



Calling all librarians: You can change Europe's copyright laws!

If you could change the future of copyright in Europe in as little as 15 minutes, would you? You currently have the chance to do exactly that.

Until February 5th, everyone can share opinions on copyright with the European Commission through its [Copyright Consultation](#)¹.

Your opinion counts. Anyone who works with researchers, or who cares about future library services and access to cultural heritage will be affected by the results of this consultation.

Keep It Simple - Use Our Quick Guide

LIBER has created this quick guide so that you can easily make your voice heard on the topics that matter most to you. Please forego your coffee or tea break today and respond!

One of the simplest ways to respond is via the [Automatic Consultation Response Wizard](#)² (available in English, Deutsch and Polski).

The response wizard will create a PDF with all the questions and your answers. You should send this to markt-copyright-consultation@ec.europa.eu by the 5th of February.

Things To Keep In Mind

- The EU is very interested in cross-border difficulties where students, teachers, researchers have problems using material across Member State legal boundaries;
- You don't have to answer everything. Even a yes/no response is helpful;
- The Commission wants to hear from a broad range of people: researchers, students and teachers as well as institutions like universities, schools, colleges and their libraries.

Why Your Opinion Counts

Consider the following questions:

- 1. Would your library service be adversely affected if you had to request permission from the rights holder for every single hyperlink on your website?*
- 2. Would you like to ensure that our born-digital cultural heritage is preserved and remains accessible for the future?*
- 3. Would your researchers like to be able to borrow e-books (e.g. via inter-library loan) in the same manner that they can borrow analog books?*

If you have answered 'yes' to any of these questions then you should respond to the consultation.

¹ http://ec.europa.eu/internal_market/consultations/2013/copyright-rules/index_en.htm

² <http://youcan.fixcopyright.eu>



Guide To The Consultation

Below you will find our notes for responding to the consultation. We have highlighted specific questions which we feel are especially important to the library community.

A. Cross-border problems (questions 1-7 and 26-27)

Think about content that you have legal access to. Can you easily share it across international borders or is this problematic? Similarly, can you license content across borders?

One example of this might be material in a particular language. Sharing it with other people who speak the same language (but who reside in another country) might be desirable but in order to do this you currently have to be an expert in your own copyright laws and those of other countries. You might give examples of certain services that would be desirable to offer, given a friendly copyright environment. For example, would a cross-border network for digital archiving be desirable?

B. Extending copyright to reading and URLs (questions 11-12)

We recommend answering 'no' to both questions. Both have important ramifications for how the internet is used and how small a quantity of words, or indeed the act of reading online, could be regulated by copyright or database laws. Librarians might consider how these questions could relate to catalogue records, which are not dissimilar to a URL in some senses.

C. Registration of works and other subject matter – is it a good idea? (questions 15-18)

Currently there are no requirements to register copyright. Would the encouragement of registration of rights make rights clearance for historical digitisation projects for example easier, or would this be too burdensome? (Note that under the Orphan Works Directive libraries, museums and educational establishments are being required to "register" Orphan Works.)

D. Is the current period of copyright too long, too short or just right? (question 20)

Current copyright is life plus 70 years. Related rights such as those for sound recordings and performances in the music sector last 70 years. This is 20 years longer than is required by international law. Answer this question if you have views on this point.

Given that most works from academics make no commercial returns for anybody 50 years after the death of the author, LIBER will answer that the duration of copyright in the EU should be base-lined with international norms at life plus 50 / 50 years as appropriate.

E. Limitations and Exceptions – important for libraries and those in education! (questions 21-25)

Q21. Are there problems arising from the fact that most limitations and exceptions provided in the EU copyright directives are optional for the Member States? **Yes.** There is to all intents and purposes no harmonisation in the EU for users of copyright works in the single market. This makes the cross-border use of copyright works problematic.

Q22. Should some/all of the exceptions be made mandatory and, if so, is there a need for a higher level of harmonisation of such exceptions? **Yes.** All those that relate to education, learning and access to knowledge should be mandatory. A harmonised approach to the adoption and implementation of limitations and exceptions across Europe is required to reduce legal uncertainty and to promote the circulation of knowledge in the single market.

23. Should any new limitations and exceptions be added to or removed from the existing catalogue? Please explain by referring to specific cases. **No exceptions should be removed.**

You could ask for new mandatory exceptions such as:

- Text and data mining for all research purposes;
- An exception to ensure that nothing in a contract undermines limitations and exceptions in copyright law;
- Legal certainty for e-lending by libraries analogous to analogue e-lending;
- A new preservation exception allowing preservation networks between institutions (currently most preservation exceptions relate to preserving material in your own collection, rather than having digital mirror sites and activities between institutions);
- Publicly funded research results openly available regardless of contracts signed with a publisher;
- Research exceptions making no distinction between commercial and non-commercial purposes.

24. Independently from the questions above, is there a need to provide for a greater degree of flexibility in the EU regulatory framework for limitations and exceptions? **We recommend you answer ‘Yes’.** Currently Europe has very tightly defined and prescriptive exceptions. Additional flexibility, particularly given the slow pace of legislative change as compared to rapid advancements in technology, would be desirable.

25. If yes, what would be the best approach to provide for flexibility? (e.g. interpretation by national courts and the ECJ, periodic revisions of the directives, interpretations by the Commission, built-in flexibility, e.g. in the form of a fair-use or fair dealing provision / open norm, etc.)? **Please explain indicating what would be the relative advantages and disadvantages of such an approach as well as its possible effects on the functioning of the Internal Market.** The United States, Israel, Singapore and South Korea have an exception known as ‘fair use’. Rather than allowing a pre-defined activity, it is a test that can be applied to any activity that uses a copyright work to see if it undermines the legitimate interests of a rightsholder or not. A similar law is just one possible solution to the current situation in Europe.

F. Text and Data Mining (questions 53-57)

Given that these questions relate to modern, computer based research we believe it very important to answer these questions. Researchers want the ability to data mine the open web, as well as subscription-based content. We believe that a legislative solution is very much needed. This solution should allow data mining of any content to which you have legal access. Countries like the United States and Japan allow text and data mining in their law. For more information on why text and data mining reform is important, please see [Text and Data Mining: Its importance and the need for change in Europe](#)³.

G. Respect for Rights – Enforcement (question 76)

Q76. In particular, is the current legal framework clear enough to allow for sufficient involvement of intermediaries (such as Internet service providers, advertising brokers, payment service providers, domain name registrars, etc.) in inhibiting online copyright infringements with a commercial purpose? If not, what measures would be useful to foster the cooperation of intermediaries? **We believe any legislation dealing with intermediaries on the internet has to be extremely well thought through and defined appropriately.**

In the UK and New Zealand, poor drafting of legislation meant that organisations like schools, libraries and universities were essentially defined as intermediaries in the same way as internet service providers. We believe it very important that organisation with a public policy function like a library or educational establishment should NOT be treated as an intermediary of any description.

³ <http://libereurope.eu/news/tdm>



H. Any other questions? (question 80)

One issue that is not raised in the consultation is the fundamental issue of what users of copyright law can do with licensed content. We recommend that you raise this issue and say that education / research / library exceptions cannot be "trumped" by individual contract.

Specific Topics

In addition to the notes above, views on access to specific types of content can be addressed in the questionnaire.

- **Digital Preservation:** Q28-31
- **Licensing of e-content by an institution for its students, teachers:** Q32-35
- **Licensing of e content for e-Lending:** Q36-37
- **Differences between libraries and their services around analogue and digital collections (eg. services on and off the premises):** Q38-39
- **Enabling Mass Digitisation:** Q40-41
- **Using material for teaching:** Q42-46
- **Using material for research:** Q47-49
- **Access by disabled people:** Q50-52
- **User-generated content:** Q58-63
- **Private copying and levies:** Q64-71
- **Fair remuneration for authors and performers:** Q72-74*
- **Replacing national laws with a single European copyright law:** Q78-79

** Don't forget that many academics are authors too!*

For more information about LIBER's position on copyright, please contact Susan Reilly (susan.reilly@kb.nl). To learn more about LIBER as an organisation, please visit our website: www.libereurope.eu