

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

Fields marked with * are mandatory.

General information about you

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.

Fields marked with * are mandatory.

*

I'm responding as:

- An individual in my personal capacity
- A representative of an organisation/company/institution

*Please provide your first name:

Joe

*Please provide your last name:

McNamee

*

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.
- Anonymously: 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.
- Please keep my contribution confidential. (it will not be published, but will be used internally within the Commission)

(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 enter the name of your institution/organisation/business.

European Digital Rights

What is your institution/organisation/business website, etc.?

Civil Society Organisation

*What is the primary place of establishment of the entity you represent?

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Italy
- Ireland
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden
- United Kingdom
- Other

*

My institution/organisation/business operates in: *(Multiple selections possible)*

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Italy
- Ireland
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden
- United Kingdom
- Other

*

Is your organisation registered in the [Transparency Register](#) of the European Commission and the European Parliament?

- Yes
- No

*

Please indicate your organisation's registration number in the Transparency Register.

16311905144-06

The role of publishers in the copyright value chain

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." [1]

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. [3]

*

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)*
- No

[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.

Category of respondents

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

- Member State
- Public authority
- Library/Cultural heritage institution (or representative thereof)
- Educational or research institution (or representative thereof)
- End user/consumer/citizen (or representative thereof)
- Researcher (or representative thereof)
- Professional photographer (or representative thereof)
- Writer (or representative thereof)
- Journalist (or representative thereof)
- Other author (or representative thereof)
- Collective management organisation (or representative thereof)
- Press publisher (or representative thereof)
- Book publisher (or representative thereof)
- Scientific publisher (or representative thereof)
- Film/audiovisual producer (or representative thereof)
- Broadcaster (or representative thereof)
- Phonogram producer (or representative thereof)
- Performer (or representative thereof)
- Advertising service provider (or representative thereof)
- Content aggregator (e.g. news aggregators, images banks or representative thereof)
- Search engine (or representative thereof)
- Social network (or representative thereof)
- Hosting service provider (or representative thereof)
- Other service provider (or representative thereof)
- Other

Questions

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
- licensing of rights from authors (exclusive or non-exclusive)
- self-standing right under national law (e.g. author of a collective work)
- rights over works created by an employee in the course of employment
- not relevant
- other

Please explain

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?

- yes, often
- yes, occasionally
- hardly ever
- never
- no opinion
- not relevant

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 licenced to you by authors?

- yes, often
- yes, occasionally
- hardly ever
- never
- no opinion
- not relevant

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.

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 positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

Insofar as EDRI - which produces booklets, a blog and a fortnightly newsletter could be considered a "publisher"... the re-publication of our content, we would move from a simple and clear creative commons approach to a less clear environment, where the reuse of our content would become more bureaucratically burdensome would have a strongly negative impact.

The actual, demonstrable impact of such new rights (implemented in a narrower way, it has to be noted) on publishers in Germany in Spain has been strongly negative. Press publishers in Germany have found it economically disastrous to insist upon the payment of royalties for the reproduction of snippets and thumbnails as links to search results. As a result, they have waived those rights, placing themselves back in the position that existed before the ancillary copyright law was introduced - while leaving everyone except Google worse off. In Spain, lawmakers unwisely thought fit to ban publishers from waiving their rights, with the outcome that an important platform for dissemination of their content, Google News, disappeared in Spain altogether, leaving everyone except Google worse off, especially small news outlets.

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 positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

EDRi produces a lot of content for our website, much of which is reused by either republishing or quoting. This right would be negative for us as it would render the situation more complex.

Once again, the assumption that authors should receive compensation for uses made under an exception (such as the quotation exception) is completely misguided. Beyond this, authors are already copyright owners and can and do frequently assign their economic rights to publishers. In this context, there is absolutely no benefit to authors in the creation of a new neighbouring right in favour of publishers. If anything, the existence of two overlapping sets of rights would complicate the enforcement of authors' rights and could result in the misapplication of royalties.

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

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

Even a narrower right would still have massively disruptive effects. Besides this, it is conceptually incoherent to propose a neighbouring right that would only benefit one kind of publisher. This would only inhibit the press sector from adapting to the realities of the digital age. As an analogy, imagine a special levy imposed on the GPS satellite navigation industry, to shore up the businesses of the street directory publishers. There can be no justification for such a special interest levy that operates as an impediment to innovation.

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

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

It is unclear what other rightholders are being referred to in this question.

The question relies on the definition of "other rightholders than authors in the publishing sector" and "publishers" as distinguished from "press publishers".

* C4C gives this answer: "Rightholders other than authors could cover for example : heirs of authors, publishers, software and gaming companies, employers (e.g. creative agencies), etc" - I agree on these possible examples, but would add rightholders of e.g. pictures, music or films (as they are also active in "publishing sectors").

* "Publishers" as distinguished from "press publishers" would cover any creator, blogger, vlogger, movie maker, graphic designer, etc., but also press publishers themselves.

First, the example of Spain has shown that the introduction of similar neighbouring rights (in order to make Google pay for listing and linking information) completely failed. Instead of paying, 'Google' just stopped listing publishers in the search results. This led to a huge decrease of traffic on the publisher's websites (disproportionately harming smaller outlets) and eventually to a loss of their income. The introduction of neighbouring rights for press publishers has failed in Germany and Spain.

Neighbouring rights covering "publishers in all sectors" would only extend and enhance these disastrous effects.

Secondly, also the work of "other rightholders than authors" would be impeded by the implementation of neighbouring rights for all publishers. Even the work of publishers themselves would be impeded. "Neighbouring rights for press publishers" would make the work of "rightholders other than authors" more difficult, as the creation of a new work often benefits from a free flow of information, being available through the work of 'search engines' and 'news aggregators'. Press publishers, software companies, graphic designers and employers would suffer from restrictions of this free flow.

Thirdly, any creator, blogger, vlogger and Internet user, who seeks to create a new work on the basis of another work will need to get permission not only from the author of the original work, but also from the publisher. This would ultimately lead to a loss of quality of their work, a raise of costs and to disadvantages in competition with rightholders from other countries.

Summarising, there would be a strong negative impact on "rightholders other than authors", because of a loss of traffic, a loss of income and decrease of quality. On top of that are these rightholders (e.g. industry or music) already sufficiently protected by normal copyrights. Adding an additional layer of rights would only create legal uncertainty and would constitute an unjustified, unequal treatment compared to other rightholders.

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?

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

Just as in question 7, the question relies on the definition of "other rightholders than authors in the publishing sector". This time the question is limited to the introduction of neighbouring rights to press publishers only. The remarks for question 7 can be partially repeated and adapted.

The question relies on the definition of "other rightholders than authors in the publishing sector" and "publishers" as distinguished from "press publishers".

* C4C gives this answer: "Rightholders other than authors could cover for example : heirs of authors, publishers, software and gaming companies, employers (e.g. creative agencies), etc" - I agree on these possible examples, but would add rightholders of e.g. pictures, music or films (as they are also active in "publishing sectors").

First, the example of Spain has shown that the introduction of similar neighbouring rights (in order to make Google pay for listing and linking information) completely failed. Instead of paying, 'Google' just stopped listing publishers in the search results. This led to a huge decrease of traffic on the publisher's websites (disproportionately hurting smaller publishers) and eventually to a loss of their income. The introduction of neighbouring rights for press publishers has failed in Germany and Spain.

Secondly, also the work of "other rightholders than authors" would be impeded by the implementation of neighbouring rights for press publishers. Even the work of press publishers themselves would be impeded. "Neighbouring rights for press publishers" would make the work of "rightholders other than authors" more difficult, as the creation of a new work often benefits from a free flow of information, also being available through the services of 'search engines' and 'news aggregators'. Press publishers, software companies, graphic designers and employers would suffer from restrictions of this free flow.

Thirdly, any creator, blogger, vlogger and Internet user, who seeks to create a new work on the basis of another work will need to get permission not only from the author of the original work, but also from the publisher. This would ultimately lead to a loss of quality of their work, a raise of costs and to disadvantages in competition with rightholders from other countries.

Summarising, there would be a strong negative impact on "rightholders other than authors", because of a loss of traffic, a loss of income and decrease of quality. On top of that are these rightholders (e.g. industry or music) already sufficiently protected by normal copyrights. Adding an additional layer of rights would only create legal uncertainty and would constitute an unjustified, unequal treatment compared to other rightholders.

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

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

The disruption to this sector created by a new neighbouring right in favour of publishers would be immense and costly. There are already well-established systems for the remuneration of publishers through their contractual relationships with authors and distributors. No evidence is presented that these contractual mechanisms are ineffective.

The answer, as it is partially overlapping with question 7 and 8, will repeat some of their arguments.

First, any education or research benefits from a free flow of information, at best from many different sources. Any teacher or researcher who wants to create a new work on the basis of another work will need to get permission not only from the author of the original work, but also from the publisher.

Second, the introduction of "neighbouring right for publishers" has the effect that 'search engines' and 'news aggregators' only show information and linked content, for which they are willing to pay. This would immediately lead to a reduction of sources, information and eventually knowledge. Especially sources that are not well-established would be highly disadvantaged by such a development.

Third, the current copyright framework contains an important exception regarding 'education'. This exception is a fundamental principle of the current copyright system and must not be jeopardised by the introduction of neighbouring rights that do not respect this principle. Again, this would also lead to severe disadvantages compared to researchers and educational or research institutions from other countries.

The creation would have a strong negative impact on researchers and educational or research institutions, as the exception of copyright regarding education and a diverse and wide-ranging offer of information are essential for their work and success.

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

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

The removal of the Google News platform in Spain is a loss that researchers and educators in Spain have already suffered as a result of the introduction of a similar neighbouring right. We can only imagine how many more online services will be withdrawn across Europe if a similar misguided law is introduced across the continent.

The comments from question 9 can be repeated, however, the negative effect would be even stronger, when extended to all publishers.

First, any education or research benefits from a free flow of information, at best from many different sources. Any teacher or researcher who wants to create a new work on the basis of another work will need to get permission not only from the author of the original work, but also from the publisher.

Second, the introduction of a "neighbouring right for publishers" has the effect that 'search engines' and 'news aggregators' only show information and linked content, for which they are willing to pay for. This would immediately lead to a reduction of sources, information and eventually knowledge. Especially sources that are not well-established would be highly disadvantaged by such a development.

Third, the current copyright framework contains an important exception for educational purposes. This exception is a fundamental principle of the current copyright system and must not be jeopardised by the introduction of neighbouring rights that do not respect this principle. Indeed, that exception should become mandatory.

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 positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

Extracts of content are widely distributed across the Internet by users and intermediaries in reliance on copyright limitations and exceptions such as fair dealing, fair use, personal use, and quotation. Often, the online service provider selects and transmits these extracts by automatic means (eg. search engines), and at other times as an intermediary acting on behalf of its users (eg. Twitter, Facebook). It is not feasible for such providers to license content that is presented as a result of a neutral search algorithm or that is shared by users. If such an obligation were imposed, it would simply result in the closure of these online services, as in the case of Google Spain or give large established companies a competitive advantage, due to economies of scale.

Such neighbouring rights would introduce obligations on online service providers that are fundamentally contrary to the way most online service providers work and are being used by citizens. Such rights would create unreasonable legal uncertainty and would harm the competitiveness of the Digital Single Market as a whole and especially start-ups.

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 positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

The same answer as given to the previous question applies. The use of short snippets to link to news articles is a right that in most cases does not require a licence from the author. In cases where too much content is taken, the author (and, generally, the publisher who exercises the author's economic rights) already has a remedy for its removal. There is no justification for granting additional rights to publishers that authors do not already enjoy. This would only create additional burden and cost.

The comments on question 11 apply to this question too. Such neighbouring rights would introduce obligations on online service providers that are fundamentally contrary to the way most online service providers are working and are being used by citizens. Such rights would create unreasonable legal uncertainty and would harm the competitiveness of the Digital Single Market as a whole and especially start-ups.

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

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

Consumers, end-users and citizens would be perhaps the most adversely affected of all the stakeholders. It is they who would suffer from the lack of availability of content due to licensing difficulties and costs. This would impact access to knowledge and education, particularly with respect to European materials. Since materials published outside Europe would be unaffected, this would also drive consumers towards non-European sources of content. Especially small companies in Germany and Spain suffered from this new right and many eventually had to shut down their business. This led to a smaller number of providers and therefore to less choice of consumers.

14. Would the creation of new neighbouring right limited to press publishers have an impact on consumers/end-users/EU citizens?

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

Even if the new neighbouring right were limited to press publishers, the impact on consumers would still be significant and negative. Users are now central participants in the dissemination and commentary of news. To limit their ability to share news through social media would be a significant imposition on their human rights to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. Again it was especially small press publishers who suffered most from the laws in Spain and Germany. This legal environment created obstacles especially innovation and start-ups.

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?

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain, indicating in particular the Member State.

After the introduction of neighbouring rights in Germany, people were confronted with many uncertainties when using search engines, such as Google. When searching for a topic in the news, they did not know whether the results shown were complete or partially restricted. Germany faced many legal disputes and the legal uncertainty still is not fully resolved today. Luckily the situation improved, as many press publishers gave Google a waiver to link their content, in order to avoid the negative consequences this misguided law brought. Google's competitors, on the other hand, still suffer this chaotic legal framework.

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?

- Yes
- No

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

The introduction of neighbouring rights is a threat to innovation in the Digital Single Market. Instead of supporting innovation and new business models, it tries to force an out-dated copyright-regime on the dynamics of the Internet. The result is legal uncertainty, permanent unintentional copyright violations by citizens and an innovation-hindering environment.

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.

*

Selection

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')?"

- Yes *(Please allow for a few moments while questions are loaded below)*
- No

[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.](#)

Category of respondents

*

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

- Member State
- Public authority
- Owner or manager of works made to be located permanently in public places (or representative thereof)
- Library or Cultural heritage institution (or representative thereof)
- Educational or research institution (or representative thereof)
- End user/consumer/citizen (or representative thereof)
- Visual artist (e.g. painter, sculptor or representative thereof)
- Architect (or representative thereof)
- Professional photographer (or representative thereof)
- Other authors (or representative thereof)
- Collective management organisation (or representative thereof)
- Publisher (or representative thereof)
- Film/audiovisual producer (or representative thereof)
- Broadcaster (or representative thereof)
- Phonogram producer (or representative thereof)
- Performer (or representative thereof)
- Advertising service provider (or representative thereof)
- Content aggregator (e.g. news aggregators, images banks or representative thereof)
- Search engine (or representative thereof)
- Social network (or representative thereof)
- Hosting service provider (or representative thereof)
- Other service provider (or representative thereof)
- Other

Questions

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?

- Yes, often
- Yes, occasionally
- Hardly ever
- Never
- No opinion
- Not relevant

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

As we are based in Belgium, it sometimes happens that we have photos taken in which problematic buildings are shown.
Images of the Atomium are pointlessly censored in several online resources, for example on Wikipedia Commons (see the explanation at https://en.wikipedia.org/wiki/File:Atomium_320_by_240_CCBY20_flickr_Mike_Cattell.jpg#filehistory).
Many citizens do not have severe 'problems' with copyright, even though they are violating it unintentionally. However, this is often only the case, because rightholders do not take them to court. A bad law should not stay in place, only because it is not (yet) enforced. Especially in France, Belgium, Greece and Luxembourg both commercial and non-commercial cases are very problematic.

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?

- Yes, often
- Yes, occasionally
- Hardly ever
- Never
- No opinion
- Not relevant

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

Again this question is asking about concrete problems that were caused by providing online access to images of works. This again ignores the fact that many citizens never face problems, only because their "violations" are not being currently being punished. This again does not change anything about the bad regulation of the commercial and non-commercial use of images of works. Again, a bad law should not stay in place, only because it is not (yet) enforced.

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?

- Yes, on the basis of a licence
- Yes, on the basis of an exception
- Never
- Not relevant

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?

- Yes
- No
- Not relevant

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?

- strong positive impact
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

There should be an exception for commercial and non-commercial use. An exception for non-commercial use only would not allow the use of content under a truly free licence, such as used by Wikipedia, nor would it benefit industries such as tourism.

The question should be answered with 'no impact' as the question is slightly misleading. The problem is that the difference between commercial and non-commercial use is legally not clear. Non-commercial use is a very broad term, and if there it is not included in an exception, it would still effect citizens who think they would use images for non-commercial purposes only. Non-profit projects can be considered of "commercial scope", even if they are not legally "commercial".

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
- modest positive impact
- no impact
- modest negative impact
- strong negative impact
- no opinion

Please explain

This would clear the way for a lot of tolerated uses to be formally legalised, removing a grey cloud over much socially beneficial activity, such as uploading of personal photographs, use of photographs by businesses involved in the tourism industry, and the publication of photographs in online and offline publications. It would widely improve legal certainty across borders in the Europe, it would foster the freedom to create and the freedom of expression in the online environment.

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?

- Yes
- No

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

Failure to provide a clear, comprehensive panorama exception is a policy which brings a range of demonstrable costs and no demonstrable benefits. Maintaining such an approach is indefensible.

Submission of questionnaire

End of survey. Please submit your contribution below.

Useful links

[Webtext EN \(https://ec.europa.eu/digital-agenda/news-redirect/29674\)](https://ec.europa.eu/digital-agenda/news-redirect/29674)

Background Documents

[Privacy Statement DE \(/eusurvey/files/08c163a2-8983-4d3b-ae3e-21f69b5957cd\)](/eusurvey/files/08c163a2-8983-4d3b-ae3e-21f69b5957cd)

[Privacy Statement EN \(/eusurvey/files/217d6300-2bbe-4a51-aba4-0371c246dc9d\)](/eusurvey/files/217d6300-2bbe-4a51-aba4-0371c246dc9d)

[Privacy Statement FR \(/eusurvey/files/43cedbae-8123-4596-94ce-b526019329e5\)](/eusurvey/files/43cedbae-8123-4596-94ce-b526019329e5)

[Webtext DE \(/eusurvey/files/3abc4c0f-c0e6-4ece-99a3-2bebbba8c65d3\)](/eusurvey/files/3abc4c0f-c0e6-4ece-99a3-2bebbba8c65d3)

[Webtext FR \(/eusurvey/files/df02a573-838f-45e7-912d-8231ee8cdbcd\)](/eusurvey/files/df02a573-838f-45e7-912d-8231ee8cdbcd)

Contact

CNECT-CONSULTATION-COPYRIGHT@ec.europa.eu
