

Common provisions

1. Any contractual provision contrary to the exceptions provided for in Articles 3, 4 and 5 shall be unenforceable.

2. Article 5(5) of Directive 2001/29/EC shall apply to the exceptions and the limitation provided for under this Title. The first, third and fifth subparagraphs of Article 6(4) of Directive 2001/29/EC shall apply to Articles 3, 3a, 4 and 5 of this Directive.

TITLE III

MEASURES TO IMPROVE LICENSING PRACTICES AND ENSURE WIDER ACCESS TO CONTENT

CHAPTER 1

Out-of-commerce works

Article 7

Use of out-of-commerce works by cultural heritage institutions

1. Member States shall provide that a collective management organisation, in accordance with its mandates, may conclude a non-exclusive licence for non-commercial purposes with a cultural heritage institution for the reproduction, distribution, communication to the public or making available to the public of out-of-commerce works or other subject-matter permanently in the collection of the institution, irrespective of whether all rightholders covered by the licence have mandated the collective management organisation, provided that:
 - (a) the collective management organisation is, on the basis of mandates from rightholders, sufficiently representative of rightholders in the relevant type of works or other subject-matter and of the rights which are the subject of the licence;
 - (b) equal treatment is guaranteed to all rightholders in relation to the terms of the licence.
 - (c) *[Point (c) of the Commission proposal was moved to new paragraph 1b below]*

- 1a. Member States shall provide for an exception or limitation to the rights provided for in Articles 2 and 3 of Directive 2001/29/EC, Articles 5(a), (b), (d) and (e) and 7(1) of Directive 96/9/EC, Article 4(1) of Directive 2009/24/EC, and Article 11(1) of this Directive, in order to allow cultural heritage institutions to make available out-of-commerce works or other subject-matter that are permanently in their collections for non-commercial purposes, provided that:
 - (a) the name of the author or any other identifiable rightholder is indicated, unless this turns out to be impossible;
 - (b) such works or other subject-matter are made available on non-commercial websites.
 - 1b. Member States shall provide that the exception or limitation referred to in the previous paragraph only applies to types of works or other subject-matter for which no collective management organisation exists that fulfils the conditions referred to in point (a) of paragraph 1.
 - 1c. Member States shall provide that all rightholders may at any time, easily and effectively, exclude their works or other subject-matter from the licensing mechanism referred to in paragraph 1 or from uses under the exception or limitation referred to in paragraph 1a, either in general or in specific cases, including after the conclusion of a licence or the beginning of the use concerned.
2. A work or other subject-matter shall be deemed to be out-of-commerce when it can be presumed in good faith that the whole work or other subject-matter is not available to the public through customary channels of commerce after a reasonable effort is made to determine such availability.

Member States may provide for specific requirements, such as a cut-off date, to determine whether works and other subject-matter can be licensed in accordance with paragraph 1 or used under the exception or limitation referred to in paragraph 1a. Such requirements shall not extend beyond what is necessary and reasonable, and shall not preclude the possibility to determine the out-of-commerce status of a set of works or other subject-matter as a whole, when it is reasonable to presume that all works or other subject-matter are out of commerce.

3. *[Paragraph 3 of the Commission proposal was moved to new Article 8a(2)]*
4. Member States shall ensure that the licences referred to in paragraph 1 are sought from a collective management organisation that is representative for the Member State where the cultural heritage institution is established.

[Points (a), (b) and (c) of paragraph 4 of the Commission proposal were integrated into paragraph 5]

5. This Article shall not apply to sets of out-of-commerce works if, on the basis of the reasonable effort referred to in paragraph 2, there is evidence that such sets predominantly consist of:
 - (a) works or other subject-matter first published or, in the absence of publication, first broadcast in a third country, except for cinematographic or audiovisual works;
 - (b) cinematographic or audiovisual works, the producers of which have their headquarters or habitual residence in a third country; or
 - (c) works or other subject-matter of third country nationals when a Member State or a third country could not be determined, after a reasonable effort, according to points (a) and (b);

unless the collective management organisation is sufficiently representative of rightholders of that third country in the meaning of point (a) of paragraph 1.

Article 8

Cross-border uses

1. A licence granted in accordance with Article 7 may allow the use of out-of-commerce works or other subject-matter by the cultural heritage institution in any Member State.
2. The uses of works and other subject-matter under the exception or limitation referred to in Article 7(1a) shall be deemed to occur solely in the Member State where the cultural heritage institution undertaking that use is established.

[Note: paragraph 2 of the Commission proposal was moved to new Article 8a(1)]

3. *[Paragraph 3 of the Commission proposal was moved new Article 8a(1) second subparagraph]*

Article 8a

Publicity measures

1. Member States shall ensure that information from cultural heritage institutions, collective management organisations or relevant public authorities for the purposes of the identification of the out-of-commerce works or other subject-matter covered by a licence granted in accordance with Article 7(1) or used under the exception or limitation referred to in Article 7(1a) as well as information about the possibilities of rightholders referred to in Article 7(1c), and, as soon as it is available and where relevant, information on the parties to the licence, the covered territories and the uses is made permanently, easily and effectively accessible in a public single online portal from at least six months before the works or other subject-matter are distributed, communicated to the public or made available to the public in accordance with the licence or under the exception or limitation.

The portal shall be established and managed by the European Union Intellectual Property Office in accordance with Regulation (EU) No 386/2012.

2. Member States shall provide that, if necessary for the general awareness of rightholders, further appropriate publicity measures are taken regarding the possibility for collective management organisations to license works or other subject-matter in accordance with Article 7, the licences granted, the uses under the exception or limitation referred to in Article 7(1a) and the possibilities of rightholders referred to in Article 7(1c).

The additional appropriate publicity measures shall be taken in the Member State where the licence is sought in accordance to Article 7(1) or, for uses under the exception or limitation referred to in Article 7(1a), where the cultural heritage institution is established. If there is evidence, such as the origin of the works or other subject-matter, to suggest that the awareness of rightholders could be more efficiently raised in other Member States or third countries, such publicity measures shall also cover those Member States and third countries.

Article 9

Stakeholder dialogue

Member States shall consult rightholders, collective management organisations and cultural heritage institutions in each sector before establishing specific requirements pursuant to Article 7(2), and encourage a regular dialogue between representative users' and rightholders' organisations, including collective management organisations, and any other relevant stakeholder organisations, on a sector-specific basis, to foster the relevance and usability of the licensing mechanisms referred to in Article 7(1) and to ensure the effectiveness of the safeguards for rightholders referred to in this Chapter.

CHAPTER 1a

Measures to facilitate collective licensing

Article 9a

Collective licensing with an extended effect

1. Member States may provide, as far as the use within their national territory is concerned and subject to safeguards provided for in this Article, that when a collective management organisation, which is subject to the national rules implementing Directive 2014/26/EU, in accordance with its mandates from rightholders, enters into a licensing agreement for the exploitation of works or other subject-matter such an agreement may be extended to apply to the rights of rightholders who have not authorised that collective management organisation to represent them by way of assignment, licence or any other contractual arrangement; or, with respect to such an agreement, the organisation has a legal mandate or is presumed to represent rightholders who have not authorised the organisation accordingly.
2. Member States shall ensure that the licensing mechanism referred to in paragraph 1 is only applied within well-defined areas of use where obtaining authorisations from rightholders on an individual basis is typically onerous and impractical to a degree that makes the required licensing transaction unlikely due to the nature of the use or of the types of works or other subject-matter concerned and that such licensing mechanism safeguards the legitimate interests of rightholders .
3. The safeguards referred to in paragraph 1 shall provide that:
 - (a) the collective right management organisation is, on the basis of mandates from rightholders, sufficiently representative of rightholders in the relevant type of works or other subject-matter and of the rights which are the subject of the licence for the relevant Member State;
 - (b) equal treatment is guaranteed to all rightholders, including in relation to the terms of the licence;

- (c) rightholders who have not authorised the organisation operating the licence may at any time easily and effectively exclude their works or other subject-matter from the licensing mechanism established in accordance with this Article;
 - (d) appropriate publicity measures are taken to inform rightholders regarding the possibility for the collective management organisation to license works or other subject-matter and the licensing taking place in accordance with this Article, and the possibilities of rightholders referred to in point (c) starting from a reasonable period before the works or other subject-matter are used under the licence. Publicity measures should be effective without the need to inform each rightholder individually.
4. This Article does not affect the application of collective licensing mechanisms with an extended effect in conformity with other provisions of Union law, including provisions which allow exceptions or limitations.

This article shall not apply to mandatory collective management of rights.

Article 7 of Directive 2014/26/EU shall apply to the licensing mechanism provided for in this Article.

5. Where a Member State provides for a licensing mechanism in accordance with this Article, the Member State concerned shall inform the Commission about the scope of that law, purposes and types of licences that may be introduced under that law as well as contact details for organisations issuing licences in accordance with the mechanism in paragraph 1, and the way in which information on the licensing and the possibilities of rightholders referred to in point (c) of paragraph 3 can be obtained. The Commission shall publish this information.

6. Based on the information received pursuant to paragraph 5 and on the discussions in the contact committee referred to in Article 12(3) of Directive 2001/29/EC, the Commission shall, by 10 April 2021, submit to the European Parliament and to the Council a report on the use of such mechanisms referred to in paragraph 1 in the EU, their impact on licensing and rightholders, including rightholders who are not members and/or who are nationals of, or resident in, another Member State, their effectiveness to facilitate the dissemination of cultural content, and the impact on the internal market, including the cross-border provision of services and competition. The Commission's report shall be accompanied, if appropriate, by a legislative proposal, including as regards the cross-border effect of such national schemes.

CHAPTER 2

Access to and availability of audiovisual works on video-on-demand platforms

Article 10

Negotiation mechanism

Member States shall ensure that parties facing difficulties related to the licensing of rights when seeking to conclude an agreement for the purpose of making available audiovisual works on video-on-demand services, may rely on the assistance of an impartial body or of mediators. The impartial body created or designated by the Member State for the purpose of this Article or mediators shall provide assistance to the parties with their negotiation and help them reach agreements, including, where appropriate, by submitting proposals to the parties.

Member States shall notify to the Commission the body or mediators referred to in paragraph 1 no later than *[date mentioned in Article 21(1)]*. In cases where Member States have chosen to rely on mediation, the notification to the Commission shall at least include, when available, the source where relevant information on the entrusted mediators can be found.

CHAPTER 3

WORKS OF VISUAL ART IN THE PUBLIC DOMAIN

Article 10b

Works of visual art in the public domain

Member States shall provide that, when the term of protection of a work of visual art has expired, any material resulting from an act of reproduction of that work shall not be subject to copyright or related rights, unless the material resulting from that act of reproduction is original in the sense that it is the author's own intellectual creation.

TITLE IV

MEASURES TO ACHIEVE A WELL-FUNCTIONING MARKETPLACE FOR COPYRIGHT

CHAPTER 1

Rights in publications

Article 11

Protection of press publications concerning online uses

1. Member States shall provide publishers of press publications established in a Member State with the rights provided for in Article 2 and Article 3(2) of Directive 2001/29/EC for the online use of their press publications by information society service providers. These rights shall not apply to private or non-commercial uses of press publications carried out by individual users.

The protection granted under the first subparagraph shall not apply to acts of hyperlinking.

The rights referred to in the first subparagraph shall not apply in respect of uses of individual words or very short extracts of a press publication.

2. The rights referred to in paragraph 1 shall leave intact and shall in no way affect any rights provided for in Union law to authors and other rightholders, in respect of the works and other subject-matter incorporated in a press publication. The rights referred to in paragraph 1 may not be invoked against those authors and other rightholders and, in particular, may not deprive them of their right to exploit their works and other subject-matter independently from the press publication in which they are incorporated.

When a work or other subject-matter is incorporated in a press publication on the basis of a non-exclusive licence, the rights referred to in paragraph 1 may not be invoked to prohibit the use by other authorised users. The rights referred to in paragraph 1 may not be invoked to prohibit the use of works or other subject matter whose protection has expired.

3. Articles 5 to 8 of Directive 2001/29/EC and Directives 2012/28/EU and (EU) 2017/1564 shall apply *mutatis mutandis* in respect of the rights referred to in paragraph 1.
4. The rights referred to in paragraph 1 shall expire 2 years after the publication of the press publication. This term shall be calculated from the first day of January of the year following the date of publication.

Paragraph 1 shall not apply to press publications first published before *[entry into force of the Directive]*.

- 4a. Member States shall provide that the authors of the works incorporated in a press publication receive an appropriate share of the revenues that press publishers receive for the use of their press publications by information society service providers.

Article 12

Claims to fair compensation

Member States may provide that where an author has transferred or licensed a right to a publisher, such a transfer or a licence constitutes a sufficient legal basis for the publisher to be entitled to a share of the compensation for the uses of the work made under an exception or limitation to the transferred or licensed right.

The first paragraph shall be without prejudice to existing and future arrangements in Member States concerning public lending rights.

CHAPTER 2

Certain uses of protected content by online services

Article 13

Use of protected content by online content sharing service providers

1. Member States shall provide that an online content sharing service provider performs an act of communication to the public or an act of making available to the public for the purposes of this Directive when it gives the public access to copyright protected works or other protected subject matter uploaded by its users.

An online content sharing service provider shall therefore obtain an authorisation from the rightholders referred to in Article 3(1) and (2) of Directive 2001/29/EC, for instance by concluding a licencing agreement, in order to communicate or make available to the public works or other subject matter.

2. Member States shall provide that when an authorisation has been obtained, including via a licensing agreement, by an online content sharing service provider, this authorisation shall also cover acts carried out by users of the services falling within Article 3 of Directive 2001/29/EC when they are not acting on a commercial basis or their activity does not generate significant revenues.

3. When an online content sharing service provider performs an act of communication to the public or an act of making available to the public, under the conditions established under this Directive, the limitation of liability established in Article 14(1) of Directive 2000/31/EC shall not apply to the situations covered by this Article. This shall not affect the possible application of Article 14(1) of Directive 2000/31/EC to these service providers for purposes falling outside the scope of this Directive.
4. If no authorisation is granted, online content sharing service providers shall be liable for unauthorised acts of communication to the public of copyright protected works and other subject matter, unless the service providers demonstrate that they have:
 - (a) made best efforts to obtain an authorisation, and
 - (b) made, in accordance with high industry standards of professional diligence, best efforts to ensure the unavailability of specific works and other subject matter for which the rightholders have provided the service providers with the relevant and necessary information, and in any event
 - (c) acted expeditiously, upon receiving a sufficiently substantiated notice by the rightholders, to remove from their websites or to disable access to the notified works and subject matters, and made best efforts to prevent their future uploads in accordance with paragraph (b).
- 4a. In determining whether the service has complied with its obligations under paragraph 4 and in the light of the principle of proportionality the following should, among others be taken into account:
 - (a) the type, the audience and the size of services and the type of works or other subject matter uploaded by the users;
 - (b) the availability of suitable and effective means and their cost for service providers.

4aa. Member States shall provide that when new online content sharing service providers whose services have been available to the public in the Union for less than three years and which have an annual turnover below EUR 10 million within the meaning of the Commission Recommendation 2003/361/EC, the conditions applicable to them under the liability regime set out in paragraph 4 are limited to the compliance with the point (a) of paragraph 4 and to acting expeditiously, upon receiving a sufficiently substantiated notice, to remove the notified works and subject matters from its website or to disable access to them.

Where the average number of monthly unique visitors of these service providers exceeds 5 million, calculated on the basis of the last calendar year, they shall also demonstrate that they have made best efforts to prevent further uploads of the notified works and other subject matter for which the rightholders have provided relevant and necessary information.

5. The cooperation between online content service providers and rightholders shall not result in the prevention of the availability of works or other subject matter uploaded by users which do not infringe copyright and related rights, including where such works or subject matter are covered by an exception or limitation.

Member States shall ensure that users in all Member States(*) are able to rely on the following existing exceptions and limitations when uploading and making available content generated by users on online content sharing services:

- (a) quotation, criticism, review;
- (b) use for the purpose of caricature, parody or pastiche.

[() exact wording of "in all Member States" to be revised by lawyer-linguists]*

6. *[paragraph 6 as was contained in a previous text version was deleted/merged into paragraph 4; the numbering of paragraphs of Article 13 was kept for ease of reference]*

7. The application of the provisions in this article shall not lead to any general monitoring obligation.

Member States shall provide that online content sharing service providers shall provide rightholders, at their request, with adequate information on the functioning of their practices with regard to the cooperation referred to in paragraph 4 and, where licensing agreements are concluded between service providers and rightholders, information on the use of content covered by the agreements.

8. Member States shall provide that an online sharing service provider puts in place an effective and expeditious complaint and redress mechanism that is available to users of the service in case of disputes over the removal of or disabling access to works or other subject matter uploaded by them.

When rightholders request to remove or disable access to their specific works or other subject matter, they shall duly justify the reasons for their requests. Complaints submitted under this mechanism shall be processed without undue delay and decisions to remove or disable access to uploaded content shall be subject to human review.

Member States shall also ensure that out-of-court redress mechanisms are available for the settlement of disputes. Such mechanisms shall enable disputes to be settled impartially and shall not deprive the user of the legal protection afforded by national law, without prejudice to the rights of users to have recourse to efficient judicial remedies. In particular, Member States shall ensure that users have access to a court or another relevant judicial authority to assert the use of an exception or limitation to copyright rules.

This Directive shall in no way affect legitimate uses, such as uses under exceptions and limitations provided for in Union law, and shall not lead to any identification of individual users nor to the processing of their personal data, in accordance with Directive 95/46/EC, Directive 2002/58/EC and the General Data Protection Regulation.

Online content sharing service providers shall inform the users in their terms and conditions about the possibility for them to use works and other subject matter under exceptions or limitations to copyright and related rights provided for in Union law.

9. As of *[date of entry into force of this Directive]* the Commission in cooperation with the Member States shall organise stakeholder dialogues to discuss best practices for the cooperation between the online content sharing service providers and rightholders. The Commission shall, in consultation with online content sharing service providers, rightholders, users associations and other relevant stakeholders and taking into account the results of the stakeholder dialogues, issue guidance on the application of Article 13 in particular regarding cooperation referred to in paragraph 4. When discussing the best practices, special account shall be taken, among others, of the need to balance the fundamental rights and the use of exceptions and limitations. For the purpose of this stakeholders dialogue, users associations shall have access to adequate information from online content sharing service providers on the functioning of their practices with regard to paragraph 4.

CHAPTER 3

Fair remuneration in exploitation contracts of authors and performers

Article -14

Principle of appropriate and proportionate remuneration

1. Member States shall ensure that when authors and performers license or transfer their exclusive rights for the exploitation of their works or other subject matter they are entitled to receive appropriate and proportionate remuneration.
2. In the implementation of this principle into national law, Member States shall be free to use different mechanisms and take into account the principle of contractual freedom and a fair balance of rights and interests.

Article 14

Transparency obligation

1. Member States shall ensure that authors and performers receive on a regular basis, at least once a year, and taking into account the specificities of each sector up to date, relevant and comprehensive information on the exploitation of their works and performances from those to whom they have licensed or transferred their rights or their successors in title, notably as regards modes of exploitation, all revenues generated and remuneration due.
 - 1a. Member States shall ensure that where the rights referred to in paragraph 1 have subsequently been licensed, authors and performers or their representatives shall, at their request, receive from sub-licensees additional information if their first contractual counterpart does not hold all the information that would be necessary for the purposes of paragraph 1.

Where this information is requested, the first contractual counterpart of authors and performers shall provide information on the identity of those sub-licensees.

Member States may provide that any such request to those sub-licensees is made directly or indirectly through the contractual counterpart of the author or the performer.

2. The obligation in paragraph 1 shall be proportionate and effective to ensure a high level of transparency in every sector. Member States may provide that in duly justified cases where the administrative burden resulting from the obligation in paragraph 1 would become disproportionate in view of the revenues generated by the exploitation of the work or performance, the obligation is limited to the types and level of information that can reasonably be expected in such cases.
3. Member States may decide that the obligation in paragraph 1 does not apply when the contribution of the author or performer is not significant having regard to the overall work or performance, unless the author or performer demonstrates that he requires the information for exercising his rights under Article 15(1) and requests the information for that purpose.

- 3a. Members States may provide that for agreements subject to or based on collective bargaining agreements the transparency rules of the relevant collective bargaining agreement are applicable provided that they meet the criteria laid down in paragraphs 1 to 3.
4. When Article 18 of Directive 2014/26/EU is applicable, the obligation laid down in paragraph 1 shall not apply in respect of agreements concluded by entities defined in Article 3(a) and (b) of Directive 2014/26/EU or by other entities subject to the national rules implementing Directive 2014/26/EU.

Article 15

Contract adjustment mechanism

1. Member States shall ensure, in the absence of an applicable collective bargaining agreement providing for a comparable mechanism, that authors and performers or their representatives are entitled to claim additional, appropriate and fair remuneration from the party with whom they entered into a contract for the exploitation of the rights or their successors in title, when the remuneration originally agreed turns out to be disproportionately low compared to all the subsequent relevant revenues and derived from the exploitation of the works or performances.
2. Paragraph 1 shall not be applicable to agreements concluded by entities defined in Article 3(a) and (b) of Directive 2014/26/EU or by other entities which are already subject to the national rules implementing Directive 2014/26/EU.

Article 16

Dispute resolution procedure

Member States shall provide that disputes concerning the transparency obligation under Article 14 and the contract adjustment mechanism under Article 15 may be submitted to a voluntary, alternative dispute resolution procedure. Member States shall ensure that representative organisations of authors and performers may initiate such procedures at the specific request of one or more authors and performers.

Article 16a

Right of revocation

1. Member States shall ensure that where an author or a performer has licensed or transferred her or his rights concerning a work or other protected subject-matter on an exclusive basis, the author or performer may revoke in whole or in part the licence or the transfer of rights where there is a lack of exploitation of the work or other protected subject-matter .

2. Specific provisions for the mechanism for revocation may be provided for in national law taking into account
 - (a) the specificities of the different sectors and the different types of works and performances; and
 - (b) where a work or other subject-matter contains the contribution of more than one author or performer, the relative importance of the individual contributions and the legitimate interests of all authors and performers affected by the exercise of the revocation mechanism by an individual author or performer.

Member States may exclude works or other subject matter from the application of the mechanism if such works or subject matter usually contain contributions of a plurality of authors or performers.

Member States may provide that the revocation mechanism shall be exercised only within a specific time frame, where this is duly justified by the specificities of the sector, type of work or protected subject matter concerned.

Member States may provide that that authors or performers may choose to terminate the exclusivity of the contract instead of revoking the rights.

3. Member States shall provide that the revocation provided for in paragraph 1 may be exercised only after a reasonable time after the conclusion of the licence or transfer agreement. The author or performer shall notify the person to whom the rights have been licensed or transferred and set an appropriate deadline by which the exploitation of the licensed or transferred rights is to take place. After the expiration of that deadline, the author or performer may choose to terminate the exclusivity of the contract instead of revoking the license or the transfer.
4. Paragraph 1 shall not apply if the non-exercise of the rights is predominantly due to circumstances which the author or the performer can be reasonably expected to remedy.
5. Member States may provide that any contractual provision derogating from the revocation mechanism shall be enforceable only if it is based on a collective bargaining agreement.

Article 16a

Common provisions

1. Member States shall ensure that any contractual provision which prevents the compliance with the provisions in this Chapter(*) shall be unenforceable in relation to authors and performers.

[()Note to lawyer linguists: 'Chapter' refers to Articles 14, 15 and 16, ie the provisions of the initial Commission proposal]*

2. Member States shall provide that Articles -14 to 16a(**) of this Directive do not apply to authors of a computer program in the sense of Article 2 of Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs.¹⁹

*[(**) Note to lawyer linguists: The reference to Article 16a here should be understood as reference to Article 16a on revocation right]*

19 Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs (Codified version), OJ L 111, 5.5.2009, p. 16-22.

TITLE V
FINAL PROVISIONS

Article 17

Amendments to other directives

1. Directive 96/9/EC is amended as follows:

(a) In Article 6(2), point (b) is replaced by the following:

"(b) where there is use for the sole purpose of illustration for teaching or scientific research, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved, without prejudice to the exceptions and the limitation provided for in Directive [this Directive];"

(b) In Article 9, point (b) is replaced by the following:

"(b) in the case of extraction for the purposes of illustration for teaching or scientific research, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved, without prejudice to the exceptions and the limitation provided for in Directive [this Directive];"

2. Directive 2001/29/EC is amended as follows:

(a) In Article 5(2), point (c) is replaced by the following:

"(c) in respect of specific acts of reproduction made by publicly accessible libraries, educational establishments or museums, or by archives, which are not for direct or indirect economic or commercial advantage, without prejudice to the exception provided for in Directive [this Directive];"

(b) In Article 5(3), point (a) is replaced by the following:

"(a) use for the sole purpose of illustration for teaching or scientific research, as long as the source, including the author's name, is indicated, unless this turns out to be impossible and to the extent justified by the non-commercial purpose to be achieved, without prejudice to the exceptions and the limitation provided for in Directive [this Directive];"

(c) In Article 12(4), the following points are added:

"(e) to examine the impact of the transposition of Directive [*this Directive*] on the functioning of the internal market and to highlight any transposition difficulties;

(f) to facilitate the exchange of information on the relevant developments in legislation and case law as well as on the practical application of the measures taken by Member States to implement Directive [*this Directive*];

(g) to discuss any other questions arising from the application of Directive [*this Directive*]."

Article 17 a

Member States may adopt or maintain in force broader provisions, compatible with the exceptions and limitations set out in Directives 96/9/EC and 2001/29/EC, for uses or fields covered by the exceptions or limitations provided for in this Directive.

Article 18

Application in time

1. This Directive shall apply in respect of all works and other subject-matter which are protected by the Member States' legislation in the field of copyright on or after *[the date mentioned in Article 21(1)]*.
2. *[Deleted]*
3. This Directive shall apply without prejudice to any acts concluded and rights acquired before *[the date mentioned in Article 21(1)]*.

Article 19

Transitional provision

Agreements for the licence or transfer of rights of authors and performers shall be subject to the transparency obligation in Article 14 as from *[one year after the date mentioned in Article 21(1)]*.

Article 20

Protection of personal data

The processing of personal data carried out within the framework of this Directive shall be carried out in compliance with Directives 95/46/EC and 2002/58/EC.

Article 21

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 24 months after entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 22

Review

1. No sooner than *[five years after the date mentioned in Article 21(1)]*, the Commission shall carry out a review of this Directive and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee.

The Commission shall, by *[three years after the end of transposition deadline set out in Article 21(1)]*, assess the impact of the specific liability regime of Article 13 applicable to online content sharing service providers which have an annual turnover of less than EUR 10 million and whose services have been available to the public in the Union for less than three years under(4aa) and, if appropriate, take action in accordance with the conclusions of its assessment.

2. Member States shall provide the Commission with the necessary information for the preparation of the report referred to in paragraph 1.

Article 23

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 24

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament

The President

For the Council

The President