

Kluwer Copyright Blog

Are the Needs of Research Reflected in Copyright Decision-Making? An analysis of Copyright Councils & Consultations – Part I

Stephen Wyber (Knowledge Rights 21, International Federation of Library Associations and Institutions) · Thursday, February 20th, 2025

The interests of research are not necessarily heard or represented when decisions are being made about copyright laws that affect them. Both permanent and temporary consultation structures more often than not fail to ensure that there is a channel open for this. Part one of this two-part blog introduces the issues and looks at the composition of formal copyright councils around Europe, where these exist. It offers reflections on how far they institutionalise (or not) the representation of research interests.

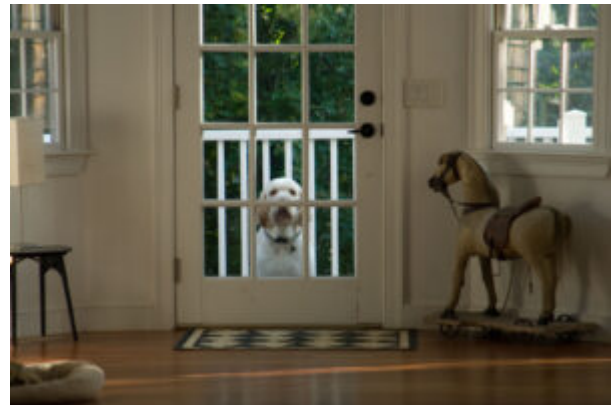


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Too often, when decisions are being made about copyright, the needs and interests of the research and education sectors – and the libraries that support them – are not considered fully and systematically. This concern was a key reason for the creation of [Knowledge Rights 21](#).

The problem is that copyright laws can have a huge influence on the ability of researchers, teachers and learners to operate, not least in the digital age. Legislation can add costs, complexities and uncertainties, or simply prevent activities that might otherwise seem normal.

In [research](#) released at the beginning of 2024, Knowledge Rights 21 explored the extent to which the official Impact Assessments for a range of key information and digital regulation in Europe (including copyright) reflected on what proposed laws would mean for research. It found that while there were some bright spots, for the most part treatment of research was inconsistent and incomplete.

Consideration of the interests of research and education as part of impact assessment processes are of course only one part of the picture. Another is how far relevant stakeholders are engaged in the wider policy process. This study focuses on this, and two aspects in particular – the inclusion of research and education actors in copyright councils (where they are in place), and in consultation

processes around specific laws.

Copyright councils exist in many countries within Europe, typically serving as a space for ongoing discussion around emerging issues, as well as acting as a source of semi-official opinions on legislative proposals or other documents. They sometimes exist independently or may sit within a wider intellectual property council.

They are typically based on the idea that by bringing together experts and/or representatives of relevant stakeholder groups, it is possible to find solutions to policy questions. As such, the way these stakeholder groups are defined – and therefore how copyright councils are made up – gives an indication of how important each different interest is seen as being for copyright policy makers. The first part of this blog looks to explore this point.

Methodology

To produce this research, we looked for such formal councils across Europe (EU27 plus Iceland, Norway, Switzerland and the United Kingdom), both through an internet search and working with [Knowledge Rights 21 National Coordinators](#).

In total, nine permanent copyright councils were identified with an explicit function of supporting reflection on copyright. These are in Belgium, Estonia, Finland, France, Hungary, Italy, Lithuania, Malta and Spain. There is a commitment to create such a council in Ireland, although this has yet to be acted upon.

In a further four countries, there were types of council or other organisation, but more focused on setting tariffs. Other countries had no formal council, but at least in some cases there were published lists of stakeholders consulted around copyright reforms.

As such, the study is limited somewhat by the nature of the sources consulted, but nonetheless gives an overall idea of whether copyright policies are being made with due consideration of research and education. An overview of the information gathered is shared in an [annex](#).

Do Copyright Councils Allow the Interests of the Research Sector to be Heard?

The Councils identified have very different approaches to stakeholder representation.

Some do seek to find a balance between the interests of rightsholders and users (for example Belgium, where there are equal numbers (eight) of each, with users including non-copyright business organisations, internet service providers, the public broadcaster and a heritage institution). There are also two representatives of consumer organisations.

Similarly, Lithuania's Council of Copyright and Related Rights has five representatives of each of rightsholder and user groups, as well as five officials. At the same time, the latest list of members sets out a mix of academics and lawyers; it is difficult to assess the affiliations of those involved, and in particular whether any can represent the interests of the research sector.

The emphasis on balance is less strong in other countries. Finland's Copyright Council is chaired by independent experts, but there are seven representatives of rightsholder groups, two from the media sector, and just one each from universities, research and science, museums, business and the ICT sector. Therefore, while there is a voice for research, it is at risk of being outweighed.

Meanwhile, France's Higher Council on Literary and Artistic Property has 62 members in total, including 19 authors (of the 11 permanent authors' representatives, 8 are collective management organisations (CMOs), as opposed to professional organisations or unions) and 13 other rightsholder representatives. There are then four broadcasters, three internet service providers, three people from the software space and five representatives of 'consumers' (including one librarian, one consumer rights organisation, two people from family organisations, and one person from an organisation for persons with disabilities).

The National Library is also present on the French Higher Council, as are representatives of the ministries of culture, justice, education, heritage, finance and economy, and foreign affairs. While libraries are represented by an academic libraries' organisation, its role is mainly to defend professional interests, and not research directly. Once again, there is no real representation of research. This has not stopped the Council from issuing opinions about issues such as Open Science.

While there is little information available beyond the names of participants, Hungary's Council of Copyright Experts allows for experts from different cultural sectors, but seems to leave no provision for research interests to be heard.

Italy's Permanent Consultative Council on Copyright has two officials working with rightsholder interests, as well as nine representatives of rightsholder organisations. There are just three officials working with libraries and education, plus seven others with less clear affiliations and three independent experts. Once again, there is no clear guarantee of the consideration of research interests.

Estonia's Copyright Commission is made up of a mixture of legal experts and five representatives of rightsholders, as well as the national broadcaster, software alliance, film institute foundation and telecommunications association. Again, there is no sign of research interests having a seat at the table.

Elsewhere, boards are primarily made up of people from different ministries seen as having an interest in the way that the copyright system operates. In Spain, for example, the ministries of culture and sport, economic affairs, digital transformation and justice are all involved, with the ministry of culture getting double representation. Each ministry can also choose additional stakeholders. It is noticeable that there is no mention of the ministry (or ministries) responsible for education or research here.

Finally, in the case of Malta, , there is little information available, meaning that it is not possible to assess whether copyright councils are ensuring that research interests are heard.

It is worth noting that other countries have only set up bodies that implement copyright law, for example setting tariffs, addressing disputes or regulating the activities of collective management societies. Countries with such structures are: Croatia, Greece, Poland and Slovenia. In some cases, such as Croatia, it seems that representatives of, for example, collecting societies and users can be involved, but given that these bodies do not look at legislation, we have not explored these further.

Finally, some countries establish lists of stakeholders who are consulted on issues. This is the case in Denmark, with libraries and others mentioned in this. The list is nonetheless primarily made up of rightsholder organisations.

In short, of the nine countries that do have official copyright boards, only one explicitly creates a channel to bring the interests of research into discussions about copyright – Finland. Meanwhile, only two (Belgium and Lithuania) explicitly look to achieve a balance between the interests of rightsholders and users in general, although then do not include representatives of research interests. For the others, there is both a lack of clear balance and no representation of research, or it is difficult to tell.

The strong implication of this is that where formal consultative structures around copyright exist, they rarely if at all serve to ensure that the needs and interests of the research sector are heard.

Part 2 of this blog turns to the evidence from the consultation processes followed (or not) around the implementation of the Directive on Copyright in the Digital Single Market, and offers overall recommendations.

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