

# CEIPI Opinion on Reform of Copyright Limitations in the European Digital Single Market

**Kluwer Copyright Blog**

October 21, 2017

Kluwer Copyright Blogger

*Please refer to this post as: Kluwer Copyright Blogger, 'CEIPI Opinion on Reform of Copyright Limitations in the European Digital Single Market', Kluwer Copyright Blog, October 21 2017, <http://copyrightblog.kluweriplaw.com/2017/10/21/ceipi-opinion-reform-copyright-limitations-european-digital-single-market/>*

---

The Centre for International Intellectual Property Studies (CEIPI) has just published a position paper on the proposed reform of copyright exceptions and limitations in the European Digital Single Market (DSM).

The European Commission's planned copyright reform proposes to adapt EU law to the challenges emerging in the Digital Single Market (DSM). This **CEIPI Opinion does support** the plan to develop a—much needed—**strategy to take copyright into the 21st century** and make it functional to the DSM, especially by addressing important needs with regard to access to copyrighted works in order to boost creativity and innovation, promoting cumulative research and sharing of knowledge-based resources. In particular, new mandatory exceptions and limitations should contribute to improving the digital environment's creative ecosystem. The introduction of mandatory exceptions and limitations is a welcome, innovative arrangement that promotes harmonization and, therefore, the DSM. Obviously, focus on facilitation of research, teaching and preservation of cultural heritage stands as a primary need for the promotion of the DSM. However, the goal of the proposal of lowering barriers to research and innovation in the EU DSM **should be pursued more decisively by expanding the reform's scope**. This reform should be an opportunity to consider also additional exceptions and limitations that are crucial in a knowledge based society and to reflect on the

future design of an opening clause to address uses that are not yet covered by existing exceptions and limitations but are justified by important public interest rationales and fundamental rights such as freedom of expression and the right to information. Moreover, a true harmonisation of the DSM will only be achieved if all limitations and exceptions provided in past EU copyright instruments are declared mandatory and have thus to be implemented as such in national law.

In this Opinion, CEIPI would like to provide a **preliminary assessment** of the proposed introduction of new exceptions and limitations by drawing attention to selected aspects of the reform and considering room for improvement where necessary. In particular, and inter alia, this CEIPI Opinion highlights that:

**(1)** Given the uncertainties that researchers face in applying present exceptions and limitations to Text and Data Mining (TDM), a new mandatory exception might drive innovation and bridge the gap with other jurisdictions. However, the TDM exception should not be limited to research organisations but extended to all those enjoying lawful access to underlying mined materials—as the right to read should be the right to mine—especially in order not to cripple research from start-ups and independent researchers.

**(2)** The new mandatory teaching exception does promote the DSM agenda by facilitating digital and cross-border teaching activities. The introduction of a voluntary scheme to limit the exception’s applicability—if an adequate licence is easily available on the market—would nonetheless work against harmonization, undermining positive externalities of the mandatory approach. Also, the scope of the exception should be expanded in order to match with the teaching and research exception included in Directive 2001/29/EC.

**(3)** The proposed reform emphasises the role of European cultural heritage in the DSM through the introduction of an exception for its preservation. The new exception expands previous voluntary exceptions to facilitate mass preservation projects and allow reproduction in any format and medium including format-shifting and digital copying. Possibly, beneficiaries should also include educational institutions. Again, the new exception should also cover objects not permanently in the collection of beneficiaries as this limitation might stifle collaboration efforts between Cultural Heritage Institutions (CHIs) to share artworks within the DSM.

The CEIPI Opinion is available [here](#).

*To make sure you do not miss out on posts from the Kluwer Copyright Blog, please subscribe to the blog **here**.*