

Science Europe Statement
(26 September 2016)

Allows for Mining but Doesn't Strike Gold

The EU Copyright Reform Recognises Roles of Research but Fails to Realise its Full Potential

Science Europe had long called for the modernisation and harmonisation of European copyright law in order to create a better alignment with the needs of researchers conducting cutting-edge scientific research. On 14 September 2016, the European Commission (EC) released a legislative proposal to reform EU copyright law as a part of the Digital Single Market strategy.

From this reform, the European research and innovation sector had three key needs: firstly the reform needed to enhance legal certainty for researchers and research institutions; it had to remove any barriers to knowledge creation through research techniques that rely on content mining of large amounts of text or data (usually referred to as Text and Data Mining or TDM); and finally, it needed to support a competitive innovation ecosystem in Europe by facilitating the use and re-use of legally accessible content for scientific research by both commercial and non-commercial entities.

After close inspection of the proposal, it is clear that the Directive addresses some of these needs but not to the full extent required.

By proposing a mandatory TDM exception for research organisations, which cannot be overridden by contractual provisions with publishers or other right holders, the EC strives to offer the necessary conditions for researchers to perform TDM with legal certainty. The mandatory nature of the exception enhances harmonisation, thus facilitating cross-border collaboration between researchers and institutions in different Member States, an essential feature of scientific research. The proposal also shows a clear understanding and recognition of the tremendous contribution to knowledge and society that researchers and research institutions make as authors but also, critically, as users of data and information.

Unfortunately however, the proposal fails to extend the same content mining rights to commercial entities involved in scientific research, which is necessary for research and innovation. The definition of the beneficiaries of research in the proposed Directive is much too restrictive and effectively prevents, rather than encourages, research-based innovation. Granting this right to research organisations, defined in a narrow way, only means that the Digital Single Market strategy will fail to unlock the potential of new digital technologies and will flounder in quickly transforming research results into new products, the emergence of new dynamic business sectors, and benefits to society.

As the proposal enters its legislative process with the European Parliament and the Council, it is essential that the progress to date is protected while also making necessary improvements and corrections. Going forward:

 Science Europe calls on the European legislators to safeguard the mandatory exceptions for research and TDM,

as without the mandatory character of the exceptions for research the reform will fail in its goals of modernising and harmonising copyright.

- ▶ Science Europe calls on the European legislators to maintain the guarantee that the exceptions for TDM cannot and shall not be overridden by contractual or licencing arrangements. Otherwise, the purpose of the mandatory exception would be lost and the revision will fail in providing legal certainty.
- ▶ Science Europe calls on the European legislators to broaden the definition of the entities subject to the TDM exception to ensure that non-commercial as well as commercial entities are covered by the exception when mining content for scientific research purposes. Without a broader definition of these entities this copyright proposal severely undermines the competitiveness and attractiveness of Europe in terms of innovation and places significant barriers to knowledge transfer between sectors.

Finally, Science Europe shares the view expressed by a wide range of stakeholders ([research libraries](#), [research universities](#) and the [digital technology industry](#) among others) that the guiding principle for a truly modern, research and innovation friendly copyright legislation for Europe must include the concept ‘the right to read is the right to mine’ and subsequently this needs to be enshrined in the Directive.

The current proposal has come a long way in recognising the tremendous potential of new digital technologies for knowledge creation but it is still far from establishing a copyright system that helps Europe realise its full potential.

Notes to Editors

Directive of the European Parliament and of the Council on copyright in the Digital Single Market: <http://bit.ly/2cS4RUj>

Previous Science Europe work on this topic:

- Workshop Report: The Importance of Content Mining for Science <http://scieur.org/tdm-report>
- Press Release: Science Europe Welcomes the EC Stand on Content Mining <http://scieur.org/tdm-pr>
- Briefing Paper: Text and Data mining and the Need for a Science-friendly EU Copyright Reform <http://scieur.org/tdm-bp>

Science Europe is an association of major European research funding and research performing organisations in 27 countries, established in 2011 to promote the collective interests of its members and to foster collaboration between them. For more information see www.scienceeurope.org.

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