PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON COPYRIGHT IN THE DIGITAL SINGLE MARKET

14 September 2016

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 6, 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, 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, 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;

(2)'text and data mining' means any automated analytical technique aiming to analyse text and data in digital form in order to generate information such as 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 fixation of a collection of literary works of a journalistic nature, which may also comprise other works or subject-matter and 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, having the purpose of providing information related to news or other topics and published in any media under the initiative, editorial responsibility and control of a service provider.

Commented [KP1]: This translation was created by Amy Thomas, (PhD candidate and Research Assistant) and Dr Thomas Margoni (Senior Lecturer in Intellectual Property and Internet Law) from CREATe, The University of Glasgow.
Please cite as: CREATe's Translation of the Copyright Directive Proposal as drafted by the EU Commission on 14 September 2016. Available from www.create.ac.uk/eu-copyright-reform .

Commented [2]: A "Directive" is one of two main legislative tools of the EU. Directives normally require to be implemented into domestic law by national legislatures. They tend to give general guidance, but can be also quite detailed, introducing rules of so called "maximum harmonisation" (meaning that little space is left for national legislators). This Directive offers examples of both (some rules leave ample discretion, others are very detailed), which may contribute to obscure the real meaning of the provisions. This plain-speak translation should assist in making the Directive more understandable.

Commented [3]: This draft-Directive was written by the European Commission. However, since this draft was made in 2016 there have been lots of changes suggested by other EU bodies with legislative functions (mainly the EU Parliament and the EU Council). The EU Parliament (a committee thereof) proposed a "compromise text" which was rejected by the plenum of the assembly. More amendments were suggested before 5 September 2018, with a vote scheduled for 12 September 2018. The Council has also proposed its own text.

Commented [4]: There are existing EU laws that regulate copyright, but with the rise of the internet and digital content, these need to be changed. This new Directive deals with several different issues but focusses on digital content and how this is accessible across all EU countries.

Commented [5]: This new Directive won't impact certain other laws. One Directive which isn't noted here is the E-Commerce Directive, which may potentially be impacted by article 13. The E-Commerce Directive currently provides "safe harbour" rules for sites that host lots of user-generated content (such as YouTube or Google). These rules mean that if a user uploads content which infringes copyright (e.g. a pirated movie), the site itself won't be penalised as long as they comply with certain rules (mainly they remove or block access to that content once properly informed).

Commented [6]: These are some definitions for more complex terms, but this document explains each element in plain meaning throughout.

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

Article 3

Text and data mining

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 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.

2.Any contractual provision contrary to the exception provided for in paragraph 1 shall be unenforceable.

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 to define commonly-agreed best practices concerning the application of the measures referred to in paragraph 3.

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) 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 for 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 the use:

(a)takes place on the premises of an educational establishment or through a secure electronic network accessible only by the educational establishment's pupils or students and teaching staff;

(b)is accompanied by the indication of the source, including the author's name, unless this turns out to be impossible.

2.Member States may provide that the exception adopted pursuant to paragraph 1 does not apply generally or as regards specific types of works or other subject-matter, to the extent that adequate licences authorising the acts described in paragraph 1 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.

Commented [7]:
Text and data mining ("TDM") is an innovative analysis method that involves using software to search through huge amounts of works, data or other subject matter. As part of this process, there is usually some incidental temporary or permanent copying involved, which may include parts of, or of the entirety of people's works, data or other subject matter.

Commented [8]:
The Directive introduces a new mandatory exception so that TDM is not a copyright or other related rights infringement under certain conditions. The exception only applies to research organisations (like universities) who have lawful access (e.g. who have bought licences from the copyright owner) and can only be carried out if it's for scientific research. Profit-making private companies do not benefit from the new law. Other important categories and uses are not included, including uses for the purposes of journalism, review, criticism, etc. Lastly, the new law exempts acts of copying but not other reserved rights such as reproduction or communication to the public (so you can make copies but not send or communicate them to anyone).

Commented [9]:
Currently, EU law is not clear on whether certain exceptions can or cannot be limited by contract and this is often left to national legislators to decide. According to this new rule, this will not be allowed for the TDM exception (so it cannot be limited by contracts such as "terms of use"). However, technical protection measures ("TPMs" - such as digital locks) may still be used to limit the TDM exception.

Commented [10]:
Copyright holders are allowed to use technical security and integrity measures to protect their infrastructures (e.g. by limiting the speed or quota reserved to a certain IP address to bulk download the entire collection of data).

Commented [11]:
This new rule would mean that people in education (both teachers and students) should be able to use digital copyrighted content without breaking the law.

Commented [12]:
However, this new law will only apply to formal education environments (such as schools, classrooms, universities, formal distance learning courses etc.). This would mean other environments (such as libraries) might not benefit from the new law.

Commented [13]:
Anyone using copyrighted content in a formal education environment has to cite or reference the creator of that work, unless it's impossible to find this out.

Commented [14]:
The new rule for educational uses can be overridden if the copyright owner begins to sell licences for their content. If this is the case, then those in education cannot use the digital content unless they buy the licence. This raises the question of whether the new exception is largely irrelevant.

3.The use of works and other subject-matter for the sole purpose of illustration for teaching through secure electronic networks 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 for the harm incurred by the 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 the sole purpose of the preservation of such works or other subject-matter and to the extent necessary for such preservation.

Article 6 Common provisions

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

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 when a collective management organisation, on behalf of its members, concludes a non-exclusive licence for non-commercial purposes with a cultural heritage institution for the digitisation, distribution, communication to the public or making available of out-of-commerce works or other subject-matter permanently in the collection of the institution, such a non-exclusive licence may be extended or presumed to apply to rightholders of the same category as those covered by the licence who are not represented by the collective management organisation, provided that:

(a)the collective management organisation is, on the basis of mandates from rightholders, broadly representative of rightholders in the category 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)all rightholders may at any time object to their works or other subject-matter being deemed to be out of commerce and exclude the application of the licence to their works or other subject-matter.

2.A work or other subject-matter shall be deemed to be out of commerce when the whole work or other subject-matter, in all its translations, versions and manifestations, is not available to the public through customary channels of commerce and cannot be reasonably expected to become so.

Commented [15]:
Distance learning courses may cross borders; if they do, any content that is copied/displayed etc. will be only be considered to be copied/displayed etc. in the national state where the school/university etc. is based.

Commented [16]:
Member States may introduce compensation schemes for repaying right holders (authors or more commonly publishers) whose works are used free-of-charge in educational settings.

Commented [17]:
Libraries and museums should be able to make copies of works in order to preserve them, without infringing copyright. For example, they may wish to make scanned copies of books which are in poor condition so that they can be preserved.

Commented [18]:
The exceptions so far created in this Directive have to comply with the so called “three step test”. This test says that new exceptions can only apply in certain special cases, which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interest of the right holders (e.g. the copyright holder should still be able to use/sell/licence etc. their work in a fair manner). This is a general rule that applies to all other EU copyright exceptions and offers some (vague) guidance to national legislators and courts when implementing and considering these exceptions. When copyright holders apply a technological protection measure (“TPM”), such as encryption, this may limit the use of a work in such a way that a user can't do something they're entitled to do under an exception (e.g. such as using the work for the purposes of research). If the copyright holder doesn't rectify this for the user, then national states have an obligation to make this happen. For instance, the UK Intellectual Property Office has put in place a specific procedure for this (very complex) scenario, which since 2001 (the date of the Directive) has received only two requests.

Commented [19]:
These are works where the owner is identifiable and is still protected by copyright, but their work is unavailable (e.g. they've stopped selling it or printing it).

Commented [20]:
Collective Management Organisations are bodies which represent many copyright owners. They can grant "blanket" licences for the use of multiple works. Collective Management Organisations will now be able to grant these licences to libraries and museums in respect of Out of Commerce works. As such, these Out of Commerce works could be preserved digitally by libraries and museums without infringing copyright, provided the digital content isn't used for commercial purposes (e.g. profit-making).

Commented [21]:
Out of Commerce works that are owned by an author outside of the organisation may still be covered by this licence. There are some rules for this: the Collective Management Organisation must represent a specific type of work (e.g. music), and the work in question is also this specific type; all of the copyright owners (both in and outside of the Collective Management Organisation) should be treated equally; and the person who owns the Out of Commerce work can stop the work being used if they like. This is known as "extended collective licensing".

Commented [22]:
If even one copy of a work is available to buy (online or offline), in any language, then the new law won't apply.

Member States shall, in consultation with rightholders, collective management organisations and cultural heritage institutions, ensure that the requirements used to determine whether works and other subject-matter can be licensed in accordance with paragraph 1 do not extend beyond what is necessary and reasonable and do not preclude the possibility to determine the out-of-commerce status of a collection as a whole, when it is reasonable to presume that all works or other subject-matter in the collection are out of commerce.

3.Member States shall provide that appropriate publicity measures are taken regarding:

(a)the deeming of works or other subject-matter as out of commerce;

(b)the licence, and in particular its application to unrepresented rightholders;

(c)the possibility of rightholders to object, referred to in point (c) of paragraph 1;

including during a reasonable period of time before the works or other subject-matter are digitised, distributed, communicated to the public or made available.

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:

(a)the works or phonograms were first published or, in the absence of publication, where they were first broadcast, except for cinematographic and audiovisual works;

(b)the producers of the works have their headquarters or habitual residence, for cinematographic and audiovisual works; or

(c)the cultural heritage institution is established, when a Member State or a third country could not be determined, after reasonable efforts, according to points (a) and (b).

5.Paragraphs 1, 2 and 3 shall not apply to the works or other subject-matter of third country nationals except where points (a) and (b) of paragraph 4 apply.

Article 8 Cross-border uses

1.Works or other subject-matter covered by a licence granted in accordance with Article 7 may be used by the cultural heritage institution in accordance with the terms of the licence in all Member States.

2.Member States shall ensure that information that allows the identification of the works or other subject-matter covered by a licence granted in accordance with Article 7 and information about the possibility of rightholders to object referred to in Article 7(1)(c) are made publicly accessible in a single online portal for at least six months before the works or other subject-matter are digitised, distributed, communicated to the public or made available in Member States other than the one where the licence is granted, and for the whole duration of the licence.

3.The portal referred to in paragraph 2 shall be established and managed by the European Union Intellectual Property Office in accordance with Regulation (EU) No 386/2012.

Commented [23]:
Governments should find a way of communicating the new rules about Out of Commerce works (e.g. advertising via mass media).

Commented [24]:
Only Collective Management Organisations that are based in the EU are subject to the new rules. This is the case: if the works represented by the Collective Management Organisation were first published or broadcast in a certain state; or if the publisher or broadcaster has a headquarters, or regular residence, in a certain state; or, if the library or museum requesting the rights is established (and no one can figure out where the works/producers etc. are based).

Commented [25]:
The new laws for cultural heritage institutions shouldn't apply to authors from countries outside of the EU, unless their work was initially published or broadcast in an EU state, or if their headquarters are in an EU state.

Commented [26]:
The licences obtained as for Out of Commerce Works may be used by that cultural heritage institution/museum etc. anywhere in the EU.

Commented [27]:
A new database should be created that holds details of all the identified Out Of Commerce works. All Out Of Commerce works should be registered on this new database. When these works are going to be digitised, libraries and museums will need to advertise about this 6 months in advance. This is important so that the author of the Out of Commerce work can object to the work being digitised.

Article 9 Stakeholder dialogue

Member States shall ensure a regular dialogue between representative users' and rightholders' organisations, and any other relevant stakeholder organisations, to, on a sector-specific basis, foster the relevance and usability of the licensing mechanisms referred to in Article 7(1), ensure the effectiveness of the safeguards for rightholders referred to in this Chapter, notably as regards publicity measures, and, where applicable, assist in the establishment of the requirements referred to in the second subparagraph of Article 7(2).

CHAPTER 2
Access to and availability of audiovisual works on video-on-demand platforms

Article 10 Negotiation mechanism

Member States shall ensure that where parties wishing to conclude an agreement for the purpose of making available audiovisual works on video-on-demand platforms face difficulties relating to the licensing of rights, they may rely on the assistance of an impartial body with relevant experience. That body shall provide assistance with negotiation and help reach agreements.

No later than [date mentioned in Article 21(1)] Member States shall notify to the Commission the body referred to in paragraph 1.

TITLE IV
MEASURES TO ACHIEVE A WELL-FUNCTIONING MARKETPLACE FOR COPYRIGHT

CHAPTER 1 Rights in publications

Article 11
Protection of press publications concerning digital uses

1.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.

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. Such rights 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.

3.Articles 5 to 8 of Directive 2001/29/EC and Directive 2012/28/EU shall apply mutatis mutandis in respect of the rights referred to in paragraph 1.

4.The rights referred to in paragraph 1 shall expire 20 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.

Article 12
Claims to fair compensation

Commented [28]:
Similarly to articles 3, 9 and 13, a high degree of cooperation is needed between Collective Management Organisations and libraries, museums etc.

Commented [29]:
An independent and impartial body should be created that can help resolve issues faced by parties looking to start video on demand/streaming services (Netflix etc.). They may face issues trying to get all the rights in place for the multiple TV shows/movies they make available.

Commented [30]:
This is one of the most controversial articles in the new law,and is sometimes referred to as the "link tax" (though this is not a completely accurate term). In essence, article 11 intends to create a new "neighbouring" right in favour of press publishers over "press items" and their digital use (detailed further below).

Commented [31]:
Publishers of journalistic pieces, for example, newspapers, will now own a right related to copyright (or a “neighbouring” right) in respect of their online publications. This new right applies in addition to any other underlying copyright existing in the article being published, which originally belongs to the author (e.g. a journalist). The underlying copyright can still be transferred from the author to the publisher on the basis of an employment contract, a copyright transfer, or a copyright licence. Now publishers will own a right independently from any contract with journalists and authors. This new neighbouring right gives publishers the right of controlling the reproduction (e.g. copying) and making available to the public (e.g. displaying the content online).

Commented [32]:
Anyone who uses a press publisher's content online (e.g. by making a copy of it or making it available online) will be infringing the new related right unless they have bought the appropriate licence. The new law does not give any limit to how much or how little can be used, so could apply to headlines or “snippets” (very small portions of the journalistic piece). This is an important aspect, because the online use of these articles is already prohibited by law, as it infringes the copyright that journalists have in the article (noting that this may be a copyright that has already been acquired by the publisher). That being said, general copyright rules suggest that short titles or excerpts and factual information are not protected (such as snippets, or details of a factual event). The intention of this new provision is to prohibit the reuse of such short pieces of information. Whilst this may primarily impact news aggregation sites, such as Google News, this could also apply to e.g. bloggers who link to or frame a journalistic piece on their blog.

Commented [33]:
Any authors in the journalistic piece (such as the author, but also a photographer who provides an image) still hold their copyright in their work (if they don't transfer it as part of the employment contract, a copyright transfer or a licence). They can still use or sell their work elsewhere.

Commented [34]:
The new press publishers right has some limits, which means that users are able to use the journalistic pieces where this is for e.g. quotation or parody, if this is implemented into domestic law. Importantly, these types of uses (known as "copyright exceptions") are not the same across all EU states. For example, in Germany there is a very similar neighbouring right to the one proposed here, which allows press publishers to collect royalties when their content is used on news aggregation sites, like Google. Royalties can be collected where the news aggregator uses a short quote of more than seven words (e.g. a snippet). Under these special circumstances, this snippet cannot be used under a copyright exception, even though it may at first appear to be fair quotation.

The reference to articles 5-8 means that the general copyright principles of the “InfoSoc” Directive (e.g. three step test, technological protection measures, rights management information, etc) apply to this right as well.

Commented [35]:
The new right is also subject to rules about "orphan works", which are works where the owner can't be identified. Confirmed orphan works can be used by libraries and museums for public interest purposes (so a library could preserve a newspaper piece without paying the publisher provided they can prove it's an orphan work).

Commented [36]:
The new right lasts for 20 years following the publication of the journalistic piece.

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 claim a share of the compensation for the uses of the work made under an exception or limitation to the transferred or licensed right.

CHAPTER 2
Certain uses of protected content by online services

Article 13
Use of protected content by information society service providers storing and giving access to large amounts of works and other subject-matter uploaded by their users

1. 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. The service providers shall provide rightholders with adequate information on the functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the works and other subject-matter.

2. Member States shall ensure that the service providers referred to in paragraph 1 put in place complaints and redress mechanisms that are available to users in case of disputes over the application of the measures referred to in paragraph 1.

3. Member States shall facilitate, where appropriate, the cooperation between the information society service providers and rightholders through stakeholder dialogues to define best practices, such as appropriate and proportionate content recognition technologies, taking into account, among others, the nature of the services, the availability of the technologies and their effectiveness in light of technological developments.

CHAPTER 3
Fair remuneration in contracts of authors and performers

Article 14 Transparency obligation

1. Member States shall ensure that authors and performers receive on a regular basis and taking into account the specificities of each sector, timely, adequate and sufficient information on the exploitation of their works and performances from those to whom they have licensed or transferred their rights, notably as regards modes of exploitation, revenues generated and remuneration due.

2. The obligation in paragraph 1 shall be proportionate and effective and shall ensure an appropriate level of transparency in every sector. However, in those cases where the administrative burden resulting from the obligation would be disproportionate in view of the revenues generated by the exploitation of the work or performance, Member States may adjust the obligation in paragraph 1, provided that the obligation remains effective and ensures an appropriate level of transparency.

Commented [37]:
This rule is intended to address the EU Court of Justice decision in Hewlett-Packard Belgium SPRL v Reprobel SCRL. Right now, when a national state creates a new exception (such as the exception to make a private copy of a work) the author receives a "fair compensation" (in money) for the private copies that people make. As a user you pay this as an additional tax when you buy a hard drive, a USB stick, a phone with an internal memory, a blank CD, or use a photocopying machine. Until now, fair compensation (the EU Court of Justice clarified) was only paid to the author. This rule clarifies that IF national states want, they can decide that part of the money can now go to the publishers.

Commented [38]:
This is another of the more controversial articles from the new law, and is often referred to as "upload filter" or "ban on memes".

Commented [39]:
Primarily this refers to sites such as YouTube and Google, which store large amounts of user created and copyright protected works. Other sites which may be included within this definition include GitHub and Wikipedia, which also store large amounts of user created works.

Commented [40]:
These sites have to make sure that content that is protected by copyright is not put on their sites. This means sites would have to find some way of preventing these works being uploaded by users in the first place. Currently, most sites implement some variation of “notice and action” or “notice and take down” systems. This means a copyright holder has to identify infringing content on a platform, notify the platform, then the platform has an obligation to remove the content. Until the platform is notified, it is not liable for damages. However, some sites such as YouTube already voluntarily implement filters that prevent the upload of infringing content, through their ContentID programme. This new article will make the implementation of these types of filtering obligations mandatory. This modifies existing “safe harbour” conditions established in article 14 of the E-Commerce Directive (which provides certain conditions about when a platform isn’t liable for damages as a result of hosting copyright infringing content).

Commented [41]:
Software can be used to automatically detect copied content. Some sites, such as YouTube, already have mechanisms like this (Content ID).

Commented [42]:
Users can complain if they've had their content blocked. However, evidence shows that normally users do not complain as this is a complex (and potentially expensive) route. This has become known as the “chilling effect" or self-censorship.

Commented [43]:
Rightsholders and site owners should decide the exact ins-and-outs of how to stop infringing content from being posted online. This may include discussions on how effective automatic content recognition technologies are, and whether they are actually working. Users (e.g. the party most likely to be impacted by this provision) are not mentioned.

Commented [44]:
Authors should receive regular information about how much money their works have made, and how much money they are due from this.

Commented [45]:
If it costs too much money/time/effort to find out how much revenue each author has made, then publishers don't have to do this. Nonetheless, publishers have to maintain "appropriate" transparency; exactly what this level is, is left to national governments to decide.

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.

4.Paragraph 1 shall not be applicable to entities subject to the transparency obligations established by Directive 2014/26/EU.

Article 15
Contract adjustment mechanism

Member States shall ensure that authors and performers are entitled to request additional, appropriate remuneration from the party with whom they entered into a contract for the exploitation of the rights when the remuneration originally agreed is disproportionately low compared to the subsequent relevant revenues and benefits derived from the exploitation of the works or performances.

Article 16
Dispute resolution mechanism

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.

TITLE V FINAL PROVISIONS

Articles 17 - 24

Commented [46]:
If an author hasn't made much money from their works, national governments can choose not to supply them with this information.

Commented [47]:
Certain bodies don't have to provide this information, such as Collective Management Organisations. This is because they already have obligations in another Directive.

Commented [48]:
Authors may renegotiate their contracts to increase their pay, if in retrospect they feel it's disproportionately low. This may occur when a work has been very successful, and therefore the initial negotiated pay is too low (sometimes known as the "bestseller clause").

Commented [49]:
If the author and publisher can't agree on e.g. whether their pay is "disproportionately low", they can be referred to an independent body which can help resolve the dispute.

Commented [50]:
These final parts are standard-wording related to administrative aspects of the Directive.