

EU Copyright Directive: EUA guidelines for members to influence national implementation

The European University Association (EUA) would like to highlight the key aspects of the [EU Directive on Copyright in the Digital Single Market](#) to inform the national rectors' conferences and their members. At the same time, the association would like to stress the importance for universities to become engaged in the national implementation of the new Directive to ensure a good outcome for education, research and innovation.

The Copyright Directive was adopted by the European Parliament in March 2019 and endorsed by the Council of the European Union in April 2019. The Directive will be transposed into national law by the member states once it enters into force on 7 June 2019. This process will take up to two years, finishing by June 2021.

Many provisions allow member states considerable room for interpretation, making it essential for universities to engage with their national governments during this process. Indeed, the process creates opportunities for national actors to become involved and dangers if they do not.

EUA issued a [cautious response to the adopted Directive](#). While the association welcomes the greater clarity for the use of protected material in a digital environment, as well as key exemptions for the educational and scientific activities of European universities, it is concerned about the Directive's impact on other sectors and the wider society.

EUA recommends that national rectors' conferences pay particular attention to the following articles in contributing to their national dialogue:

Article 3 on text and data mining for the purpose of scientific research, and

Article 4 on exceptions and limitations for text and data mining

- The Directive contains a mandatory exception in Article 3 on text and data mining for research purposes, as well as a mandatory exception in Article 4 for individuals and institutions with legal access to protected works. Together these exceptions allow universities to continue text and data mining for research purposes and collaborate with other actors. **While these exceptions are mandatory for each member state, universities can further stress their importance for research and collaboration with non-university partners and seek to avoid any further barriers to implementation at the member state level.**

Article 5 on the use of works and other subject matter in digital and cross-border activities

- The Directive also contains an exception in Article 5(1) for the use of protected works in digital and cross-border learning and teaching activities. This exception offers legal clarity for

teachers to make full use of the opportunities offered by digital technologies. However, Article 5(2) allows member states to bypass the exception if and when licences are available on the market. **This is a key discussion for universities to take up with their governments, advocating in favour of retaining the legal clarity offered by Article 5(1) on the national level.**

*Article 15 on the protection of press publications concerning online uses, and
Article 17 on the use of protected content by online content-sharing service providers*

- EUA is concerned about the impact of the Directive on other sectors and the wider society, especially Article 15 on the online protection of press publications and Article 17 on the use of protected content by online content-sharing service providers. More commonly known as the “hyperlink tax” and “upload filter” articles, the national interpretation of these provisions will reshape how societies use the internet to share and discuss content. The Directive exempts periodicals that are published for scientific or academic purposes from Article 15. It also exempts not-for-profit educational and scientific repositories from Article 17, which benefits university repositories. **As part of their broad mission towards society, universities should foster dialogue to better understand the impact of Articles 15 and 17 on the role of the internet in a free and open society.**

EUA urges universities to make their voice heard as member states transpose the Copyright Directive into national law. The outcome of this process will determine its impact on 735 000 researchers working in Europe’s higher education sector (2017 estimate, Eurostat), specifically on how their work connects and contributes to society. Moreover, it will also decide the Directive’s impact on 1 484 000 people active as teachers in higher education (2016 estimate, Eurostat), as well as 19 590 000 students participating in tertiary education (2016, Eurostat).

EUA has been closely involved in the negotiations on the Copyright Directive. The association invites its members to reach out with any questions they might have on the national transposition of the Directive, as well as to flag challenges they face during this process.