

Modernisation of EU copyright rules

Digital Single Market

(EC Communication to Parliament 6.5.2015,
A DSM strategy for Europe)

better online access
Cross-border e-commerce rules
Preventing unjustified geo-blocking

Better access to digital content

A modern, more European copyright framework

A media framework for the 21st century

**A fit for purpose regulatory environment
for platforms and intermediaries**

Building a data economy

Delivering the Digital Single Market

Etc (the 16 Initiatives to make it happen!)

Impact Assessment on the
Modernisation of EU copyright
Rules

EC Communication
Towards a modern, more EU
Copyright framework
(9.12.2015 COM(2015) 626 final)

Proposal for a revised
directive on AVMS

Proposal for a Regulation
on cross-border portability of online
content services

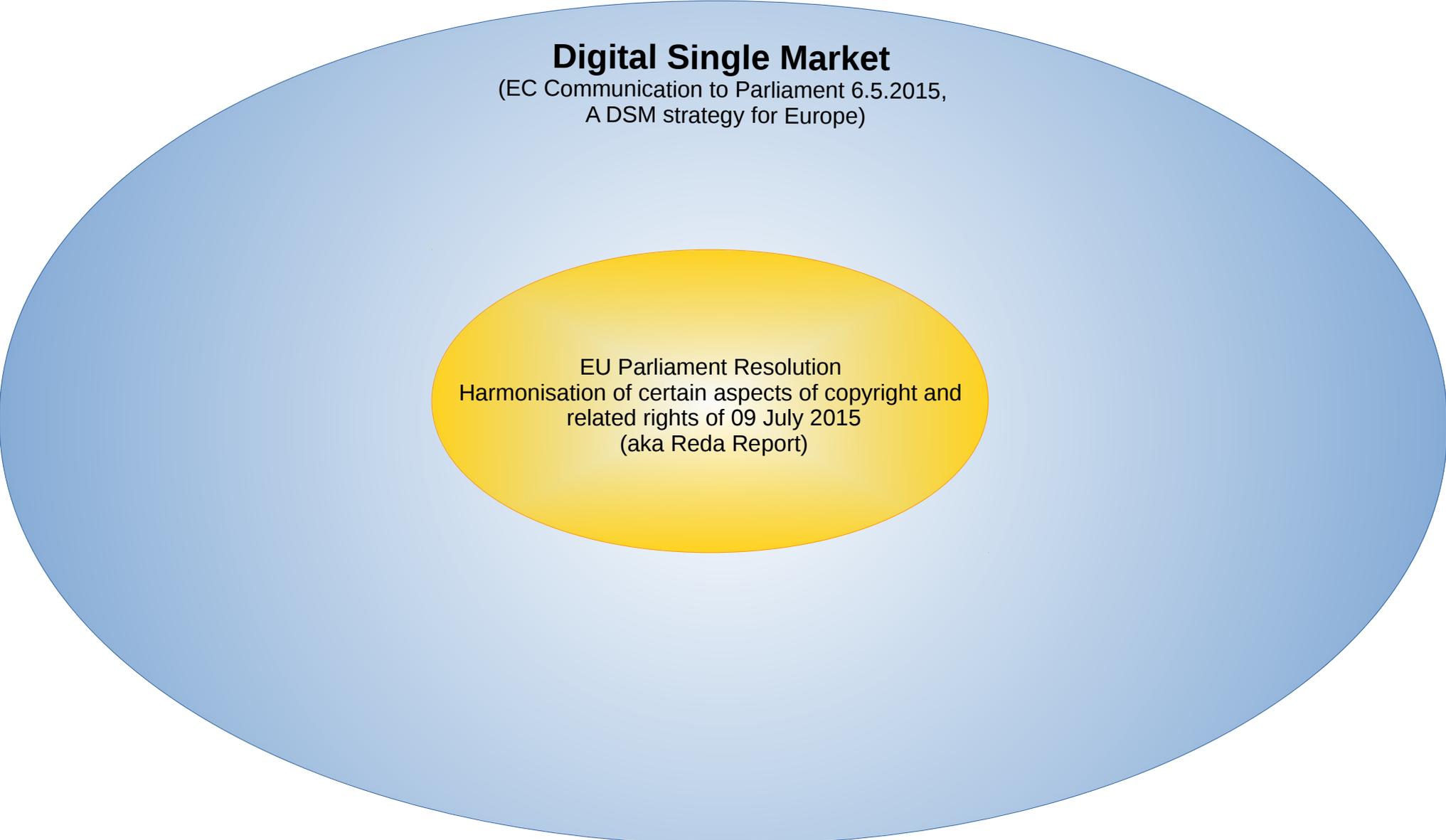
Proposal for a directive
on copyright
in the Digital Single Market

Proposal for a Regulation
on certain online transmissions
of broadcasting
organisations and
retransmissions of television
and radio programmes

Proposal for a directive on
certain permitted uses of works for the
benefit of visually impaired
persons

Proposal for a Regulation
on cross-border exchange between the
Union and third countries of
accessible format copies for
the benefit visually impaired

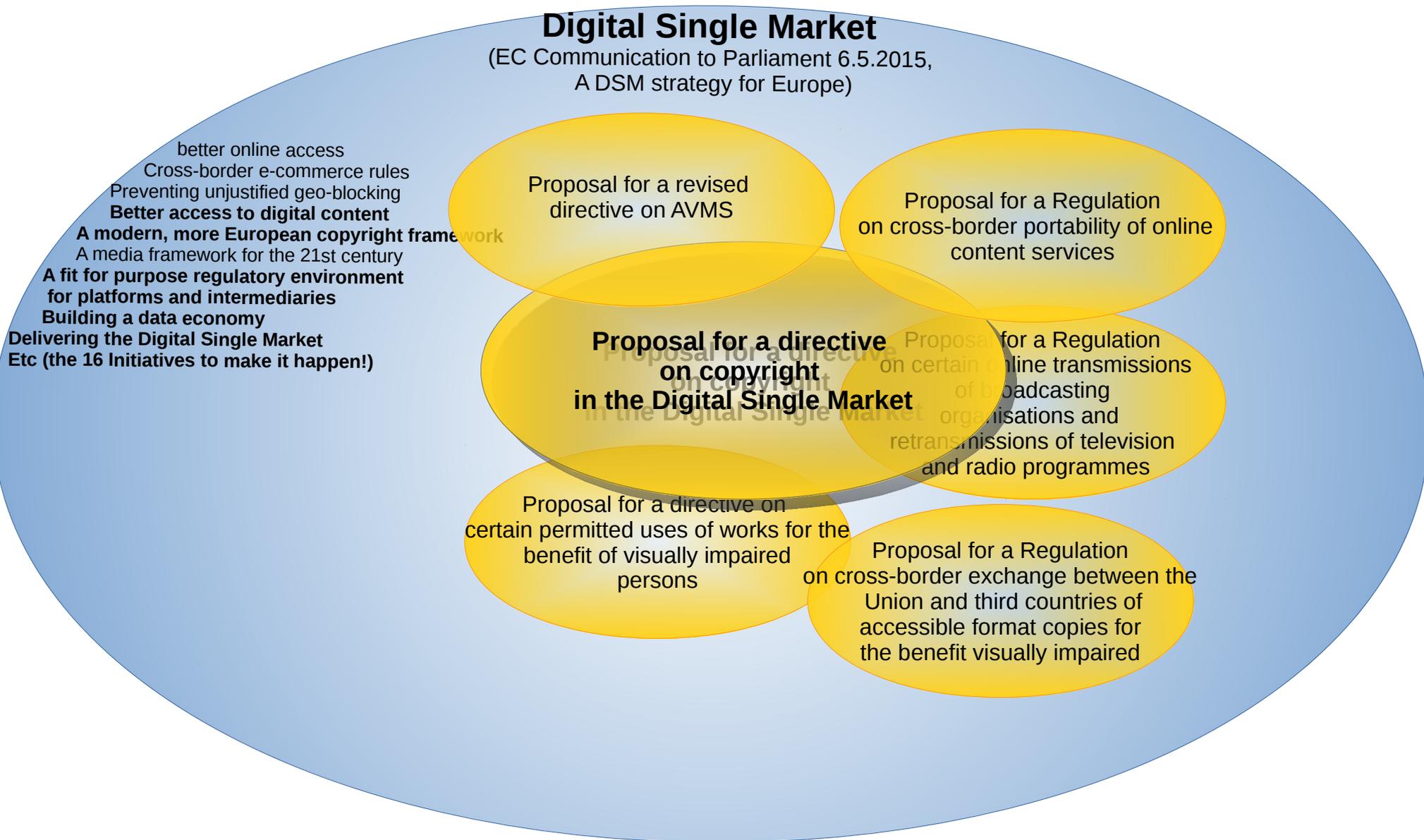
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EU Parliament Resolution
Harmonisation of certain aspects of copyright and
related rights of 09 July 2015
(aka Reda Report)

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DSM

**Proposal for a directive
on (c) in DSM (+Proposal for a Regulation on certain online transmissions
of broadcasting organisations and retransmissions of television and radio programmes)**

- Online transmissions of broadcasting organisations --> Country of Origin
- Digital retransmissions of TV/Radio --> mandatory collective management
- Licensing of VoD --> stakeholders dialogue + negotiation mechanism
- Out of Commerce works --> collective licensing agreements with cross-boarder effects
- Mandatory exceptions and limitations (3): Teaching; TDM; Preservation of Cultural Heritage
- Online services storing large amount of content uploaded by users --> obligation to implement technologies and increase transparency
- Rights in publications --> new related right for publishers covering digital uses of press publications + fair remuneration
- Remuneration for creators --> transparency obligations in contracts with producers and publishers

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TDM

Art. 3 Copyright in DSMD

“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 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.”

- ‘research organisation’ means a university, a research institute or any other organisation the primary goal of which is to conduct scientific research or to conduct scientific research and provide educational services:
 - (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;
- Unenforceability of agreement limiting Art. 3
- No clear position on TPM/DRM limiting TDM
- TDM not available to non research organisation (contrast with US)

Rights in Publications

Art. 11 Copyright in DSMD

“Member States shall provide publishers of press publications with the rights provided for in Article 2 and Article 3(2) of Directive 2001/29/EC for the digital use of their press publications”

- Articles 5 to 8 of Directive 2001/29/EC and Directive 2012/28/EU apply
- 20 years after the publication of the press publication
- Claims to fair compensation: MS may provide that where an author has transferred or licensed a right to a publisher (including scientific publishers!), such a transfer or a licence constitutes a sufficient legal basis for the publisher to claim a share of the compensation for the uses of the work made under an exception or limitation to the transferred or licensed right.
- What did the Public Consultation say on this?

A minority of press publishers, in particular from Spain, took a different view. They referred to the Spanish and German "ancillary rights" laws and expressed a concern that the introduction of a neighbouring right at EU level would make it more difficult for service providers to drive audiences to newspapers and magazines' websites and as a consequence would reduce traffic and advertising revenues for publishers. These respondents were doubtful that a neighbouring right would improve licensing and enforcement. They considered that legislative intervention at EU level could have a negative impact on the cooperation between online service providers and publishers and ultimately affect smaller publishers negatively.

Certain uses of protected content by online services

Art. 13 Copyright in DSMD

“Information society service providers that store and provide to the public access to large amounts of works or other subject-matter uploaded by their users shall, in cooperation with rightholders, take measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter or to prevent the availability on their services of works or other subject-matter identified by rightholders through the cooperation with the service providers. Those measures, such as the use of effective content recognition technologies, shall be appropriate and Proportionate”

- In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor.
- ISSP should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.