

Danish position on the Digital Single Market Strategy with regard to a more modern European copyright framework

Introduction

Denmark welcomes the EU Commission's Strategy for a Digital Single Market and is looking forward to working with the Commission and the Member States in finding solutions that will allow us to achieve the full potential of a genuine digital single market.

In this regard Denmark believes that the copyright framework must ensure the right balance between protection of rightholders and society's legitimate interests in having access to creative content in a non-bureaucratic way. Furthermore, Denmark is of the opinion that new EU regulation in the suggested areas regarding copyright should only be proposed to the extent necessary for the functioning of the internal market.

Denmark emphasizes that legislative proposals therefore must be based on thorough impact assessments to ensure that the copyright framework of the future remains a cornerstone in Europe's creative industry.

Denmark has the following priorities:

- Extended Collective License (ECL)
- Territoriality
- Exceptions and limitations (research, education and text and data mining)
- Enforcement

Extended collective license

Denmark has a flexible and non-bureaucratic system to clear rights. The Extended Collective License (ECL) makes it possible for a user to obtain permission to use large amounts of copyright protected material on the basis of one single agreement, which benefits both the user, the rightholder and society as a whole.

Bearing this in mind, it is relevant to consider whether the modernization of the EU copyright framework can be based on the principles that the ECL system is built upon. In any case, we find it vital that new EU legislation does not prevent EU Member States from using the successful ECL scheme.

Territoriality and portability

When it comes to portability of services a solution must be found in order for EU citizens to take legally purchased online services with them, when they travel to another EU Member State.

Cross border access to online services in other Member States is a policy area, which is relevant to examine in the pursuit of a digital single market. However, Denmark stresses that any changes in this area must be made with respect of the special characteristics of the cultural sectors financially dependent on the possibility to issue licenses to different territories at different stages of a production, e.g. the audiovisual sector. Therefore, Denmark finds it particularly important that legislative proposals in this area are based on well-evidenced impact assessments.

Furthermore, legislative proposals regarding cross border access to online services, should be secondary to licensing based on agreements between rightholders and users. It is imperative that legislation does not hinder the possibilities for a business to create different business models and solve the challenges of territoriality through voluntary agreements.

Exceptions and limitations (research, education and text and data-mining)

The current catalogue of permitted exceptions and limitations in the *acquis communautaire* is broadly formulated and primarily voluntary for the member states to use. This might in some instances make cross border use difficult.

Cross border use is particularly relevant as regards the exception for the benefit of research and text and data mining. Denmark sees a potential in more cross border activity and finds that there is a need for greater legal certainty, clarity and flexibility in this area.

As for education material, Denmark still finds remuneration to the rightholders important. Denmark notes that no remuneration to the rightholders could cause a situation, where it will not be desirable to create new student material adjusted to new technologies and social developments. However, Denmark finds it appropriate to examine the need for and possible ways to facilitate cross border use of educational material. In this regard it must be considered if a solution can be based on the principles on which the ECL system is built. In any case, it is vital that new EU legislation does not prevent EU Member States from using the ECL scheme.

Enforcement

An effective enforcement of IPR infringements – especially on the Internet – is crucial for the entire IPR ecosystem. Therefore Denmark finds it relevant to look at legislative improvements in this area. However, enforcement by law must not be the only focus point, but should be supplemented by public dialogue, creating easy access to legal online content, and by voluntary agreements between rightholders and users, for instance ISPs, media agencies and search engines.