

1

Copyright proposal: Copyfails reloaded

Different rights for users in different EU countries

What was proposed?

The copyright framework has been outdated for a long time. The current copyright reform creates the opportunity to make the framework both less chaotic and more relevant to the challenges of the digital age. Instead, the European Commission proposed a few patches that do not go far enough to secure user rights online and unleash creative potential of European citizens and business.

What is the problem?

Europeans enjoy different freedoms in relation to copyright. For example, the use of a film character to make a parody of a politician could be an infringement in the UK but not in Portugal. Similarly, in many member states users can copy legally purchased films and music for private use, but in some they cannot, legally. Instead of harmonising the existing user rights, the Commission proposes exceptions that either allow for national licensing schemes (education exception) or exclude important stakeholders from their benefits (text and data mining exception).

Why is this important?

The lack of a harmonised framework creates unnecessary barriers between Europeans and their culture. They cannot learn or produce creative works on equal terms across the EU. Moreover, they cannot get comprehensive information about what they can and cannot do. An [FAQ created by the European Union's Intellectual Property Office](#) demonstrates that European users cannot know which uses of copyrighted materials are legal and which are not.

Will the proposal fix the problems?

No. The directive proposal only partly harmonises a few exceptions and leaves member states the option of creating new barriers to the Digital Single Market by inventing their own licences and practices, which would complicate cross-border collaboration. As a result, citizens will not enjoy equal rights across the EU. SMEs will struggle to create new business models.

How can this be fixed?

A far more extensive and open approach to harmonising copyright exceptions is possible, needed, and legally unproblematic. It is possible without undermining copyright. Make all available copyright exceptions and limitations that do not harm the author mandatory and harmonise them across all member states.