Response

The Green Paper on Copyright in the Knowledge Economy represents an important opportunity to update European copyright law to maximise social welfare and citizens' opportunities in the information society. Increased profits resulting from any extension of private rights for the music, film, publishing and related industries need to be carefully balanced against the resulting impact on the social and economic contribution of industries that take advantage of the exceptions and limitations to copyright law – from the education system to the free press. A growing evidence base¹ exists to suggest that this contribution is vital for a vibrant knowledge economy.

Unfortunately the Green Paper seems to pay more attention to the private rather than social impacts of copyright. It risks significant damage to the fledgling knowledge economy that is critical for economic growth and prosperity for European Member States far into the 21st century.

Further, during the rapid growth of the networked communications environment, consumers and citizens of the European Union have contributed significantly to content

online. Their motivations have been as diverse as motivations to communicate offline – the web is essentially a conversation between those connected to it, a “theatre of public discourse” where content, often protected by copyright, is manipulated, remixed and re-imagined by a new generation of citizens in order to communicate with each other, and to the world. We draw the Commission’s attention to recent research by the UK thinktank DEMOS, which concludes that:

“As young people experience greater freedoms online, many are choosing to ‘route around’ political and cultural institutions rather than take them on directly. This poses a profound challenge to decision-makers, but it also creates new opportunities. For democracies starved of legitimacy, it offers hope for a new sphere of democratic expression and participation.”

The study notes that young citizens remixing content online as a tool for expression exist in a precarious space between legality and illegality:

“this is uncharted legal territory for everyone. While corporations can do little to curb the practices of millions of users, particular individuals make a vulnerable target when questions of ownership are in flux.”

We would deliberately separate this problem from the persistent challenges of mass copyright infringement online across, for example, peer-to-peer filesharing systems, and express regret that the two are often conflated. We support DEMOS’s call for a refreshed approach to intellectual property that places the health of cultural exchange on an equal footing to economic interests, and embeds people’s rights to transform and use work creatively. We urge the Commission to use the opportunity presented by the Green Paper on Copyright in the Knowledge Economy in order to address this issue.

In response to the Green Paper, the Open Rights Group makes the following recommendations:

1. That mandatory minimums for exceptions and limitations to copyright law be set for all Member States, to include exceptions for criticism and review, education, research and archiving, in respect of the fact that these activities contribute to a healthy knowledge economy and a just society.

2. That mandatory minimums for exceptions and limitations for access for disabled citizens to copyright law be set for all Member States, which mirror similar access rights to, for example, buildings and transport networks, for these citizens in the offline world.

3. That the European Union take measures to ensure that rightsholders may not override these mandatory exceptions using contract law.

4. That no associated compensation be offered to rightsholders in respect of the fact that such exceptions allow for a thriving and sustainable knowledge economy which benefits all, unless significant, specific and actual economic harm be demonstrated which overrides these tangible economic goods.

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3 ibid

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Copyright in the knowledge economy
5. That user-created content be recognised and understood as a potential economic and social good in society, and the law be re-examined at root to allow whatsoever provisions as are necessary to allow citizens and consumers to engage in such activity freed from the precarity currently enshrined in law.

About the Open Rights Group

The Open Rights Group is a grassroots digital rights advocacy group based in the UK. It aims to increase awareness of digital rights issues, help foster grassroots activity and preserve civil liberties in the digital age. It is funded by individual donations and small grants.