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# Public consultation on the role of publishers in the copyright value chain and on the 'panorama exception'

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## General information about you

**European Commission:** The views expressed in this public consultation document may not be interpreted as stating an official position of the European Commission. All definitions provided in this document are strictly for the purposes of this public consultation and are without prejudice to differing definitions the Commission may use under current or future EU law, including any revision of the definitions by the Commission concerning the same subject matters.

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Fields marked with \* are mandatory.

I'm responding as:

An individual in my personal capacity [v8565]

Please provide your first name:

Albert

Please provide your last name:

Ingo

Please indicate your preference for the publication of your response on the Commission's website:

Under the name given: I consent to publication of all information in my contribution and I declare that none of it is subject to copyright restrictions that prevent publication. [v8570]

(Please note that regardless the option chosen, your contribution may be subject to a request for access to documents under [Regulation 1049/2001 on public access to European Parliament, Council and Commission documents](#). In this case the request will be assessed against the conditions set out in the Regulation and in accordance with applicable [data protection rules](#).)

Please indicate your country of residence

Finland [v8583]

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## The role of publishers in the copyright value chain

**European Commission:** In its Communication Towards a modern, more European copyright framework of 9 December 2015, the Commission has set the objective of achieving a well-functioning market place for copyright, which implies, in particular, "the possibility for right holders to license and be paid for the use of their content, including content distributed online."<sup>[1]</sup>

Further to the Communication and the related stakeholders' reactions, the Commission wants to gather views as to whether publishers of newspapers, magazines, books and scientific journals are facing problems in the digital environment as a result of the current copyright legal framework with regard notably to their ability to licence and be paid for online uses of their content. This subject was not specifically covered by other public consultations on copyright issues the Commission has carried out over the last years. In particular the Commission wants to consult all stakeholders as regards the impact that a possible change in EU law to grant publishers a new neighbouring right would have on them, on the whole publishing value chain, on consumers/citizens and creative industries. The Commission invites all stakeholders to back up their replies, whenever possible, with market data and other economic evidence. It also wants to gather views as to whether the need (or not) for intervention is different in the press publishing sector as compared to the book/scientific publishing sectors. In doing so, the Commission will ensure the coherence of any possible intervention with other EU policies and in particular its policy on open access to scientific publications.<sup>[3]</sup>

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[1] [COM\(2015\)626 final](#).

[2] Neighbouring rights are rights similar to copyright but do not reward an authors' original creation (a work). They reward either the performance of a work (e.g. by a musician, a singer, an actor) or an organisational or financial effort (for example by a producer) which may also include a participation in the creative process. EU law only grants neighbouring rights to performers, film producers, record producers and broadcasting organisations. Rights enjoyed by neighbouring rightholders under EU law generally include (except in specific cases) the rights of reproduction, distribution, and communication to the public/making available.

[3] See Communication [COM\(2012\) 401](#), Towards better access to scientific information: Boosting the benefits of public investments in research, and Recommendation [C\(2012\) 4890](#) on access to and preservation of scientific information.

### Selection

Do you wish to respond to the questionnaire "The role of publishers in the copyright value chain"?

Yes (Please allow for a few moments while questions are loaded below) [v8677]

Please choose the category that applies to your organisation and sector.

Film/audiovisual producer (or representative thereof) [v8696]

1. On which grounds do you obtain rights for the purposes of publishing your press or other print content and licensing it? (*Multiple selections possible*) [transfer of rights from authors]

1. On which grounds do you obtain rights for the purposes of publishing your press or other print content and licensing it? (*Multiple selections possible*) [licensing of rights from authors (exclusive or non-exclusive)]

Yes [Y]

1. On which grounds do you obtain rights for the purposes of publishing your press or other print content and licensing it? (*Multiple selections possible*) [self-standing right under national law (e.g. author of a collective work)]

1. On which grounds do you obtain rights for the purposes of publishing your press or other print content and licensing it? (*Multiple selections possible*) [rights over works created by an employee in the course of employment]

1. On which grounds do you obtain rights for the purposes of publishing your press or other print content and licensing it? (*Multiple selections possible*) [not relevant]

1. On which grounds do you obtain rights for the purposes of publishing your press or other print content and licensing it? (*Multiple selections possible*) [other]

Yes [Y]

If other, please specify

Creative Commons license

Please explain

I use Creative Commons licensed music in my youtube videos.

2. Have you faced problems when licensing online uses of your press or other print content due to the fact that you were licensing or seeking to do so on the basis of rights transferred or licensed to you by authors?

not relevant [v8725]

If so, please explain what problems and provide examples indicating in particular the Member State, the uses you were licensing, the type of work and licensee.

3. Have you faced problems enforcing rights related to press or other print content online due to the fact that you were taking action or seeking to do so on the basis of rights transferred or licensed to you by authors?

not relevant [v8733]

If so, please explain what problems and provide examples indicating in particular the Member State, the type of use and the alleged infringement to your rights.

**Answering guide:** The general remarks below apply to questions 4 to 15.

- **We encourage you to be 'strong' and direct in your answers.** Subtlety rarely works when talking to policy makers, especially when having to choose between 'modest' or 'strong' impacts.
- **Anyone putting something online for the first time could be considered a 'publisher'.** Therefore anyone could hence claim the protection of this new right - and file take down requests or claim copyright infringement. It would be impossible for you to check if their request is legitimate or not!
- **The new right goes beyond anything seen so far in Germany and Spain.** Because it applies to all types of content, not just news articles (print, books, scientific publications, etc.) and to all forms of distribution (online like via Kindle, Facebook or Flipboard, but also in the physical world). Billions of webpages will be 'copyrighted' by this new right!
- **It's not possible to limit the right to news publishers only.** It has not worked in Spain or Germany: there, the so-called 'news publishers' right applies to content that has information and entertainment value. The problem is: which content does not have that value? It's subjective. You can't for example differentiate the rights in films according to whether they are news, documentaries, or fiction!
- **The new right is a threat to the public domain.** A text that normally would no longer be under copyright (for example a novel by Kafka) would suddenly fall under this new copyright when published again, and in case you refer to this newly published version. But how can anyone on the Internet know when referring to a text what the 'publisher's right' over this text could be?

4. What would be the impact on publishers of the creation of a new neighbouring right in EU law (in particular on their ability to license and protect their content from infringements and to receive compensation for uses made under an exception)?

strong negative impact [v8740]

Please explain

I want people to link to my videos because then I would get more viewers. Otherwise just people I personally know will be aware of my Youtube channel.

5. Would the creation of a new neighbouring right covering publishers in all sectors have an impact on authors in the publishing sector such as journalists, writers, photographers, researchers (in particular on authors' contractual relationship with publishers, remuneration and the compensation they may be receiving for uses made under an exception)?

strong negative impact [v8748]

Please explain

6. Would the creation of a neighbouring right limited to the press publishers have an impact on authors in the publishing sector (as above)?

no opinion [v8757]

Please explain

7. Would the creation of a new neighbouring right covering publishers in all sectors have an impact on rightholders other than authors in the publishing sector?

no opinion [v8765]

Please explain

8. Would the creation of a neighbouring right limited to the press publishers have an impact on rightholders other than authors in the publishing sector?

no opinion [v8773]

Please explain

9. Would the creation of a new neighbouring right covering publishers in all sectors have an impact on researchers and educational or research institutions?

no opinion [v8781]

Please explain

10. Would the creation of a neighbouring right limited to press publishers have an impact on researchers and educational or research institutions?

no opinion [v8789]

Please explain

11. Would the creation of new neighbouring right covering publishers in all sectors have an impact on online service providers (in particular on their ability to use or to obtain a licence to use press or other print content)?

strong negative impact [v8796]

Please explain

I want Google and social media and other online services to be able to freely link to my videos.

12. Would the creation of such a neighbouring right limited to press publishers have an impact on online service providers (in particular on their ability to use or to obtain a licence to use press content)?

strong negative impact [v8804]

Please explain

I want also press publishers to be able to freely link to my online videos. In addition, I'm concerned that it's impossible for a legislator to determine who is a press organization and who is not, for example wrt bloggers and video bloggers.

13. Would the creation of new neighbouring right covering publishers in all sectors have an impact on consumers/end-users/EU citizens?

strong negative impact [v8812]

Please explain

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14. Would the creation of new neighbouring right limited to <u>press publishers</u> have an impact on <u>consumers/end-users/EU citizens</u> ? strong negative impact [v8820]
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Please explain
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It is impossible for an individual citizen to determine the difference of a website that is "press content" vs not press content. Hence this question doesn't make sense.
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15. In those cases where publishers have been granted rights over or compensation for specific types of online uses of their content (often referred to as "ancillary rights") under Member States' law, has there been any impact on you/your activity, and if so, what?
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no opinion [v8829]
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Please explain, indicating in particular the Member State.
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16. Is there any other issue that should be considered as regards the role of publishers in the copyright value chain and the need for and/or the impact of the possible creation of a neighbouring right for publishers in EU copyright law?
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No [v8833]
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## The 'panorama exception'

### **European Commission: Use of works, such as works of architecture or sculpture, made to be located permanently in public places (the 'panorama exception')**

EU copyright law provides that Member States may lay down exceptions or limitations to copyright concerning the use of works, such as works of architecture or sculpture, made to be located permanently in public places (the 'panorama exception') [1]. This exception has been implemented in most Member States within the margin of manoeuvre left to them by EU law.

In its Communication Towards a modern, more European copyright framework, the Commission has indicated that it is assessing options and will consider legislative proposals on EU copyright exceptions, among others in order to "clarify the current EU exception permitting the use of works that were made to be permanently located in the public space (the 'panorama exception'), to take into account new dissemination channels." [2]

This subject was not specifically covered by other public consultations on copyright issues the Commission has carried out over the last years. Further to the Communication and the related stakeholder reactions, the Commission wants to seek views as to whether the current legislative framework on the "panorama" exception gives rise to specific problems in the context of the Digital Single Market. The Commission invites all stakeholders to back up their replies, whenever possible, with market data and other economic evidence.

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[1] Article 5(3)(h) of [Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society](#).

[2] [COM\(2015\) 626 final](#).

<b>Selection</b>
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Do you wish to respond to this questionnaire "Use of works, such as works of architecture or sculpture, made to be located permanently in public places (the 'panorama exception')?"
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Yes (Please allow for a few moments while questions are loaded below) [v8838]
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Please choose the category that applies to your organisation and sector.

Film/audiovisual producer (or representative thereof) [v8855]

1. When uploading your images of works, such as works of architecture or sculpture, made to be located permanently in public places on the internet, have you faced problems related to the fact that such works were protected by copyright?

Not relevant [v8875]

If so, please explain what problems and provide examples indicating in particular the Member State and the type of work concerned.

2. When providing online access to images of works, such as works of architecture or sculpture, made to be located permanently in public places, have you faced problems related to the fact that such works were protected by copyright?

Not relevant [v8883]

If so, please explain what problems and provide examples indicating in particular the Member State and the type of work concerned

3. Have you been using images of works, such as works of architecture or sculpture, made to be located permanently in public places, in the context of your business/activity, such as publications, audiovisual works or advertising?

Never [v8888]

If so, please explain, indicating in particular the Member State and what business/activity, and provide examples.

4. Do you license/offer licences for the use of works, such as works of architecture or sculpture, made to be located permanently in public places?

No [v8893]

If so, please provide information about your licensing agreements (Member State, licensees, type of uses covered, revenues generated, etc.).

5. What would be the impact on you/your activity of introducing an exception at the EU level covering non-commercial uses of works, such as works of architecture or sculpture, made to be located permanently in public places?

no impact [v8899]

Please explain

Such a legislation would not make any practical difference!

6. What would be the impact on you/your activity introducing an exception at the EU level covering both commercial and non-commercial uses of works, such as works of architecture or sculpture, made to be located permanently in public places?

strong positive impact [v8905]

Please explain

It must always be possible to take my own photos in public spaces without having to pay someone else. Any legislation restricting this right would be insane and a waste of money.

7. Is there any other issue that should be considered as regards the 'panorama exception' and the copyright framework applicable to the use of works, such as works of architecture or sculpture, made to be permanently located in public places?

No [v8914]

If so, please explain and whenever possible, please back up your replies with market data and other economic evidence.

## Submission of questionnaire

End of survey. Please submit your contribution below.