

EDRI, FIPR and VOSN

response
to the European commission consultation
on the review of the "acquis communautaire"
in the field of copyright and related rights



October 27, 2004

On-line version of this document:
<http://www.edri.org/campaigns/copyright>

Endorsing organisations

1. A.B.U.S.E. - Association for the Best Use of Electronic Services, Romania
2. Aktionsbündnis 'Urheberrecht für Bildung und Wissenschaft', Germany
3. Bits of Freedom, The Netherlands
4. Electronic Frontier Finland
5. EUCD.info, France / international
6. Forum InformatikerInnen für Frieden und gesellschaftliche Verantwortung (FIfF) e.V, Germany
7. Information Problems Analyzing Center, Azerbaijan
8. IP Justice, USA / international
9. Linux Consultants Ltd., UK
10. Linux User Group Rieti, Italy
11. Media Innovation Unit, Firenze Tecnologia, Italy
12. NETHICS e.V. (Ethics in the Net), Germany
13. netzwerk neue medien, Germany
14. NewGlobal.it, Italy
15. privatkopie.net, Germany
16. The Open Knowledge Foundation, UK
17. VIBE!AT Verein für Internet-Benutzer Österreichs, Austria
18. Vrijschrift.org, The Netherlands

Dr. Andrew A. Adams, School of Systems Engineering, the University of Reading, endorses the response as an individual academic.

(1) European Digital Rights (EDRI) was founded in June 2002. Currently 17 privacy and civil-rights organisations from 11 different countries in Europe make up EDRI's membership, and have joined forces to defend civil rights in the information society.

The Foundation for Information Policy Research is an independent body that studies the interaction between information technology and society. Its goal is to identify technical developments with significant social impact, commission and undertake research into public policy alternatives, and promote public understanding and dialogue between technologists and policy-makers in the UK and Europe.

Vereniging Open-source Nederland is an association promoting the use of Open-source software in the Netherlands.

(2) We wish to make a number of comments in response to the European Commission Staff Working Paper on the review of the EC legal framework in the field of copyright and related rights.

(3) We will comment on specific issues raised in the Commission Staff Working Paper. But first, there is an issue of scope. There are several serious deficiencies in the current EC legal framework for copyright and related rights which the Commission Staff Working Paper ignores, and which render the scope of the current consultation process far too narrow. It is an exercise in hedge-trimming, when what Europe needs is a change to the landscape.

(4) When reviewing existing law, the Commission should consider copyright from first principles. Copyright exists not because 'intellectual property rights' are decreed in the Bible, but in order to correct a market failure. If creative workers and their distributors could not appropriate a reasonable portion of their added value for themselves, then a socially suboptimal volume of writing, music and film would be produced and disseminated. Thus the law establishes time-limited monopoly rights for creators. But these are a means to an end rather than an end in itself. The end is to maximise the quantity of creative output that is available to the public to enjoy. Too little protection results in market failure; too much simply bloats the publishing industries, while harming both the public and the creators themselves. There are also conflicts between copyright and other social goals, expressed for example in employment law, competition law, privacy law and environmental law. As copyright has expanded, these conflicts have become more acute. It is high time for the Commission to consider the proper balances and boundaries between competing policy objectives. It is the Commission's duty to balance the complex interests of all the citizens of Europe - not to just limply follow the lead of the copyright-industry lobbyists.

Problems

(5) Although the stated objective of the review is to improve the operation of the acquis and to safeguard the functioning of the internal market, even these limited goals will be in peril unless the problems are considered from first principles. As software becomes embedded in ever more consumer goods and products, so copyright law comes increasingly into conflict with consumer rights. The recent decision against Microsoft by DG Competition shows how the legal privileges extended to rights-management mechanisms by the EU CD undermine competition law: as reverse-engineering Windows Media Player would contravene the InfoSoc Directive (2001/29/EC), DG Competition had to order Microsoft to unbundle it. Environmental protection is another social priority with which the expansion of copyright law now stands in tension: as rights-management technology blocks the recycling of printer cartridges, Europe adopted Directive 2002/96/EC to force Member States to outlaw, by the end of 2007, the flouting of EU recycling rules by companies whose products use rights-management chips to prevent recycling. Copyright comes into conflict with privacy law as it protects rights-management mechanisms that collect ever more data about citizens' reading and listening habits. Copyright is also increasingly in tension with employment law; at least one court case in France has voided, as oppressive, a record company's standard contract with a musician. Restraint-of-trade doctrines have also been used by the courts to protect record companies' victims.

(6) These tensions threaten to undermine the internal market itself. The market was established in order to limit the scope of lawful price discrimination within Europe. But since such discrimination is often economically efficient, companies forever seek new ways to do it. The copyright-industry lobby recently tried to extend the InfoSoc Directive's rights-management protection to all anti-counterfeiting technologies, which would have included RFID chips. It would then have been lawful for vendors to use RFID to segment markets in Europe, undermining the single market itself. Similarly, measures that interfere with labour rights can undermine the free movement of labour within the Community.

(7) We suggest that the following perspective might be helpful. During the eighteenth and nineteenth centuries, governments came round to the view that their core mission was not imposing a particular religious faith, but protecting private property. This led to rapid development of property law, associated with the industrial revolution. Over time, though, it was realised that property rights should not be absolute. Slavery was abolished; compulsory-purchase laws were passed to enable the construction of railways; and in the present century, restrictions on private property and contract have extended to many employment, safety, environmental and consumer issues.

(8) The transition to an information economy means that similar issues must now be tackled for information goods. 'Intellectual property', as copyright, patent and related rights have come to be known, has expanded hugely in the last ten years, thanks to an alliance of drug companies, software firms, the music and film industries, and luxury brands. It is coming increasingly into conflict with many established laws, policies and interests.

(9) Sooner or later, an equilibrium will be reached when technology stabilises and balance points between the competing social interests are found. But at present there are few effective mechanisms for exploring the relevant trade-offs. The Commission must therefore take a broad view. It is not satisfactory to treat the review as a tidying-up exercise: that will just consolidate the gains made by the early movers in the regulatory game. Instead, the Commission must look at the intent of the legislation and assess whether it is having the desired result. In this way, the Commission would be better serving the citizens of Europe in accordance with the

principles of subsidiarity and proportionality (as laid out in Protocol 30 annexed to the Treaty establishing the European Community 1997, and the Draft Treaty establishing a Constitution for Europe). Accordingly, the Commission must consult widely before proposing legislative acts, taking into account the regional and local dimensions; must include an assessment of the proposal's financial impact; and must take account of the need for any burden falling upon citizens to be minimised and commensurate with the objective to be achieved. We therefore call on DG Internal Market to provide evidence (in accordance with paragraph 5, Article 30) that proposed and existing copyright legislation at Community level would produce clear benefits to citizens and the Community as a whole, and do so in a minimal way. This could be by way of independently commissioned reports and economic impact studies. While each piece of copyright legislation may benefit rights holders, it simultaneously imposes costs on the public, and on creators and innovators - many of whose business models do not rely on exclusive government-granted rights - by reducing the size of the public domain or even depriving them of free access to it. The Commission must justify proposals, review impact and amend or repeal as appropriate, if it is to remain faithful to the principals of subsidiarity and proportionality.

Issues

Maximising Choice

(10) EDRI welcomes the Commission view that we should not extend the duration of rights, and supports the view that an extension to 95 years, as called for by the music industry, would diminish the choice of music on the market in Europe. It would also undermine reprint houses, depriving them of income they now earn lawfully by republishing out-of-copyright works; and it is just not possible to motivate dead authors to create new works.

(11) However, EDRI does not believe that the current copyright term can go unexamined in the case of all currently protected works. The function of copyright, as noted above, is to maximise the quantity of works available for the public to enjoy. Yet, under the current rules, the great majority of all copyrights remain locked up in publishers' safes. Most books ever published have been published within the last century, and most sound recordings ever made were made in the last 50 years; yet most of these are no longer available for sale. What is worse, the copyright owners typically refuse to license them out to reprint houses. (There are some honourable exceptions, including many academic book publishers, who grant copyright reversion to authors whose books go out of print.) The unfortunate result is that the public has limited choice - often the only way to get a particular book or record is through an auction or secondhand shop. (Even secondhand sales may become a thing of the past as content becomes digital and rights-management mechanisms bind it to specific subscribers or platforms; in fifty years' time, the majority of copyright works may be simply unavailable. We will return to this in section 30 below.) When publishers lock up copyrights in this way, the writer, or performer, also receives no royalties. Thus the whole purpose of copyright law is frustrated.

(12) Furthermore, many of the sound recordings and films which form an important part of Europe's cultural heritage are being lost, because no-one is taking the necessary technical measures to protect them. Often even the main copyright owner has no incentive to do this, because of subsidiary copyrights and related rights, owned by people who made some minor contribution to the work, who signed over only limited reproduction licences and whose heirs cannot now be traced. This is of growing concern to librarians, historians and archivists in a number of fields.

(13) EDRI therefore calls for a radical solution - a 'use-it-or-lose-it clause' to be introduced into copyright law. If a work that has been once made commercially available, is not commercially available for three years, then it should be open to the work's original creator to resume the copyright from its current owner. If a work is not commercially available for five years, then all copyrights should expire, making it open to anyone to publish the work. (If treaty commitments are thought to conflict with some aspects of this in the short term, a compulsory-licensing regime with similar effect must be introduced until the treaties can be renegotiated.) Finally, it must not be possible for the creator of a work to alienate his reversionary right by contract. Otherwise record companies will force musicians and publishers will force writers - while they are young and powerless - to sign over this new right, negating its intended effect.

Preventing Abuse

(14) Another bundle of issues requiring attention is the relationship between copyright and contract. Access to digital content is increasingly governed by contract, rather than copyright. Consumers have no choice but to sign or click away their rights if they want access to content at all. This is a well-understood problem from

other legal spheres, and there are tested remedies: to enable courts to strike out or modify oppressive clauses in consumer contracts; or, in some markets, to regulate the acceptable form of contract. The markets for information goods have not caught up - worse, it is often possible for unfair contract terms to be enforced by technical mechanisms.

(15) The Commission must therefore introduce accessible mechanisms for redress, such as compulsory licensing, effective arbitration mechanisms, and statutory protection for users so that they cannot be forced to opt out of their statutory rights.

(16) Rights-management mechanisms can do particular harm, as they delegate regulation to the vendor. In effect, the anti-circumvention provisions in the InfoSoc Directive allow an equipment vendor to program whatever restrictions he likes, even if these override the established legal rights of consumers (in fact, even if they contravene the Treaty of Rome). In some but not all Member States, important fair use / fair dealing rights are expressed negatively rather than as positive rights, so consumers have no independent right of legal action; they may be restricted to complaining to their Government. Worse, any consumer who tries to circumvent the restrictions in order to exercise his rights now commits a civil wrong, or even a criminal offence, depending on how the Directive was implemented in the relevant national jurisdiction.

(17) There are also serious competition-policy issues, as mentioned above, where unfortunately the Commission sometimes speaks at cross purposes. For example, EDRI welcomes recent plans by internal market Commissioner Frits Bolkestein to liberalise the vehicle spare-parts market, and welcomes his denunciation of vehicle-industry lobbying as 'a classic example of the narrow vested interests of the few, namely a handful of large car manufacturers with huge resources, trying to undermine the broader interests of the many, namely car owners throughout Europe.' However, this sits uncomfortably with DG Internal Market's championing of rights-management technologies which are used to lock customers in to electronic products. If the overall effect of policy is to make cheap car parts (such as bumpers) still cheaper, while increasing the price of expensive accessories (such as navigation systems), the carmakers will win and the consumer will lose - contrary to Mr Bolkestein's stated objective.

(18) EDRI therefore proposes a fruit-of-the-poisoned-tree clause. If a rights-management mechanism infringes a consumer's rights, then its anti-circumvention protection must cease. Furthermore, all copyrights protected by an offending mechanism should become unenforceable for so long as the offence persists. This 'abuse-it-and-lose-it' clause will cause mechanism owners to think hard before letting them be used for unlawful purposes. They will take care to enable consumers and others to exercise their fair-use and fair-dealing rights and privileges under the established laws of the European Union and its Member States.

(19) EDRI further advocates that the poisoned-tree principle should extend to cases where rights-management mechanisms are used to contravene or circumvent competition law. Even if the European Parliament is content to delegate to arbitrary software writers its power to regulate copyright, it acts *ultra vires* if it thereby gives a software writer in Redmond the power to override the Treaty of Rome. Where a rights-management mechanism has the effect of removing a constitutional right, the legal protection that was granted to it by Parliament and the Commission was granted without lawful authority, and is therefore void. For example, we would argue that DVD region coding is clearly abusive, and therefore the DVD CSS mechanisms are not subject to protection by the InfoSoc Directive.

(20) The European Parliament cannot override the treaty that brought it into being. Therefore, rights-management mechanisms that conflict with Article 81 or Article 82 can enjoy no legal protection under the InfoSoc Directive. However, there re-

main serious issues of national transposition. For the avoidance of doubt, and to ensure that the same rules pertain throughout Europe, we propose that the Commission legislate that whenever a rights-management mechanism infringes a constitutionally-protected right, or is used to extend or entrench a monopoly in contravention of Articles 81 or 82, then that mechanism shall lose the legal protection afforded by the InfoSoc Directive. Furthermore, once an aggrieved party who is unable to exercise a legal right, or established fair-use privilege, because of an abusive protection mechanism, places the holder of the underlying copyright on notice, the holder should become unable to enforce that copyright against anyone else in the European Union, for so long as the abuse continues. (There is a useful precedent in the UK Patents Act 1977, which consolidated a provision in UK patent law whereby a patent owner who entered into an unlawful contract of adhesion thereby rendered his patent unenforceable against everybody else. For example, if I owned a flour-milling patent and licensed it to you on condition that you bought all your wheat from me, then the mere fact of this was a full defence for anyone else whom I sued for infringing this patent.)

Reform of the Collecting Societies

(21) We welcome the Commission consultation document COM(2004) 261 (final) on the management of copyright and related rights in the internal market. There are serious problems of transparency, efficiency, and representation; discrimination (e.g. pop versus classical, and the negative effect almost everywhere on live music); many societies fail to deal well or at all with new business models, from online music sales to Creative Commons licences; and the erosion of the exceptions and limitations necessary for teaching, learning and the promotion of culture. They are a pernicious two-fold monopoly; users have only one supplier of licences, while rightholders have only one source of rights administration.

(22) We support the Commission's view that both creators and consumers should be able to contest the collecting societies' tariffs, and its objection to the Santiago Agreement. Rightholders should be able to take groups of rights out of the system, so long as the rights of others (other than the collecting societies) are unaffected. Thus, for example, a German band playing its own compositions at an event in France should not have to pay itself royalties via the French and German collecting societies, so should be able to take these payments out of the system (it should not, however, thereby be able to stop other bands performing its songs on payment of the appropriate mechanical or performance fee). The regulatory regime should promote open competition between different licensing regimes, and above all should be consistent with the goals of copyright law - to maximise the amount of material available for the public to enjoy.

Repeal of the Database Directive

(23) EDRI supports the Commission proposal to extend Articles 5(3)(b) and 5(2)(c) from the copyright directive to the Database Directive (but would question why the latter does not include the sui-generis right). However, we have a more radical proposition. We call for the EC to repeal the database directive. We believe that there is no empirical evidence that the database Directive has increased investment in Europe. We are not aware of any such studies undertaken as part of the Commission review due to be published in 2005; on the contrary, the sui-generis right has introduced a serious imbalance between the rights of users and producers, with the latter appearing to have been given perpetual protection. European scientists and academics have expressed their serious concerns on the impact of the directive on access to scientific information and data (see the Royal Society report). Other member states in WIPO, and particularly the USA, remain unconvinced of the need for

an international treaty on databases; many Member States are lukewarm at best. It is time for the Commission to acknowledge that the Database Directive was a mistake, and repeal it.

(24) The European project is often criticised by 'Eurosceptics' who argue that the European Parliament is dysfunctional, because none of its legislation has ever been repealed. The Database Directive provides an excellent opportunity to confound these doubters. The principles of subsidiarity and proportionality, discussed above, require the Commission to provide evidence to support legislation, and to review, amend or repeal as appropriate in the light of the evidence. In our view the case for repeal is clear.

Exceptions and Limitations

(25) The present patchwork of exceptions and limitations to copyright law generally fall under the heading of 'fair use' or 'fair dealing'. Some of them are important for technical reasons - such as that temporary copies made in the course of electronic transmission are non-infringing. We support, by the way, the Commission proposal to extend this exception from the InfoSoc Directive to the Software Directive (91/250/EEC). We also argue that it is quite insufficient. For example, the temporary-copy exception applies only so long as the work is not modified - so antivirus software and much other middleware are, technically speaking, 'infringing devices'.

(26) Other exceptions and limitations are important for cultural and/or professional reasons, such as the right to make private copies of works - without which academic research would be very badly affected. Another casualty is innovation: for example, it is proving difficult to develop online music teaching, which would be of great benefit to citizens in rural areas, because of uncertainty about whether practices normal in face-to-face tuition would be legal over an electronic link. Unfortunately, Article 5 of the InfoSoc Directive makes almost all of these exceptions and limitations voluntary on national governments, rather than mandatory. This leads to effective fragmentation of the internal market; for example, an academic with a large collection of sound samples or film clips could well break the law if he were to move them from one Member State to another following a change of employment. Also, Europe might fail to develop online teaching because of uncertainty in many national markets, and end up with the US dominating yet another cultural sphere. The Commission paper acknowledges that some extension of exceptions is needed, for example for the disabled and for libraries. EDRI believes this is quite insufficient. Making most of the exceptions and limitations voluntary was a serious error which must be rectified. The exceptions and limitations should all be mandatory on all Member States. They must constitute a floor, not a ceiling.

A Digital Rights Directive

(27) Copyright law has become complex and confusing with new, different and overlapping rights for different types of content. The Commission proposal to simplify the law is laudable. But the review as proposed just tinkers around the edges, rather than tackling the fundamental problem. This is that rightholders have clear rights but unclear responsibilities. There are no useful mechanisms either for users to enforce their fair-use or fair-dealing rights in the face of unlawful behaviour by rightholders. There are also no effective ways for ascertaining the balance between an intellectual property right and another right, be it a specific personal right such as an employment right or consumer right, or a public good such as competition or environmental protection. National implementations of consumer rights, for example, are usually designed to deal with rogue traders, not with rogue industries.

(28) The WIPO General Assembly recently adopted a decision to address the needs of citizens of member states through a development agenda, which will include such issues as access to knowledge and technology. EDRI calls on the European Commission to adopt a corresponding approach, and to initiate discussions with stakeholders with a view to bringing in a Digital Rights Directive in the medium term.

(29) EDRI also calls on the Commission to initiate a study of the interaction between intellectual property law and the law on other topics such as employment, competition and consumers. This must not be limited to legal drafting issues but must encompass economic analysis and a wide-ranging policy debate on how intellectual property, like material property before it, can be fitted stably into the network of social rights and responsibilities in Europe. Europe has championed the social rights of citizens in many other spheres, against eighteenth-century views of property and contract. Now that the information society is making intellectual property rights and enforcement mechanisms comparably important, social rights must be championed here too - or much of what has been achieved will be lost. Twentieth-century views of IPR and DRM will not be consistent with developing the social agenda through the twenty-first century.

(30) As a concrete first step towards a copyright regime for the twenty-first century, we call on the Commission to introduce a Digital Preservation Directive. As we remarked above, copyright is a deal to maximise the number of works available to the public; the creator gets a time-limited monopoly, then the public gets to enjoy the work for ever after. For this purpose, many Member States have laws requiring publishers to deposit one or more copies of each published work with a national library system. These library systems are immensely important as a cultural and research resource, and they also preserve material for the benefit of civilisations yet to come. They are now under threat from digital rights management. We therefore propose that all publishers in Europe should give an unprotected copy of each work to a national library system, plus measures to integrate these into a European reference library system. (The former is prefigured in the UK Legal Deposit Libraries Act 2003, while the latter could grow out of The European Library.)

Levelling Up or Down?

(31) The Commission Staff Working Paper takes the InfoSoc Directive as its benchmark against which to review the earlier directives. We believe this is a flawed approach because of the many shortcomings of the InfoSoc Directive. We rather feel that the earlier directives provide a better benchmark. Citizens' rights should be levelled up, not down. For example, as the difference between software and other content becomes blurred, the Commission should import the back-up copy provision from the Software Directive into the InfoSoc Directive (and make it non-waivable). Another example is the non-waivable right to an equitable remuneration which should be exported from the Rental Right Directive (92/100/EEC) to other relevant directives - this may provide a modest and practical first step to resolving the looming tensions between copyright law and employment law.

(32) Not all of the earlier directives are perfect, though. As for the Software Directive (91/350/EEC), EDRI believes that the scope of Article 6 on decompilation is too limited, and fails to meet current market demands. We do not believe the Commission argument that the provisions on decompilation are still valid, and should simply be monitored along with technical developments. A typical problem arose in the Microsoft anti-trust case: even in the absence of 'Trusted Computing' mechanisms, Microsoft had managed to make its server interfaces sufficiently obscure that they resisted effective decompilation, to the extent that DG Competition had to order their publication. Rather than deciding such issues using case-by-case interven-

tion, which would violate the principles of subsidiarity and proportionality, the Commission should initiate a Directive: that Member States create an actionable legal right to interface specifications for the purposes of creating a compatible product. Any software vendor, anywhere in Europe, who wishes to create a Microsoft-compatible product, and is prevented by obscure interfaces (or by interfaces locked down by abuse of anti-circumvention provisions enacted consequent on the InfoSoc Directive), should be able to sue Microsoft in their national courts for injunctive relief.

(33) The Commission also asks, in respect of the Software Directive, about the protection of technical measures. EDRI strongly opposes the introduction of the legal protection of TPMs as in Article 6(1) of the EU CD. TPMs are overwhelmingly used in software in order to maximise lock-in, in other words, to create or entrench monopolies. It is a good thing that Article 7 of the Software Directive does not explicitly provide for protection against circumvention. This, in turn, raises a question about the InfoSoc Directive. The Commission thinks that protecting TPMs might in practice inhibit or prevent the application of the exceptions in the Software Directive, and that the Directive fulfils the terms of Article 11 of the WCT by providing for 'adequate protection'. This line of argument indicates that, in a thorough revision of copyright law, there is ample room (even without any changes to international treaties) to weaken Article 6 of the InfoSoc Directive.

(34) With the Rental Right Directive (92/100/EEC), the Commission's view is that there is no need for immediate action, so it should just monitor technical developments in the market place and the lending institutions. However, the Commission is taking infringement proceedings against six Member States for incorrect implementation of this Directive. The Directive permits Member States to derogate from the exclusive public lending right, provided there is a right to remuneration. But it also provides the option of exempting 'establishments which are accessible to the public' from the right to remuneration. The Commission working paper does not mention this. This is somewhat confusing, and may set a bad precedent. On the one hand, the law enables some flexibility; and on the other the Commission is bringing infringement proceedings for exercising this flexibility. This is especially important because of the effect on public libraries, educational and cultural institutions in the new Member States, and should be reviewed in the context of copyright as a whole (including our recommendations on libraries).

Summary

EDRI recommends:

1. The Commission is obliged, under the principles of subsidiarity and proportionality, to conduct a much broader, first-principles review of copyright law. This review must have particular reference to the rapidly emerging conflicts with competition law, employment law, environmental law and consumer law. It must also adduce economic evidence as to which existing policies are helpful or harmful, and should be used to stimulate broader policy debate.
2. The Commission also needs to tackle the current failure of copyright law, whereby most copyrighted works are locked up in publishers' safes rather than being made available to the public. In particular, EDRI recommends that after a work has been unavailable to the public for three years, the creator should be able to reclaim the copyright from the publisher; if the creator does not exercise this right, then, after a further two years, copyright should expire and the work should pass into the public domain.
3. The Commission also needs to tackle abuses of the InfoSoc Directive's anti-circumvention provisions, especially where technical protection mechanisms are used to enforce unfair contracts against consumers or to circumvent Article 81 or Article 82 of the Treaty of Rome. In particular, the abuse of a rights-management mechanism must void its legal protection, and should also render unenforceable all copyrights protected by it.
4. We welcome the Commission's proposal to reform the collecting societies and hope the Commission will proceed with all due speed and vigour.
5. The Database Directive should be repealed.
6. As copyright is harmonised, rights must be levelled up, not down. Thus the back-up copy provision must be imported from the Software Directive into the InfoSoc Directive, and the non-waivable right to an equitable remuneration must be exported from the Rental Right Directive. Furthermore, all the voluntary exceptions and limitations in Article 5 of the InfoSoc Directive must become mandatory. Further exceptions must also be created to legitimise existing useful activities that are technically illegal - for example, the use of anti-virus software.
7. The Software Directive must be extended so that companies seeking to build compatible products have not just the right to try to reverse engineer interfaces, but to the right to sue platform vendors for the necessary interface data in national courts.
8. The Commission should introduce a Digital Rights Directive so that consumers, not just copyright owners, have clearly defined rights. In this context, the Commission should push WIPO towards an international treaty on access to technology and culture.
9. As a concrete first step in this direction, the Commission should introduce a Digital Preservation Directive to enable Europe's libraries to protect our cultural heritage for the benefit of future generations and indeed of future civilisations.

EDRI would be pleased to answer any further questions the Commission may have on our proposals.