



Working Together for a Better Copyright Framework in Europe

CMBA Key Principles – May 2017

The CMBA is fully committed to strengthening Europe's competitiveness and stimulating investment for the purpose of job creation and economic growth - a priority goal identified by the European Commission in its Digital Single Market Strategy.

Creative and media industries are key contributors to our digital society and economies, which are to the benefit of all European citizens. Our sectors have fully embraced the digital transformation and are at the forefront of building Europe's Digital Single Market. Producers and publishers are essential in the creative chain – they raise the necessary capital to develop, produce and distribute creative and professional content to the wider public. They undertake the financial risk and bring the various elements of the creative process together.

Copyright is the foundation for the development and production of creative content such as music, books, film, newspapers, TV and magazines. It is the means with which to license content on various distribution platforms and business models. The European copyright framework must continue to promote innovation, creativity and investment, while safeguarding cultural and linguistic diversity to facilitate access and choice for consumers and professionals.

The European Commission has proposed legislation to modernise the EU copyright framework. **We call on the Parliament and Council to support the following goals.**

Preserve Freedom to Contract

Investment, innovation and creativity rely on the freedom to contract and to negotiate. Europe's creative and media industries deliver growth and jobs, while meeting consumer needs in a culturally and media diverse Europe. As such, we support primarily market-led solutions.

The copyright reform should preserve the principle of freedom to contract, thereby fostering creation, financing, production and distribution of creative content across Europe. Any appropriate intervention should be evidence-based, proportionate and reflect the specificities of each creative and media sector.

Recognise the Value of Publishing in Europe

Publishers have a vital role to play in our democratic society and the very nature of digital publishing requires different solutions depending on the particular publishing sector (e.g. books; press; magazines; scientific and technical journals). Solutions such as those put forward by the Commission will help bring clarity to the market.

Securing a press publishers' right, which provides appropriate protection covering all periodical publishers' content, both online and offline, would bring the necessary legal certainty to allow more flexibility in licensing and enforce rights in the digital world.

Similarly, it is important to recognise that publishers should be able to claim a share of the compensation for uses of the work made under an exception or limitation which foresees compensation. It is also important to recognise that publishers always suffer harm when their works are used illegally.

Encourage Licensing Solutions, Rather than Statutory Exceptions

Digital content is now disseminated rapidly across all platforms and devices. Consumers and businesses have access to content via flexible, tailor-made agreements, which enable systems such as e-lending schemes and access to scientific content throughout Europe.

Access to innovative educational materials and e-learning solutions are also available in Europe. Scientific, Technological and Medical (STM) publishers, among others, support Text and Data Mining, providing licences for both researchers (at no additional cost) and commercial users.

Provide a Level-playing Field for a Fair Marketplace

Europe's digital marketplace should be allowed to grow so that creative and media sectors are able to continue their heavy investment in creativity, production, marketing and distribution. Europe needs a fair and level playing field for all online platforms offering copyright protected content. In order to remedy the market's current distortions, it must be clarified that the current legal regime applies to all platforms actively involved in the distribution of copyrighted works.

Preserve Territorial Exclusivity, Cultural Diversity & Media Plurality

The freedom to choose from an array of local, national, multi-territorial or pan-European licences is crucial to ensure the best arrangement for the individual or corporate user concerned. It is also essential for raising the necessary financing to produce content and to ensure optimal marketing, distribution and access for consumers. Consumers benefit greatly from tailored-made creative content and audio-visual services.

For audio-visual content, weakening the ability to license by territorial exclusivity reduces production capital and commercial return for producers, publishers and distributors. It also marginalises smaller markets and less widely-spoken languages. This results in less choice for consumers and an impoverishment of national and regional online offerings. Eroding territoriality by extending the Country of Origin principle to certain online services erodes contractual freedom to the detriment of consumers in Europe.

Ensure Adequate Protection of Rights Across the EU

Despite the wide availability of offers of legal digital content, unauthorised distribution remains a significant obstacle to establishing a truly thriving European digital market. The protection of rights is key. Any review of copyright should facilitate enforcement across borders and ensure that online intermediaries take the appropriate steps to fight piracy.

The Creative & Media Business Alliance (CMBA) groups Europe's top media and creative businesses and industry associations. These sectors are more than mere drivers of technology or for adding value to the DSM - they are at the heart of Europe's digital society.

For more information see: www.cmba-alliance.eu

Some facts & figures from the EUIPO

- €5.7 trillion per year – what IPR intensive industries contribute EU GDP.
- €914.6 billion per year – what copyright based industries contribute to EU GDP.
- IPR intensive industries pay significantly better than other industries with a wage premium up to 46%.