



Brussels, 31 March 2015

**Minutes of the first meeting of the Copyright review Inter-Service Steering Group.
Brussels, 25 March 2015**

The Chair, [REDACTED] (SG.E2), highlighted that the copyright reform is one of the most important proposals of this Commission and forms part of the Digital Single Market Strategy in preparation. He called for further evidence to be provided by the DGs, on the problems and options put forward. In this complex area, decision-makers need to have a clear and comprehensive picture of the reality before taking political decisions.

[REDACTED] (DG CNECT) noted that this Impact Assessment (IA) is a complex exercise as there are many problems to be addressed and several options for addressing each problem. She mentioned that the assessment of the impacts of the different options has not been outlined yet and this will be done in the next version of the text to be circulated to the Group. She flagged that the IA is a confidential document and stressed the importance of sharing it strictly on a 'need to know' basis (SG reminded that SECEM has to be used for exchanges on this file). She also stressed the importance of, and difficulties in, reinforcing the evidence based of the assessment (support from other DGs as relevant will be useful).

The group reviewed the draft text section by section and made the following principal comments:

Background

DG TRADE supported by DG EAC suggested that the importance of copyright for the success of the creative industry in Europe should be brought up in this section.

Problem definition

SG, supported by GROW and EAC, suggested to better explain which elements are not to be addressed as part of this copyright reform (the public consultation covered a wide range of aspects, but only some of them will be dealt with at this stage). Part of the more detailed analysis discarding certain problems could be presented in the annex. The LS questioned the double legal basis. This will be resolved bilaterally between the LS and DG CNECT.

Problem 1 - Barriers to the portability of and the cross-border access to online content: DG COMP, supported by LS, noted that the focus should not be limited to portability and that the reform should also consider cross-border access content against other forms of remuneration than direct payment (notably advertisement). DG EAC called for giving solid consideration of territoriality issues for the different concerned sectors (notably audiovisual, sports, etc.). More figures are needed. A Eurobarometer survey is being finalised and will be published shortly. DG GROW noted that piracy should be included as a consequence of the current problems and suggested to add it to

the problem definition. DG CNECT explained the balanced required between free movement and the protection of copyright (parallelism to the Premiere League case test).

Problem 2 - Deficiencies in the functioning of the online market place: some DGs expressed interest in this chapter and asked when it would be available. DG CNECT explained that this part is being developed and will be available at a later stage.

Problem 3 - Teachers and students face legal uncertainty when using content in digitally-supported teaching practices (domestically and across borders): DG EAC noted the importance of reaching a balance between the remuneration of right-holders and public objectives (in this case education). In the case of commercial use of text-and-data mining, the remuneration of right-holders should be guaranteed. The LS wondered whether the cross-border dimension of the exceptions should not be treated as part of problem 1. The SG suggested addressing the cross-border dimension upfront.

Problem 7 - People with a disability have access only to a small fraction of books and AV content: LS does not consider it appropriate to cover the implementation of the Marrakesh Treaty in the IA. The College has not considered yet the timing and modalities of its implementation. According to the LS, the implementation of a Treaty does not require an IA. DG CNECT explained that the options under consideration go beyond the mere implementation of the Marrakesh Treaty.

Problem 8 - Lack of clear conditions for text and data-mining in the EU: DG RTD emphasised the importance of the issue for researchers and that cross-border problems are emerging as some Member States start regulating text-and-data mining (e.g. UK). Participants considered that the options were clear and supported the approach followed by DG CNECT.

Description of the policy options

Some of the comments made above in the "problem definition" discussion also concerned the description of the options. Additional comments on some specific options below:

Portability and cross-border access: DG GROW found Option 3 (portability and cross-border access) ambitious and to be supported, and is looking forward to receive more details about it. DG EAC also said that Option 3 is already ambitious and would like to know more about the safeguards foreseen by that option.

Teaching: the LS has concerns that Option 3 (mandatory exception covering certain uses) will narrow the scope of the current national exceptions. DG CNECT explained that this is not the intention (as the key concept in the current exception is "illustration"). DG CNECT and the LS are to clarify bilaterally and report to the Group.

Text and Data Mining: DG GROW asked whether Option 5, which would introduce an exception covering TDM carried out by anybody (including commercial companies) for any purpose (including not research-related), is a realistic option. The LS was generally supportive of an intervention in the area of TDM but noted that Option 5 is a very broad exception, as compared to the proposed Option 3 under the teaching exception (see above). DG CNECT explained that use under all TDM options is subject to lawful access to the material.

Other observations

DG JRC would like to publish four sensitive studies on copyright. The timing of their publication needs to be carefully considered in accordance with the copyright policy-making process.

DG COMP raised the issue of remuneration of news snippets (regulated in DE and ES). DG CNECT explained that the new laws so far have proven to have no effect to address a problem that may well be more directly linked to competition.

DG GROW mentioned that an evaluation or revision of the IPR Enforcement Directive could be announced at the time of the copyright proposals via a Communication. The Directive covers all rights, including copyright. A full review, let aside revision, is not possible within the same timing as the copyright review.

Next steps:

DGs are invited to send their comments or contributions to DG CNECT (M [REDACTED]), copy to SG ([REDACTED]) by **8 April**.

Contact: [REDACTED]

List of participants

