

**Proposal for a Directive of the European Parliament and of the Council
on copyright in the Digital Single Market**

COM (2016) 593 final - 2016/0280 (COD)

PART 2: ARTICLES

Cell in green: The text can be deemed as already agreed

Cell in yellow: The issue needs further discussion at technical level

Cell in red: The issue needs further discussion in depth at the trilogue meetings

Note:

Differences between the EP's position and the Commission's proposal are highlighted in bold /italic. Deletions are marked with ~~strikethrough~~.

*Differences between the Council's position and the Commission's proposal are highlighted in **bold/underlined**.*

Deletions are marked with ~~strikethrough~~.

	Location	COMMISSION PROPOSAL COM(2016)593	EP TEXT	COUNCIL TEXT doc. 9134/18	POSSIBLE COMPROMISE SOLUTION
105.		TITLE I GENERAL PROVISIONS	TITLE I GENERAL PROVISIONS	TITLE I GENERAL PROVISIONS	TITLE I GENERAL PROVISIONS
106.	Art.1, title	<i>Article 1</i> <i>Subject matter and scope</i>	<i>Article 1</i> <i>Subject matter and scope</i>	<i>Article 1</i> <i>Subject matter and scope</i>	<i>Article 1</i> <i>Subject matter and scope</i>
107.	Art. 1, para 1	1. This Directive lays down rules which aim at further harmonising the Union law applicable to copyright and related rights in the framework of the internal market, taking into account in particular digital and cross-border uses of protected content. It also lays down rules on exceptions and limitations, on the facilitation of licences as well as rules aiming at ensuring a well-functioning marketplace for the exploitation of works and other subject-matter.	1. This Directive lays down rules which aim at further harmonising the Union law applicable to copyright and related rights in the framework of the internal market, taking into account in particular digital and cross-border uses of protected content. It also lays down rules on exceptions and limitations, on the facilitation of licences as well as rules aiming at ensuring a well-functioning marketplace for the exploitation of works and other subject-matter.	1. This Directive lays down rules which aim at further harmonising the Union law applicable to copyright and related rights in the framework of the internal market, taking into account in particular digital and cross-border uses of protected content. It also lays down rules on exceptions and limitations, on the facilitation of licences as well as rules aiming at ensuring a well-functioning marketplace for the exploitation of works and other subject-matter.	GREEN 1. This Directive lays down rules which aim at further harmonising the Union law applicable to copyright and related rights in the framework of the internal market, taking into account in particular digital and cross-border uses of protected content. It also lays down rules on exceptions and limitations, on the facilitation of licences as well as rules aiming at ensuring a well-functioning marketplace for the exploitation of works and other subject-matter. <i>[identical text]</i>

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108.	Art. 1, para 2	2. Except in the cases referred to in Article 6, this Directive shall leave intact and shall in no way affect existing rules laid down in the Directives currently in force in this area, in particular Directives 96/9/EC, 2001/29/EC, 2006/115/EC, 2009/24/EC, 2012/28/EU and 2014/26/EU.	2. Except in the cases referred to in Article 6, this Directive shall leave intact and shall in no way affect existing rules laid down in the Directives currently in force in this area, in particular Directives 96/9/EC, 2000/31/EC , 2001/29/EC, 2006/115/EC, 2009/24/EC, 2012/28/EU and 2014/26/EU.	2. Except in the cases referred to in Article 617 , this Directive shall leave intact and shall in no way affect existing rules laid down in the Directives currently in force in this area, in particular Directives 96/9/EC, 2000/31/EC , 2001/29/EC, 2006/115/EC, 2009/24/EC, 2012/28/EU and 2014/26/EU.	2. Except in the cases referred to in Article 617 , this Directive shall leave intact and shall in no way affect existing rules laid down in the Directives currently in force in this area, in particular Directives 96/9/EC, 2000/31/EC , 2001/29/EC, 2006/115/EC, 2009/24/EC, 2012/28/EU and 2014/26/EU.
109.	Art. 2, title	<i>Article 2 Definitions</i>	<i>Article 2 Definitions</i>	<i>Article 2 Definitions</i>	<i>Article 2 Definitions</i>
110.	Art. 2, introductory part	For the purposes of this Directive, the following definitions shall apply:	For the purposes of this Directive, the following definitions shall apply:	For the purposes of this Directive, the following definitions shall apply:	GREEN For the purposes of this Directive, the following definitions shall apply:
111.	Art. 2, para 1, introductory part	(1) ‘research organisation’ means a university, a research institute or any other organisation the primary	(1) ‘research organisation’ means a university, including its libraries , a research institute or any other organisation the	(1) ‘research organisation’ means a university, a research institute or any other organisation an entity , the	GREEN (1) ‘research organisation’ means a university, including its libraries , a research institute or any

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		goal of which is to conduct scientific research or to conduct scientific research and provide educational services:	primary goal of which is to conduct scientific research or to conduct scientific research and provide educational services:	primary goal of which is to conduct scientific research or to conduct scientific research and provide educational services: <u>involving also the conduct of scientific research:</u>	other <i>entity</i> the primary goal of which is to conduct scientific research <i>or to carry out educational activities involving also the conduct of scientific research:</i> <i>[provisionally agreed at Trilogue 25/10/2018]</i>
112.	Art. 2, para 1, point (a)	(a) on a non-for-profit basis or by reinvesting all the profits in its scientific research; or	(a) on a non-for-profit basis or by reinvesting all the profits in its scientific research; or	(a) on a non-for-profit basis or by reinvesting all the profits in its scientific research; or	GREEN (a) on a non-for-profit basis or by reinvesting all the profits in its scientific research; or <i>[provisionally agreed at Trilogue 25/10/2018]</i>
113.	Art. 2, para 1, point (b)	(b) pursuant to a public interest mission recognised by a Member State;	(b) pursuant to a public interest mission recognised by a Member State;	(b) pursuant to a public interest mission recognised by a Member State;	GREEN (b) pursuant to a public interest mission recognised by a Member State; <i>[provisionally agreed at Trilogue 25/10/2018]</i>

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114.	Art. 2, para 1, closing phrase	in such a way that the access to the results generated by the scientific research cannot be enjoyed on a preferential basis by an undertaking exercising a decisive influence upon such organisation;	in such a way that the access to the results generated by the scientific research cannot be enjoyed on a preferential basis by an undertaking exercising a <i>significant</i> influence upon such organisation;	in such a way that the access to the results generated by the scientific research cannot be enjoyed on a preferential basis by an undertaking exercising a decisive influence upon such organisation;	GREEN in such a way that the access to the results generated by the scientific research cannot be enjoyed on a preferential basis by an undertaking exercising a <i>significant</i> decisive influence upon such organisation; <i>[provisionally agreed at Trilogue 25/10/2018]</i>
115.	Art. 2, para 2	(2) ‘text and data mining’ means any automated analytical technique aiming to analyse text and data in digital form in order to generate information such as patterns, trends and correlations;	(2) ‘text and data mining’ means any automated analytical technique <i>which analyses works and other subject matter</i> in digital form in order to generate information, <i>including, but not limited to,</i> patterns, trends and correlations.	(2) ‘text and data mining’ means any automated analytical technique aiming to analyse text and data in digital form in order to generate information such as patterns, trends and correlations;	GREEN (2) ‘text and data mining’ means any automated analytical technique aiming to analyse text and data in digital form in order to generate information, <i>including, but not limited to,</i> patterns, trends and correlations; <i>[provisionally agreed at Trilogue 25/10/2018]</i>

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116.	Art. 2, para 3	(3) ‘cultural heritage institution’ means a publicly accessible library or museum, an archive or a film or audio heritage institution;	(3) ‘cultural heritage institution’ means a publicly accessible library or museum, an archive or a film or audio heritage institution;	(3) ‘cultural heritage institution’ means a publicly accessible library or museum, an archive or a film or audio heritage institution;	GREEN (3) ‘cultural heritage institution’ means a publicly accessible library or museum, an archive or a film or audio heritage institution; <i>[provisionally agreed at Trilogue 25/10/2018]</i>
117.	Art. 2, para 4	(4) ‘press publication’ means a fixation of a collection of literary works of a journalistic nature, which may also comprise other works or subject-matter and constitutes an individual item within a periodical or regularly-updated publication under a single title, such as a newspaper or a general or special interest magazine, having the purpose of providing information related to news or other topics and published in any media	(4) ‘press publication’ means a fixation by publishers or news agencies of a collection of literary works of a journalistic nature, which may also comprise other works or subject-matter and constitutes an individual item within a periodical or regularly-updated publication under a single title, such as a newspaper or a general or special interest magazine, having the purpose of providing information related to news or other	(4) ‘press publication’ means a fixation of a collection composed mainly of literary works of a journalistic nature, which : <i>[remaining part of this paragraph was split up in points (a) to (d) - see following rows 118-121]</i>	

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		under the initiative, editorial responsibility and control of a service provider.	topics and published in any media under the initiative, editorial responsibility and control of a service provider. <i>Periodicals which are published for scientific or academic purposes, such as scientific journals, shall not be covered by this definition;</i>		
118.	Art. 2, para 4, point (a)			(a) may also comprise include other works or subject-matter and ; <i>[See Article 2(4) of COM proposal and of EP text (row 117)]</i>	
119.	Art. 2, para 4, point (b)			(b) constitutes an individual item within a periodical or regularly-updated publication under a single title, such as a newspaper or a general or	

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				special interest magazine; ; <i>[See Article 2(4) of COM proposal and of EP text (row 117)]</i>	
120.	Art. 2, para 4, point (c)			(c) has having the purpose of providing the general public with information related to news or other topics; ; and <i>[See Article 2(4) of COM proposal and of EP text (row 117)]</i>	
121.	Art. 2, para 4, point (d)			(d) is published in any media under the initiative, editorial responsibility and control of a service provider; ; <i>[See Article 2(4) of COM proposal and of EP text (row 117)]</i>	
122.	Art. 2, para 4a,		<i>(4a) ‘out of commerce work’ means:</i>		

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	introductory part				
123.	Art. 2, para 4a, point (a)		<i>(a) an entire work or other subject matter in any version or manifestation that is no longer available to the public in a Member State through customary channels of commerce;</i>		
124.	Art. 2, para 4a, point (b)		<i>(b) a work or other subject matter that has never been in commerce in a Member State, unless, from the circumstances of that case, it is apparent that its author objected to making it available to the public;</i>		
125.	Art. 2, para 4b		<i>(4b) ‘online content sharing service provider’ means a provider of an</i>	<i><u>(5) ‘online content sharing service provider’ means a provider of an information society</u></i>	

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	(EP)/para 5 (Council)		<p><i>information society service one of the main purposes of which is to store and give access to the public to a significant amount of copyright protected works or other protected subject-matter uploaded by its users, which the service optimises and promotes for profit making purposes.</i></p> <p><i>Microenterprises and small-sized enterprises within the meaning of Title I of the Annex to Commission Recommendation 2003/361/EC and services acting in a non-commercial purpose capacity such as online encyclopaedia, and</i></p>	<p><u>service whose main or one of the main purposes is to store and give the public access to a large amount of works or other subject-matter uploaded by its users which it organises and promotes for profit-making purposes.</u></p> <p><u>Providers of services such as non-for-profit online encyclopaedias, non-for-profit educational and scientific repositories, non-for-profit open source software developing platforms, as well as internet access service providers, online marketplaces and providers of cloud services which allow users, including businesses for their internal purposes, to</u></p>	

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			<i>providers of online services where the content is uploaded with the authorisation of all right holders concerned, such as educational or scientific repositories, shall not be considered online content sharing service providers within the meaning of this Directive. Providers of cloud services for individual use which do not provide direct access to the public, open source software developing platforms, and online market places whose main activity is online retail of physical goods, should not be considered online content sharing service</i>	<u>upload content for their own use shall not be considered online content sharing service providers within the meaning of this Directive;</u>	

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			<i>providers within the meaning of this Directive;</i>		
126.	Art. 2, para 4c (EP)/para 6 (Council)		<p><i>(4c) ‘information society service’ means a service within the meaning of point (b) of Article 1(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council^{1a};</i></p> <hr/> <p><i>^{1a} Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).</i></p>	<u>(6) ‘information society service’ means a service within the meaning of Article 1(1)(b) of Directive (EU) 2015/1535.</u>	

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127.	Art. 2, para 4d		<i>(4d) ‘automated image referencing service’ means any online service which reproduces or makes available to the public for indexing and referencing purposes graphic or art works or photographic works collected by automated means via a third-party online service.</i>		
128.		TITLE II MEASURES TO ADAPT EXCEPTIONS AND LIMITATIONS TO THE DIGITAL AND CROSS- BORDER ENVIRONMENT	TITLE II MEASURES TO ADAPT EXCEPTIONS AND LIMITATIONS TO THE DIGITAL AND CROSS- BORDER ENVIRONMENT	TITLE II MEASURES TO ADAPT EXCEPTIONS AND LIMITATIONS TO THE DIGITAL AND CROSS- BORDER ENVIRONMENT	TITLE II MEASURES TO ADAPT EXCEPTIONS AND LIMITATIONS TO THE DIGITAL AND CROSS- BORDER ENVIRONMENT
129.	Art. 3, title	<i>Article 3 Text and data mining</i>	<i>Article 3 Text and data mining</i>	<i>Article 3 Text and data mining <u>for the purposes of scientific research</u></i>	GREEN <i>Article 3 Text and data mining <u>for the purposes of scientific research</u></i>

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					<i>[provisionally agreed at Trilogue 25/10/2018]</i>
130.	Art. 3, para 1	1. Member States shall provide for an exception to the rights provided for in Article 2 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC and Article 11(1) of this Directive for reproductions and extractions made by research organisations in order to carry out text and data mining of works or other subject-matter to which they have lawful access for the purposes of scientific research.	1. Member States shall provide for an exception to the rights provided for in Article 2 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC and Article 11(1) of this Directive for reproductions and extractions made by research organisations in order to carry out text and data mining of works or other subject-matter to which they have lawful access <i>research organisations have lawful access and made in order to carry out text and data mining</i> for the purposes of scientific research <i>by such organisations.</i> <i>Member States shall provide for educational</i>	1. Member States shall provide for an exception to the rights provided for in Article 2 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC and Article 11(1) of this Directive for reproductions and extractions made by research organisations <u>and cultural heritage institutions</u> in order to carry out text and data mining of works or other subject-matter to which they have lawful access, for the purposes of scientific research.	GREEN 1. Member States shall provide for an exception to the rights provided for in Article 2 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC and Article 11(1) of this Directive for reproductions and extractions made by research organisations <i>and cultural heritage institutions</i> in order to carry out text and data mining of works or other subject-matter to which they have lawful access, for the purposes of scientific research. <i>[provisionally agreed at Trilogue 25/10/2018]</i>

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			<i>establishments and cultural heritage institutions conducting scientific research within the meaning of point (1)(a) or (1)(b) of Article 2, in such a way that the access to the results generated by the scientific research cannot be enjoyed on a preferential basis by an undertaking exercising a decisive influence upon such organisations, to also be able to benefit from the exception provided for in this Article.</i>		
131.	Art. 3, para 1a		<i>1a. Reproductions and extractions made for text and data mining purposes shall be stored in a secure manner, for example by trusted bodies appointed for this purpose.</i>	<u>1a. Copies of works or other subject-matter made in compliance with paragraph 1 shall be stored with an appropriate level of security and not be retained for longer than necessary for</u>	GREEN <i>1a. Copies of works or other subject-matter made in compliance with paragraph 1 shall be stored with an appropriate level of security and may be retained for the purposes of scientific</i>

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				<u>achieving the purposes of scientific research.</u>	<i>research, including for the verification of research results.</i> <i>[provisionally agreed at Trilogue 25/10/2018]</i>
132.	Art. 3, para 2	2. Any contractual provision contrary to the exception provided for in paragraph 1 shall be unenforceable.	2. Any contractual provision contrary to the exception provided for in paragraph 1 shall be unenforceable. <i>[See Council's Article 6(1) (row 155)]</i>	2. <i>[Moved to Article 6(1)]</i>	GREEN <i>[Moved to Article 6(1)]</i> <i>[provisionally agreed at Trilogue 25/10/2018]</i>
133.	Art. 3, para 3	3. Rightholders shall be allowed to apply measures to ensure the security and integrity of the networks and databases where the works or other subject-matter are hosted. Such measures shall not go beyond what is necessary to achieve that objective.	3. Rightholders shall be allowed to apply measures to ensure the security and integrity of the networks and databases where the works or other subject-matter are hosted. Such measures shall not go beyond what is necessary to achieve that objective.	3. Rightholders shall be allowed to apply measures to ensure the security and integrity of the networks and databases where the works or other subject-matter are hosted. Such measures shall not go beyond what is necessary to achieve that objective.	GREEN 3. Rightholders shall be allowed to apply measures to ensure the security and integrity of the networks and databases where the works or other subject-matter are hosted. Such measures shall not go beyond what is necessary to achieve that objective.

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					<i>[provisionally agreed at Trilogue 25/10/2018]</i>
134.	Art. 3, para 4	4. Member States shall encourage rightholders and research organisations to define commonly-agreed best practices concerning the application of the measures referred to in paragraph 3.	4. Member States shall encourage rightholders and research organisations to define commonly-agreed best practices concerning the application of the measures referred to in paragraph 3 <i>may continue to provide text and data mining exceptions in accordance with point (a) of Article 5(3) of Directive 2001/29/EC.</i>	4. Member States shall encourage rightholders and research organisations <u>and cultural heritage institutions</u> to define commonly-agreed best practices concerning the application of the <u>obligation and</u> measures referred to <u>respectively</u> in paragraphs <u>1a and</u> 3.	GREEN 4. Member States shall encourage rightholders and, research organisations and cultural heritage institutions to define commonly-agreed best practices concerning the application of the obligation and measures referred to respectively in paragraphs 1a and 3. <i>[provisionally agreed at Trilogue 26 November]</i> <i>[the relation with existing exceptions under InfoSoc Directive under Article 17a (see row 306)]</i>

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135.	Art. 3a, title		<u>Article 3a</u> <u>Optional exception or limitation for text and data mining</u>	<u>Article 3a</u> <u>Optional exception or limitation for text and data mining</u>	<u>Article 3a</u> <u>Optional exception or limitation for text and data mining</u>
136.	Art. 3a, para 1		1. <i>Without prejudice to Article 3 of this Directive, Member States may provide for an exception or a limitation to the rights provided for in Article 2 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC and Article 11(1) of this Directive for reproductions and extractions of lawfully accessible works and other subject-matter that form a part of the process of text and data mining, provided that the use of works and other subject</i>	1. <u>Without prejudice to Article 3 of this Directive Member States may provide for an exception or a limitation to the rights provided for in Article 2 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC and Article 11(1) of this Directive for temporary reproductions and extractions of lawfully accessible works and other subject-matter that form a part of the process of text and data mining.</u>	1. <i>Without prejudice to Article 3 of this Directive, Member States may/shall provide for an exception or a limitation to the rights provided for in Article 2 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC, Article 4(1)(a) and (b) of Directive 2009/24/EC and Article 11(1) of this Directive for temporary reproductions and extractions of lawfully accessible works and other subject-matter <u>that form a part of the process for the</u></i>

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			<i>matter referred to therein has not been expressly reserved by their rightholders, including by machine readable means.</i>		<i><u>purposes</u> of text and data mining.</i> <i>[COM suggestion to turn the optional exception into a mandatory one by replacing “may provide” by “shall provide” to be discussed further at political level.</i> <i>Apart from 'may' or 'shall', text of Article 3a provisionally agreed at trilogue 26/11/2018 as set out in rows 136, 137, 138 and 139]</i>
137.	Art. 3a, para 2 (EP)		<i>2. Reproductions and extractions made pursuant to paragraph 1 shall not be used for purposes other than text and data mining.</i>		GREEN <i>2. Reproductions and extractions made pursuant to paragraph 1 may be retained as long as</i>

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					<i>necessary for the purposes of text and data mining.</i> <i>[provisionally agreed at Trilogue 25/10/2018 / 26/11/2018]</i>
138.	Art. 3a, para 2 (Council)			<p><u>2. The exception or limitation provided for in paragraph 1 shall apply provided that the use of works and other subject matter referred to therein has not been expressly reserved by their rightholders including by technical means.</u></p> <p><i>[See para. 1 of EP text (row 136)]</i></p>	<p>GREEN</p> <p><i>2. The exception or limitation provided for in paragraph 1 shall apply provided that the use of works and other subject matter referred to therein has not been expressly reserved by their rightholders in an appropriate manner, such as machine readable means <u>for the content made publicly available online.</u></i></p> <p><i>[provisionally agreed at Trilogue 26/11/2018 in</i></p>

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					<i>conjunction with wording of recital (13a) (row 28)]</i>
139.	Art. 3a, para 3		3. Member States may continue to provide text and data mining exceptions in accordance with point (a) of Article 5 (3) of Directive 2001/29/EC.		GREEN 3. <u>This Article shall not affect the application of Article 3 of this Directive.</u> <i>[This phrase replaces the 'Without prejudice'-clarification previously contained in paragraph 1.</i> <i>[provisionally agreed at Trilogue 26/11/2018]</i> <i>Agreed at Trilogue 25/10/2018 to introduce the relation with existing exceptions under InfoSoc Directive under Article 17a (see row 306)]</i>
140.	Art. 4, title	<i>Article 4 Use of works and other subject-matter in digital</i>	<i>Article 4 Use of works and other subject-matter in digital</i>	<i>Article 4 Use of works and other subject-matter in digital</i>	<i>Article 4 Use of works and other subject-matter in digital and</i>

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		<i>and cross-border teaching activities</i>	<i>and cross-border teaching activities</i>	<i>and cross-border teaching activities</i>	<i>cross-border teaching activities</i>
141.	Art. 4, para 1	1. Member States shall provide for an exception or limitation to the rights provided for in Articles 2 and 3 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC, Article 4(1) of Directive 2009/24/EC and Article 11(1) of this Directive in order to allow for the digital use of works and other subject-matter for the sole purpose of illustration for teaching, to the extent justified by the non-commercial purpose to be achieved, provided that the use:	1. Member States shall provide for an exception or limitation to the rights provided for in Articles 2 and 3 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC, Article 4(1) of Directive 2009/24/EC and Article 11(1) of this Directive in order to allow for the digital use of works and other subject-matter for the sole purpose of illustration for teaching, to the extent justified by the non-commercial purpose to be achieved, provided that the use:	1. Member States shall provide for an exception or limitation to the rights provided for in Articles 2 and 3 of Directive 2001/29/EC, Articles-5(a), (b), (d) and (e) and Article 7(1) of Directive 96/9/EC, Article 4(1) (a) and (b) of Directive 2009/24/EC and Article 11(1) of this Directive in order to allow for the digital use of works and other subject-matter for the sole purpose of illustration for teaching, to the extent justified by the non-commercial purpose to be achieved, provided that the such use:	GREEN 1. Member States shall provide for an exception or limitation to the rights provided for in Articles 2 and 3 of Directive 2001/29/EC, Articles 5(a), (b), (d) and (e) and 7(1) of Directive 96/9/EC, Article 4(1) (a), and (b) of Directive 2009/24/EC and Article 11(1) of this Directive in order to allow the digital use of works and other subject-matter for the sole purpose of illustration for teaching, to the extent justified by the non-commercial purpose to be achieved, provided that such use: [provisionally agreed at Trilogue 26/11/2018; reference to Directive 2009/24/EC agreed provided

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					<i>that it is clarified in a recital that distribution of software allowed under the exception is limited to digital transmission of software]</i>
142.	Art. 4, para 1, point (a)	(a) takes place on the premises of an educational establishment or through a secure electronic network accessible only by the educational establishment's pupils or students and teaching staff;	(a) takes place on the premises of an educational establishment, <i>or in any other venue in which the teaching activity takes place under the responsibility of the educational establishment</i> , or through a secure electronic network <i>environment</i> accessible only by the educational establishment's pupils or students and teaching staff;	(a) takes place on <u>under</u> the premises <u>responsibility</u> of an educational establishment, <u>on its premises or other venues</u> , or through a secure electronic network accessible only by the educational establishment's pupils or students and teaching staff; <u>and</u>	GREEN (a) takes place <i>under the responsibility</i> of an educational establishment, <i>on its premises or other venues</i> , or through a secure electronic <i>environment</i> accessible only by the educational establishment's pupils or students and teaching staff; <i>and</i> <i>[provisionally agreed at Trilogue 26/11/2018 together with text on recital 16a, row 33]</i>
143.	Art. 4, para 1, point (b)	(b) is accompanied by the indication of the source, including the author's name, unless this turns out to be impossible.	(b) is accompanied by the indication of the source, including the author's name, unless this turns out to be impossible	(b) is accompanied by the indication of the source, including the author's name, unless this turns out to be impossible.	GREEN (b) is accompanied by the indication of the source, including the author's name,

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			<i>for reasons of practicability.</i>		unless this turns out to be impossible. [provisionally agreed at Trilogue 25/10/2018]
144.	Art. 4, para 2, sub- para 1	2. Member States may provide that the exception adopted pursuant to paragraph 1 does not apply generally or as regards specific types of works or other subject-matter, to the extent that adequate licences authorising the acts described in paragraph 1 are easily available in the market.	2. Member States may provide that the exception adopted pursuant to paragraph 1 does not apply generally or as regards specific types of works or other subject-matter, <i>such as material which is primarily intended for the educational market or sheet music</i> , to the extent that adequate licences <i>licencing agreements</i> authorising the acts described in paragraph 1 <i>and tailored to the needs and specificities of educational establishments</i> are easily available in the market.	2. <u>Notwithstanding Article 6(1)</u> , Member States may provide that the exception adopted pursuant to paragraph 1 does not apply generally or as regards specific <u>uses or</u> types of works or other subject-matter, to the extent that adequate licences <u>covering the needs of educational establishments and</u> authorising the acts described in paragraph 1 are easily available in the market.	GREEN 2. <i>Notwithstanding Article 6(1)</i> , Member States may provide that the exception adopted pursuant to paragraph 1 does not apply generally or as regards specific <i>uses or</i> types of works or other subject-matter, <i>such as material which is primarily intended for the educational market or sheet music</i> , to the extent that <i>suitable</i> licences authorising the acts described in paragraph 1 <i>covering the needs and specificities of educational establishments</i> are easily available in the market. [provisionally agreed at Trilogue 25/10/2018 /

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					<i>26/11/2018 together with text on recitals (16) and (17), rows 32 and 35 tbc by trilogue]</i>
145.	Art. 4, para 2, sub-para 2	Member States availing themselves of the provision of the first subparagraph shall take the necessary measures to ensure appropriate availability and visibility of the licences authorising the acts described in paragraph 1 for educational establishments.	Member States availing themselves of the provision of the first subparagraph shall take the necessary measures to ensure appropriate availability and visibility of the licences authorising the acts described in paragraph 1 for educational establishments.	Member States availing themselves of the provision of the first subparagraph shall take the necessary measures to ensure appropriate availability and visibility of that rightholders make the licences authorising the acts described in paragraph 1 available and visible for educational establishments.	GREEN Member States availing themselves of the provision of the first subparagraph shall take the necessary measures to ensure appropriate availability and visibility of the licences authorising the acts described in paragraph 1 for educational establishments. <i>[provisionally agreed at Trilogue 26/11/2018 together with text on recital (17) and (17a), rows 35 and 36]</i>
146.	Art. 4, para 3	3. The use of works and other subject-matter for the sole purpose of illustration for teaching through secure electronic	3. The use of works and other subject-matter for the sole purpose of illustration for teaching through secure electronic	3. The use of works and other subject-matter for the sole purpose of illustration for teaching through secure electronic	GREEN 3. The use of works and other subject-matter for the sole purpose of illustration for teaching through secure

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		networks undertaken in compliance with the provisions of national law adopted pursuant to this Article shall be deemed to occur solely in the Member State where the educational establishment is established.	networks environments undertaken in compliance with the provisions of national law adopted pursuant to this Article shall be deemed to occur solely in the Member State where the educational establishment is established.	networks undertaken in compliance with the provisions of national law adopted pursuant to this Article shall be deemed to occur solely in the Member State where the educational establishment is established.	electronic environments undertaken in compliance with the provisions of national law adopted pursuant to this Article shall be deemed to occur solely in the Member State where the educational establishment is established. <i>[provisionally agreed at Trilogue 25/10/2018 / 26/11/2018 together with text on recital 16a, row 33]</i>
147.	Art. 4, para 4	4. Member States may provide for fair compensation for the harm incurred by the rightholders due to the use of their works or other subject-matter pursuant to paragraph 1.	4. Member States may provide for fair compensation for the harm incurred by the rightholders due to the use of their works or other subject-matter pursuant to paragraph 1.	4. Member States may provide for fair compensation for the harm incurred by the to rightholders due to the use of their works or other subject-matter pursuant to paragraph 1.	GREEN 4. Member States may provide for fair compensation for the harm incurred by the to rightholders due to the use of their works or other subject-matter pursuant to paragraph 1. <i>[provisionally agreed at Trilogue 25/10/2018 /</i>

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					26/11/2018 together with text on recital (17a), row 36]
148.	Art. 4, para 4a		<p>4a. Without prejudice to paragraph 2, any contractual provision contrary to the exception or limitation adopted pursuant to paragraph 1 shall be unenforceable. Member States shall ensure that rightholders have the right to grant royalty-free licences authorising the acts described in paragraph 1, generally or as regards specific types of works or other subject-matter that they may choose.</p> <p>[See Council's Article 6(1) (row 155)]</p>		<p>[provisionally agreed at trilogue 25/10/2018 to deal with contractual override under Article 6(1)]</p> <p>[Issue of royalty-free licences to be further discussed in the context of the remuneration chapter and recital (40) of the Council]</p>
149.	Art. 5, title	Article 5 Preservation of cultural heritage	Article 5 Preservation of cultural heritage	Article 5 Preservation of cultural heritage	Article 5 Preservation of cultural heritage

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150.	Art. 5, [para 1 (EP)]	Member States shall provide for an exception to the rights provided for in Article 2 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC, Article 4(1)(a) of Directive 2009/24/EC and Article 11(1) of this Directive, permitting cultural heritage institutions, to make copies of any works or other subject-matter that are permanently in their collections, in any format or medium, for the sole purpose of the preservation of such works or other subject-matter and to the extent necessary for such preservation.	1. Member States shall provide for an exception to the rights provided for in Article 2 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC, Article 4(1)(a) of Directive 2009/24/EC and Article 11(1) of this Directive, permitting cultural heritage institutions to make copies of any works or other subject-matter that are permanently in their collections, in any format or medium, for the sole purpose purposes of preservation of such works or other subject-matter and to the extent necessary for such preservation.	Member States shall provide for an exception to the rights provided for in Article 2 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC, Article 4(1)(a) of Directive 2009/24/EC and Article 11(1) of this Directive, permitting cultural heritage institutions, to make copies of any works or other subject-matter that are permanently in their collections, in any format or medium, for the sole purpose of the preservation of such works or other subject-matter and to the extent necessary for such preservation.	GREEN Member States shall provide for an exception to the rights provided for in Article 2 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC, Article 4(1)(a) of Directive 2009/24/EC and Article 11(1) of this Directive, permitting cultural heritage institutions to make copies of any works or other subject-matter that are permanently in their collections, in any format or medium, for purposes of preservation of such works or other subject-matter and to the extent necessary for such preservation. <i>[provisionally agreed at trilogue 25/10/2018]</i>
151.	Art. 5, para 1a		1a. <i>Member States shall ensure that any material resulting from an</i>		<i>[To be further discussed at political level; COM to provide drafting suggestion]</i>

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			<i>act of reproduction of material in the public domain shall not be subject to copyright or related rights, provided that such reproduction is a faithful reproduction for purposes of preservation of the original material.</i>		<i>for this EP issue, to be further discussed with Council; this suggestion should cover only non-original reproduction of works for which the term of protection has elapsed; not using the terms „public domain“, „faithful reproduction“; the recitals to clarify that this does not affect other rights, such as property rights]</i>
152.	Art. 5, para 1b		1b. <i>Any contractual provision contrary to the exception provided for in paragraph 1 shall be unenforceable.</i> <i>[See Council's Article 6(1) (row 155)]</i>		GREEN <i>[provisionally agreed at trilogue 25/10/2018 to deal with contractual override under Article 6(1)]</i>
153.	Art. 6, title	<i>Article 6 Common provisions</i>	<i>Article 6 Common provisions</i>	<i>Article 6 Common provisions</i>	<i>Article 6 Common provisions</i>

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154.	Art. 6, para 1 (EP)		<i>1. Accessing content covered by an exception provided for in this Directive shall not confer on users any entitlement to use it pursuant to another exception.</i>		<i>[To be discussed further at political level; COM to provide a technical note clarifying situation according to jurisprudence, not restricting the notion of “lawful access”]</i>
155.	Art. 6, para 1 (Council)			1. Any contractual provision contrary to the exceptions provided for in Articles 3, 4(1) and 5 shall be unenforceable. <i>[See Article 3(2) of the COM proposal and Parliament’s Articles 3(2) and 4(4a) and 5(1b)]</i>	GREEN 1. Any contractual provision contrary to the exceptions provided for in Articles 3, 4 and 5 shall be unenforceable. <i>[provisionally agreed at trilogue 25/10/2018]</i>
156.	Art. 6, para 2	Article 5(5) and the first, third and fifth subparagraphs of Article 6(4) of Directive 2001/29/EC shall apply to the exceptions and the	2. Article 5(5) and the first, third, <i>fourth</i> and fifth subparagraphs of Article 6(4) of Directive 2001/29/EC shall apply to the exceptions and the	2. Article 5(5) and the of Directive 2001/29/EC shall apply to the exceptions and the limitation provided for under this Title. The first, third and fifth	2. Article 5(5) of Directive 2001/29/EC shall apply to the exceptions and the limitation provided for under this Title. The first, third and fifth subparagraphs of Article 6(4) of Directive 2001/29/EC shall

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		limitation provided for under this Title.	limitation provided for under this Title.	subparagraphs of Article 6(4) of Directive 2001/29/EC shall apply to the exceptions Articles 3, 4(1) and the limitation provided for under 5 of this Title Directive .	apply to Articles 3, 4 and 5 of this Directive. <i>[EP agrees to drop reference to the fourth subparagraph of Article 6(4) of Directive 2001/29/EC;</i> <i>EP: second sentence to be left open until discussions on Article 7 finalised]</i>
157.		TITLE III MEASURES TO IMPROVE LICENSING PRACTICES AND ENSURE WIDER ACCESS TO CONTENT	TITLE III MEASURES TO IMPROVE LICENSING PRACTICES AND ENSURE WIDER ACCESS TO CONTENT	TITLE III MEASURES TO IMPROVE LICENSING PRACTICES AND ENSURE WIDER ACCESS TO CONTENT	TITLE III MEASURES TO IMPROVE LICENSING PRACTICES AND ENSURE WIDER ACCESS TO CONTENT
158.		CHAPTER 1 Out-of-commerce works	CHAPTER 1 Out-of-commerce works	CHAPTER 1 Out-of-commerce works	CHAPTER 1 Out-of-commerce works
159.	Art. 7, title	<i>Article 7 Use of out-of-commerce works by cultural heritage institutions</i>	<i>Article 7 Use of out-of-commerce works by cultural heritage institutions</i>	<i>Article 7 Use of out-of-commerce works by cultural heritage institutions</i>	<i>Article 7 Use of out-of-commerce works by cultural heritage institutions</i>
160.	Art. 7, para 1,	1. Member States shall provide that when a	1. Member States shall provide that when a	1. Member States shall provide that when a	GREEN

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	introductory part	collective management organisation, on behalf of its members, concludes a non-exclusive licence for non-commercial purposes with a cultural heritage institution for the digitisation, distribution, communication to the public or making available of out-of-commerce works or other subject-matter permanently in the collection of the institution, such a non-exclusive licence may be extended or presumed to apply to rightholders of the same category as those covered by the licence who are not represented by the collective management organisation, provided that:	collective management organisation, on behalf of its members, concludes a non-exclusive licence for non-commercial purposes with a cultural heritage institution for the digitisation, distribution, communication to the public or making available of out-of-commerce works or other subject-matter permanently in the collection of the institution, such a non-exclusive licence may be extended or presumed to apply to rightholders of the same category as those covered by the licence who are not represented by the collective management organisation, provided that:	collective management organisation, on behalf of its members, <u>in accordance with its mandates, may conclude</u> a non-exclusive licence for non-commercial purposes with a cultural heritage institution for the digitisation, <u>reproduction,</u> distribution, communication to the public or making available <u>to the public</u> of out-of-commerce works or other subject-matter permanently in the collection of the institution, such a non-exclusive licence may be extended or presumed to apply to rightholders of the same category as those <u>irrespective of whether all rightholders</u> covered by the licence who are not represented by <u>have mandated</u> the collective	1. Member States shall provide that a collective management organisation, in accordance with its mandates, may conclude a non-exclusive licence for non-commercial purposes with a cultural heritage institution for the reproduction, distribution, communication to the public or making available to the public of out-of-commerce works or other subject-matter permanently in the collection of the institution, irrespective of whether all rightholders covered by the licence have mandated the collective management organisation, provided that: <i>[provisionally agreed at Trilogue 26/11/2018]</i>

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				management organisation, provided that:	
161.	Art. 7, para 1, point (a)	(a) the collective management organisation is, on the basis of mandates from rightholders, broadly representative of rightholders in the category of works or other subject-matter and of the rights which are the subject of the licence;	(a) the collective management organisation is, on the basis of mandates from rightholders, broadly representative of rightholders in the category of works or other subject-matter and of the rights which are the subject of the licence;	(a) the collective management organisation is, on the basis of mandates from rightholders, broadly sufficiently representative of rightholders in the category relevant type of works or other subject- matter and of the rights which are the subject of the licence;	GREEN (a) the collective management organisation is, on the basis of mandates from rightholders, sufficiently representative of rightholders in the relevant type of works or other subject-matter and of the rights which are the subject of the licence; <i>[provisionally agreed at Trilogue 26/11/2018; to be further discussed whether the meaning of “sufficiently representative” should be further clarified in the recitals]</i>
162.	Art. 7, para 1, point (b)	(b) equal treatment is guaranteed to all rightholders in relation to the terms of the licence;	(b) equal treatment is guaranteed to all rightholders in relation to the terms of the licence;	(b) equal treatment is guaranteed to all rightholders in relation to the terms of the licence;	(b) equal treatment is guaranteed to all rightholders in relation to the terms of the licence.

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163.	Art. 7, para 1, point (c)	(c) all rightholders may at any time object to their works or other subject-matter being deemed to be out of commerce and exclude the application of the licence to their works or other subject-matter.	(c) all rightholders may at any time object to their works or other subject-matter being deemed to be out of commerce and exclude the application of the licence to their works or other subject-matter.	(c) all rightholders may at any time object to <u>exclude the possibility for collective management organisations to license</u> their works or other subject-matter being deemed to be out of commerce and in <u>accordance with this Article, either in general or in specific cases, or</u> exclude the application of the <u>any</u> licence <u>granted in accordance with this Article</u> to their works or other subject-matter.	GREEN [This point is moved to new paragraph 1b below – row 167] [provisionally agreed at Trilogue 26/11/2018]
164.	Art. 7, para 1a		1a. <i>Member States shall provide for an exception or limitation to the rights provided for in Articles 2 and 3 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC, Article</i>		1a. Member States shall provide for an exception or limitation to the rights provided for in Articles 2 and 3 of Directive 2001/29/EC, Articles 5(a), (b), (d) and (e) and 7(1) of Directive 96/9/EC, Article

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			<i>4(1) of Directive 2009/24/EC, and Article 11(1) of this Directive, permitting cultural heritage institutions to make copies available online of out-of-commerce works that are located permanently in their collections for not-for-profit purposes, provided that:</i>		4(1) of Directive 2009/24/EC, and Article 11(1) of this Directive, in order to allow cultural heritage institutions to make available out-of-commerce works or other subject-matter that are permanently in their collections for non-commercial purposes, provided that: <i>[to be discussed further]</i>
165.	Art. 7, para 1a, point (a)		(a) <i>the name of the author or any other identifiable rightholder is indicated, unless this turns out to be impossible;</i>		(a) {the author or any other identifiable rightholder was informed individually at least six months before the use, unless this turns out to be impossible, and} the name of the author or any other identifiable rightholder is indicated, unless this turns out to be impossible; <i>[Council to get back to Member States on the</i>

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					<i>deletion of the part in strikethrough]</i>
166.	Art. 7, para 1a, point (b)		(b) <i>all rightholders may at any time object to their works or other subject-matter being deemed to be out of commerce and exclude the application of the exception to their works or other subject-matter.</i>		(b) such works or other subject-matter are made available on dedicated non- commercial portals websites [which are accessible on the premises of cultural heritage institutions]. [Text of EP covered in new paragraph 1b below – row 167; Council to get back to Member States on the deletion of the part in strikethrough]
167.	Art. 7, para 1b		1b. Member States shall provide that the exception adopted pursuant to paragraph 1a does not apply in sectors or for types of works where appropriate licensing-based solutions, including but not limited to solutions provided for		GREEN 1b. Member States shall provide that the exception or limitation referred to in the previous paragraph only applies to types of works or other subject-matter for which no collective management organisation

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			<i>in paragraph 1, are available. Member States shall, in consultation with authors, other rightholders, collective management organisations and cultural heritage institutions, determine the availability of extended collective licensing-based solutions for specific sectors or types of works.</i>		exists that fulfils the conditions referred to in point (a) of paragraph 1. 1c. Member States shall provide that all rightholders may at any time, easily and effectively, exclude their works or other subject-matter from the licensing mechanism referred to in paragraph 1 or from uses under the exception or limitation referred to in paragraph 1a, either in general or in specific cases, including after the conclusion of a licence or the beginning of the use concerned. [provisionally agreed at Trilogue 26/11/2018]
168.	Art. 7, para 2, sub-para 1	2. A work or other subject-matter shall be deemed to be out of commerce when the whole work or other subject-	2. A work or other subject-matter shall be deemed to be out of commerce when the whole work or other subject-	2. A work or other subject-matter shall be deemed to be out-of-commerce when <u>it can be presumed in good faith</u>	GREEN 2. A work or other subject-matter shall be deemed to be out-of-commerce when it can be

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		matter, in all its translations, versions and manifestations, is not available to the public through customary channels of commerce and cannot be reasonably expected to become so.	matter, in all its translations, versions and manifestations, is not available to the public through customary channels of commerce and cannot be reasonably expected to become so. <i>Member States may provide a cut-off date in relation to determining whether a work previously commercialised is deemed to be out of commerce.</i> <i>[See definition of out-of-commerce work in Parliament's Article 2(4a) (rows 122-126)]</i>	that the whole work or other subject-matter, in all its translations, versions and manifestations, is not available to the public through customary channels of commerce and cannot be reasonably expected to become so. <u>after a reasonable effort is made to determine such availability.</u>	presumed in good faith that the whole work or other subject-matter is not available to the public through customary channels of commerce after a reasonable effort is made to determine such availability. <i>[provisionally agreed at Trilogue 26/11/2018]</i>
169.	Art. 7, para 2, sub-para 2	Member States shall, in consultation with rightholders, collective management organisations and cultural heritage institutions, ensure that the requirements used to determine whether works	Member States shall, in consultation with rightholders, collective management organisations and cultural heritage institutions, ensure that the requirements used to determine whether works	Member States shall, in consultation with rightholders, collective management organisations and cultural heritage institutions, ensure that the <u>may provide for specific</u> requirements used to	GREEN Member States may provide for specific requirements, <u>such as a cut-off date</u> , to determine whether works and other subject-matter can be licensed in accordance with paragraph 1 or used

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		and other subject-matter can be licensed in accordance with paragraph 1 do not extend beyond what is necessary and reasonable and do not preclude the possibility to determine the out-of-commerce status of a collection as a whole, when it is reasonable to presume that all works or other subject-matter in the collection are out of commerce.	and other subject-matter can be licensed in accordance with paragraph 1 <i>or used in accordance with paragraph 1a</i> do not extend beyond what is necessary and reasonable and do not preclude the possibility to determine the out-of-commerce status of a collection as a whole, when it is reasonable to presume that all works or other subject-matter in the collection are out of commerce.	determine whether works and other subject-matter can be licensed in accordance with paragraph 1- do . <u>Such requirements shall</u> not extend beyond what is necessary and reasonable, and do <u>shall</u> not preclude the possibility to determine the out-of-commerce status of a collection as <u>set of works or other subject-matter</u> <u>as</u> a whole, when it is reasonable to presume that all works or other subject-matter in the collection are out-of-commerce.	under the exception or limitation referred to in paragraph 1a. Such requirements shall not extend beyond what is necessary and reasonable, and shall not preclude the possibility to determine the out-of-commerce status of a set of works or other subject-matter as a whole, when it is reasonable to presume that all works or other subject-matter are out-of-commerce. <i>[provisionally agreed at Trilogue 26/11/2018]</i>
170.	Art. 7, para 3, introductory part	3. Member States shall provide that appropriate publicity measures are taken regarding:	3. Member States shall provide that appropriate publicity measures are taken regarding:	3. <i>[Moved to new Article 8a(2)]</i>	3. <i>[Moved to new Article 8a(2)]</i>
171.	Art. 7, para 3, point (a)	(a) the deeming of works or other subject-matter as out of commerce;	(a) the deeming of works or other subject-matter as out of commerce;		

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172.	Art. 7, para 3, point (b)	(b) the licence, and in particular its application to unrepresented rightholders;	(b) the <i>any</i> licence, and in particular its application to unrepresented rightholders;		
173.	Art. 7, para 3, point (c)	(c) the possibility of rightholders to object, referred to in point (c) of paragraph 1;	(c) the possibility of rightholders to object, referred to in point (c) of paragraph 1 <i>and point (b) of paragraph 1a;</i>		
174.	Art. 7, para 3, closing phrase	including during a reasonable period of time before the works or other subject-matter are digitised, distributed, communicated to the public or made available.	including during a reasonable period of time <i>at least six months</i> before the works or other subject-matter are digitised, distributed, communicated to the public or made available.		
175.	Art. 7, para 4, introductory part / Art. 7, para 4 (Council)	4. Member States shall ensure that the licences referred to in paragraph 1 are sought from a collective management organisation that is representative for the Member State where:	4. Member States shall ensure that the licences referred to in paragraph 1 are sought from a collective management organisation that is representative for the Member State where:	4. Member States shall ensure that the licences referred to in paragraph 1 are sought from a collective management organisation that is representative for the Member State where:	GREEN 4. Member States shall ensure that the licences referred to in paragraph 1 are sought from a collective management organisation that is representative for the Member State where the

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				<u>the cultural heritage institution is established.</u>	cultural heritage institution is established. <i>[provisionally agreed at Trilogue 26/11/2018; to be discussed further whether the meaning of “representative” should be further clarified in the recitals]</i>
176.	Art. 7, para 5, introductory part (Council)			<u>5. This Article shall not apply to sets of out-of-commerce if, following the reasonable effort to determine commercial availability, there is evidence that such sets predominantly consist of:</u>	GREEN 5. This Article shall not apply to sets of out-of-commerce works if, on the basis of the reasonable effort referred to in paragraph 2, there is evidence that such sets predominantly consist of: <i>[provisionally agreed at Trilogue 26/11/2018]</i>
177.	Art. 7, para 4, point (a) (EP)/ Art. 7, para	(a) the works or phonograms were first published or, in the absence of publication, where they were first	(a) the works or phonograms were first published or, in the absence of publication, where they were first	(a) the works or <u>other subject-matter</u> phonograms were first published or, in the absence of publication,	GREEN (a) works or other subject-matter first published or, in the absence of

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	5, point (a) (Council)	broadcast, except for cinematographic and audiovisual works;	broadcast, except for cinematographic and audiovisual works;	where they were first broadcast <u>in a third country</u> , except for cinematographic and/or audiovisual works;	publication, first broadcast in a third country, except for cinematographic or audiovisual works; <i>[provisionally agreed at Trilogue 26/11/2018]</i>
178.	Art. 7, para 4, point (b) (EP)/ Art. 7, para 5, point (b) (Council)	(b) the producers of the works have their headquarters or habitual residence, for cinematographic and audiovisual works; or	(b) the producers of the works have their headquarters or habitual residence, for cinematographic and audiovisual works; or	(b) <u>cinematographic or audiovisual works</u> , the producers of the works <u>which</u> have their headquarters or habitual residence, for cinematographic and audiovisual works <u>in a third country</u> ; or	GREEN (b) cinematographic or audiovisual works, the producers of which have their headquarters or habitual residence in a third country; or <i>[provisionally agreed at Trilogue 26/11/2018]</i>
179.	Art. 7, para 4, point (c) (EP) /Art. 7, para 5, point (c) (Council)	(c) the cultural heritage institution is established, when a Member State or a third country could not be determined, after reasonable efforts, according to points (a) and (b).	(c) the cultural heritage institution is established, when a Member State or a third country could not be determined, after reasonable efforts, according to points (a) and (b).	c) the cultural heritage institution is established, <u>works or other subject- matter of third country nationals</u> when a Member State or a third country could not be determined, after <u>a</u> reasonable	GREEN c) works or other subject-matter of third country nationals when a Member State or a third country could not be determined, after a reasonable effort, according to points (a) and (b);

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				efforts <u>effort</u> , according to points (a) and (b););	[provisionally agreed at Trilogue 26/11/2018]
180.	Art. 7, para 5 (EP)/ Art. 7, para 5, closing phrase (Council)	5. Paragraphs 1, 2 and 3 shall not apply to the works or other subject-matter of third country nationals except where points (a) and (b) of paragraph 4 apply.	5. Paragraphs 1, 2 and 3 shall not apply to the works or other subject-matter of third country nationals except where points (a) and (b) of paragraph 4 apply.	5. — Paragraphs 1, 2 and 3 shall not apply to the works or other subject-matter <u>collective management organisation is sufficiently representative of rightholders of that third country nationals except where points in the meaning of point (a) and (b) of paragraph 4 apply</u> <u>1.</u>	GREEN unless the collective management organisation is sufficiently representative of rightholders of that third country in the meaning of point (a) of paragraph 1. [provisionally agreed at Trilogue 26/11/2018]
181.	Art. 8, title	<i>Article 8 Cross-border uses</i>	<i>Article 8 Cross-border uses</i>	<i>Article 8 Cross-border uses</i>	<i>Article 8 Cross-border uses</i>
182.	Art. 8, para 1	1. Works or other subject-matter covered by a licence granted in accordance with Article 7 may be used by the cultural heritage institution in accordance with the	1. Works Out-of-commerce works or other subject-matter covered by a licence granted in accordance with Article 7 may be used by the cultural heritage institution	1. Works or other subject-matter covered by a <u>A</u> licence granted in accordance with Article 7 may be used allow the use of out-of-commerce works or other subject-	1. A licence granted in accordance with Article 7 may allow the use of out-of-commerce works or other subject-matter by the cultural

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		terms of the licence in all Member States.	in accordance with the terms of the licence <i>that Article</i> in all Member States.	<u>matter</u> by the cultural heritage institution in accordance with the terms of the licence in all <u>any</u> Member States <u>State</u> .	heritage institution in any Member State. 2. <i>The uses of works and other subject-matter under the exception or limitation referred to in Article 7(1a) shall be deemed to occur solely in the Member State where the cultural heritage institution undertaking that use is established.</i> [paragraph 1 provisionally agreed at Trilogue 26/11/2018; paragraph 2 depending on Article 7(1a)]
183.	Art. 8, para 2	2. Member States shall ensure that information that allows the identification of the works or other subject-matter covered by a licence granted in accordance with Article 7 and information about the possibility of rightholders to object referred to in Article	2. Member States shall ensure that information that allows the identification of the works or other subject-matter covered by a licence <i>granted in accordance with</i> Article 7 and information about the possibility of rightholders to object referred to in <i>point (c) of</i>	2. [Moved to new Article 8a(1)]	GREEN 2. [Moved to new Article 8a(1)] [provisionally agreed at Trilogue 26/11/2018]

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		7(1)(c) are made publicly accessible in a single online portal for at least six months before the works or other subject-matter are digitised, distributed, communicated to the public or made available in Member States other than the one where the licence is granted, and for the whole duration of the licence.	Article 7(1) <i>and point (b) of Article 7(1a)</i> are made publicly <i>permanently, easily and effectively</i> accessible in a <i>public</i> single online portal for at least six months before the works or other subject-matter are digitised, distributed, communicated to the public or made available in Member States other than the one where the licence is granted, <i>or in the cases covered by Article 7(1a), where the cultural heritage institution is established</i> and for the whole duration of the licence.		
184.	Art. 8, para 3	3. The portal referred to in paragraph 2 shall be established and managed by the European Union Intellectual Property Office in accordance with	3. The portal referred to in paragraph 2 shall be established and managed by the European Union Intellectual Property Office in accordance with	3. <i>[Moved to new Article 8a(1) second subparagraph]</i>	GREEN 3. <i>[Moved to new Article 8a(1) second subparagraph]</i> <i>[provisionally agreed at Trilogue 26/11/2018]</i>

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		Regulation (EU) No 386/2012.	Regulation (EU) No 386/2012.		
185.	Art. 8a, title			<u>Article 8a</u> <u>Publicity measures</u>	GREEN <u>Article 8a</u> <u>Publicity measures</u> [provisionally agreed at Trilogue 26/11/2018]
186.	Art. 8a, para 1, sub-para 1			<u>1.</u> Member States shall ensure that information that allows for the purposes of the identification of the out-of-commerce works or other subject-matter covered by a licence granted in accordance with Article 7 and as well as information about the possibility possibilities of rightholders to object referred to in Article 7(1)(c) are , and, as soon as it is available, information on the parties to the licence, the	GREEN 1. Member States shall ensure that information from cultural heritage institutions, collective management organisations or relevant public authorities for the purposes of the identification of the out-of-commerce works or other subject-matter covered by a licence granted in accordance with Article 7(1) or used under the exception or limitation referred to in Article 7(1a) as well as information about

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				<p><u>covered territories and the allowed uses is</u> made publicly accessible in a single online portal for<u>from</u> at least six months before the works or other subject-matter are digitised, distributed, communicated to the public or made available in Member States other than the one where the licence is granted, and for the whole duration of<u>to the public in accordance with</u> the licence.</p> <p><i>[Article 8(2) of the COM proposal, amended]</i></p>	<p>the possibilities of rightholders referred to in Article 7(1c), and, as soon as it is available and where relevant, information on the parties to the licence, the covered territories and the allowed uses is made permanently, easily and effectively accessible in a public single online portal from at least six months before the works or other subject-matter are distributed, communicated to the public or made available to the public in accordance with the licence or under the exception or limitation.</p> <p><i>[Article 8(2) of the COM proposal, amended]</i></p> <p><i>[provisionally agreed at Trilogue 26/11/2018, including clarification in recital (27) that the licence may cover one, several or all Member States; part in</i></p>

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					<i>yellow depending on Article 7(1a)]</i>
187.	Art. 8a, para 1, sub-para 2			<p>3. — The portal referred to in paragraph 2 shall be established and managed by the European Union Intellectual Property Office in accordance with Regulation (EU) No 386/2012.</p> <p><i>[Article 8(3) of the COM proposal, amended]</i></p>	<p>GREEN</p> <p>The portal shall be established and managed by the European Union Intellectual Property Office in accordance with Regulation (EU) No 386/2012.</p> <p><i>[Article 8(3) of the COM proposal, amended]</i></p> <p><i>[provisionally agreed at Trilogue 26/11/2018]</i></p>
188.	Art. 8a, para 2			<p>2. Member States shall provide that, <u>if necessary for the general awareness of rightholders, further</u> appropriate publicity measures are taken regarding: (a) the deeming of works or other subject-matter as out of commerce; (b) the licence, and in</p>	<p>GREEN</p> <p>2. Member States shall provide that, if necessary for the general awareness of rightholders, further appropriate publicity measures are taken regarding the possibility for collective management organisations to license works or other</p>

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				<p>particular its application to unrepresented rightholders; <u>the possibility for collective management organisations to license works or other subject-matter in accordance with Article 7, the licences granted and</u> (e) the possibilities to object of rightholders referred to in point (e) of paragraph 1 Article 7(1)(c)÷.</p> <p>Including during a reasonable period of time before the works or other subject-matter are digitised, distributed, communicated to the public or made available.</p> <p><u>The additional appropriate publicity measures shall be taken in the Member State where the licence is sought. If there is</u></p>	<p>subject-matter in accordance with Article 7, the licences granted, the uses under the exception or limitation referred to in Article 7(1a) and the possibilities of rightholders referred to in Article 7(1c).</p> <p>The additional appropriate publicity measures shall be taken in the Member State where the licence is sought in accordance to Article 7(1) or, for uses under the exception or limitation referred to in Article 7(1a), where the cultural heritage institution is established. If there is evidence, such as the origin of the works or other subject-matter, to suggest that the awareness of rightholders could be more efficiently raised in other Member States or third countries, such publicity measures shall also cover</p>

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				<p><u>evidence, such as the origin of the works or other subject-matter, to suggest that the awareness of rightholders could be more efficiently raised in other Member States or third countries, such publicity measures shall also cover those Member States and third countries.</u></p> <p>[Article 7(3) of the COM proposal, amended]</p>	<p>those Member States and third countries.</p> <p>[Article 7(3) of the COM proposal, amended]</p> <p>[provisionally agreed at Trilogue 26/11/2018; part in yellow depending on Article 7(1a)]</p>
189.	Art. 9, title	Article 9 Stakeholder dialogue	Article 9 Stakeholder dialogue	Article 9 Stakeholder dialogue	Article 9 Stakeholder dialogue
190.	Art 9	Member States shall ensure a regular dialogue between representative users' and rightholders' organisations, and any other relevant stakeholder organisations, to, on a sector-specific basis, foster the relevance and usability of the licensing	Member States shall ensure a regular dialogue between representative users' and rightholders' organisations, and any other relevant stakeholder organisations, to, on a sector-specific basis, foster the relevance and usability of the licensing	Member States shall ensure <u>consult rightholders, collective management organisations and cultural heritage institutions in each sector before establishing specific requirements pursuant to Article 7(2),</u>	<p>GREEN</p> <p>Member States shall <u>consult</u> rightholders, collective management organisations and cultural heritage institutions in each sector before establishing specific requirements pursuant to Article 7(2), and encourage a</p>

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		mechanisms referred to in Article 7(1), ensure the effectiveness of the safeguards for rightholders referred to in this Chapter, notably as regards publicity measures, and, where applicable, assist in the establishment of the requirements referred to in the second subparagraph of Article 7(2).	mechanisms referred to in Article 7(1) <i>and the exception referred to in Article 7(1a)</i> , ensure the effectiveness of the safeguards for rightholders referred to in this Chapter, notably as regards publicity measures, and, where applicable, assist in the establishment of the requirements referred to in the second subparagraph of Article 7(2).	<u>and encourage</u> a regular dialogue between representative users' and rightholders' organisations, <u>including collective management organisations</u> , and any other relevant stakeholder organisations, to, on a sector-specific basis, to foster the relevance and usability of the licensing mechanisms referred to in Article 7(1), <u>and to</u> ensure the effectiveness of the safeguards for rightholders referred to in this Chapter, notably as regards publicity measures, and, where applicable, assist in the establishment of the requirements referred to in the second subparagraph of Article 7(2).	regular dialogue between representative users' and rightholders' organisations, including collective management organisations, and any other relevant stakeholder organisations, on a sector-specific basis, to foster the relevance and usability of the licensing mechanisms referred to in Article 7(1) and to ensure the effectiveness of the safeguards for rightholders referred to in this Chapter. [provisionally agreed at Trilogue 26/11/2018]

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191.				<u>CHAPTER 1a</u> <u>Measures to facilitate</u> <u>collective licensing</u>	<u>CHAPTER 1a</u> <u>Measures to facilitate</u> <u>collective licensing</u>
192.	Art. 9a, title			<u>Article 9a</u> <u>Collective licensing with</u> <u>an extended effect</u>	<u>Article 9a</u> <u>Collective licensing with an</u> <u>extended effect</u> <i>[Article 9a in principle provisionally agreed; final agreement depending on final wording with possible technical clarifications from COM]</i>
193.	Art. 9a, para 1			<u>1. Member States</u> <u>may provide, as far as</u> <u>the use within their</u> <u>national territory is</u> <u>concerned and subject to</u> <u>safeguards provided for</u> <u>in this Article, that when</u> <u>a collective management</u> <u>organisation, in</u> <u>accordance with its</u> <u>mandates from</u> <u>rightholders, enters into</u>	1. Member States may provide, as far as the use within their national territory is concerned and subject to safeguards provided for in this Article, that when a collective management organisation, in accordance with its mandates from rightholders, enters into a licensing agreement for the exploitation of works or

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				<u>a licensing agreement for the exploitation of works or other subject-matter such an agreement may be extended to apply to the rights of rightholders who have not authorised the organisation to represent them by way of assignment, licence or any other contractual arrangement; or, with respect to such an agreement, the organisation has a legal mandate or is presumed to represent rightholders who have not authorised the organisation accordingly.</u>	other subject-matter such an agreement may be extended to apply to the rights of rightholders who have not authorised the organisation to represent them by way of assignment, licence or any other contractual arrangement; or, with respect to such an agreement, the organisation has a legal mandate or is presumed to represent rightholders who have not authorised the organisation accordingly. <i>[see comment in row 192]</i>
194.	Art. 9a, para 2			<u>2. Member States shall ensure that the licensing mechanism referred to in paragraph 1 is only applied within well-defined areas of use where obtaining</u>	2. Member States shall ensure that the licensing mechanism referred to in paragraph 1 is only applied within well-defined areas of use where obtaining authorisations from

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				<u>authorisations from rightholders on an individual basis is typically onerous and impractical to a degree that makes the required licensing transaction unlikely due to the nature of the use or of the types of works or other subject-matter concerned and that such mechanism safeguards the legitimate interests of rightholders.</u>	rightholders on an individual basis is typically onerous and impractical to a degree that makes the required licensing transaction unlikely due to the nature of the use or of the types of works or other subject-matter concerned and that such mechanism safeguards the legitimate interests of rightholders. <i>[see comment in row 192]</i>
195.	Art. 9a, para 3			<u>3. The safeguards referred to in paragraph 1 must ensure that:</u>	3. The safeguards referred to in paragraph 1 must ensure that: <i>[see comment in row 192]</i>
196.	Art. 9a, para 3, point (a)			<u>(a) the organisation is, on the basis of mandates from rightholders, sufficiently representative of rightholders in the relevant type of works or</u>	(a) the organisation is, on the basis of mandates from rightholders, sufficiently representative of rightholders in the relevant type of works or other subject-matter and of the

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				<u>other subject-matter and of the rights which are the subject of the licence for the relevant Member State;</u>	rights which are the subject of the licence for the relevant Member State; <i>[see comment in row 192]</i>
197.	Art. 9a, para 3, point (b)			<u>(b) equal treatment is guaranteed to all rightholders in relation to the terms of the licence;</u>	(b) equal treatment is guaranteed to all rightholders in relation to the terms of the licence; <i>[see comment in row 192]</i>
198.	Art. 9a, para 3, point (c)			<u>(c) rightholders who have not authorised the organisation operating the licence may at any time easily and effectively exclude their works or other subject-matter from the licensing mechanism established in accordance with this Article;</u>	(c) rightholders who have not authorised the organisation operating the licence may at any time easily and effectively exclude their works or other subject-matter from the licensing mechanism established in accordance with this Article; <i>[see comment in row 192]</i>
199.	Art. 9a, para 3, point (d)			<u>(d) appropriate publicity measures are taken to raise the</u>	(d) appropriate publicity measures are taken to raise the awareness of rightholders

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				<u>awareness of rightholders regarding the possibility for organisations to license works or other subject-matter and the licensing taking place in accordance with this Article, and the possibilities of rightholders referred to in point (c) starting from a reasonable period before the works or other subject-matter are used under the licence. Publicity measures should be effective without the need to inform each rightholder individually.</u>	regarding the possibility for organisations to license works or other subject-matter and the licensing taking place in accordance with this Article, and the possibilities of rightholders referred to in point (c) starting from a reasonable period before the works or other subject-matter are used under the licence. Publicity measures should be effective without the need to inform each rightholder individually. <i>[see comment in row 192]</i>
200.	Art. 9a, para 4			<u>4. The rules provided for in this Article are without prejudice to the application of collective licensing mechanisms</u>	4. The rules provided for in this Article are without prejudice to the application of collective licensing mechanisms with an extended effect in

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				<u>with an extended effect in conformity with other provisions of Union law, including those which allow exceptions or limitations, and shall not apply to mandatory collective management of rights.</u>	conformity with other provisions of Union law, including those which allow exceptions or limitations, and shall not apply to mandatory collective management of rights. <i>[see comment in row 192]</i>
201.	Art. 9a, para 5			<u>5. Where the law of a Member State provides for a licensing mechanism in accordance with this Article, the Member State concerned shall inform the Commission about the scope of that law, purposes and types of licences that may be introduced under that law as well as contact details for organisations issuing licences in accordance with the mechanism in paragraph</u>	5. Where the law of a Member State provides for a licensing mechanism in accordance with this Article, the Member State concerned shall inform the Commission about the scope of that law, purposes and types of licences that may be introduced under that law as well as contact details for organisations issuing licences in accordance with the mechanism in paragraph 1. The Commission shall publish this information. <i>[see comment in row 192]</i>

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				<u>1. The Commission shall publish this information.</u>	
202.	Art. 9a, para 6			<u>6. Based on the information received pursuant to paragraph 5 and on the discussions in the contact committee referred to in Article 12(3) of Directive 2001/29/EC, the Commission shall, by 31 December 2020, submit to the European Parliament and to the Council a report on the use of such mechanisms referred to in paragraph 1 in the EU and their impact on licensing and rightholders. The Commission's report shall be accompanied, if appropriate, by a legislative proposal, including as regards publicity measures, and, where applicable, assist in</u>	6. Based on the information received pursuant to paragraph 5 and on the discussions in the contact committee referred to in Article 12(3) of Directive 2001/29/EC, the Commission shall, by 10 April 2021 , submit to the European Parliament and to the Council a report on the use of such mechanisms referred to in paragraph 1 in the EU and their impact on licensing and rightholders. The Commission's report shall be accompanied, if appropriate, by a legislative proposal, including as regards the cross-border effect of such national schemes. <i>[see comment in row 192]</i>

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				the establishment of the requirements referred to in the second subparagraph of Article 7(2). <u>the cross-border effect of such national schemes.</u>	
203.		CHAPTER 2 Access to and availability of audiovisual works on video-on-demand platforms	CHAPTER 2 Access to and availability of audiovisual works on video-on-demand platforms	CHAPTER 2 Access to and availability of audiovisual works on video-on-demand platforms	CHAPTER 2 Access to and availability of audiovisual works on video-on-demand platforms
204.	Art. 10, title	<i>Article 10</i> <i>Negotiation mechanism</i>	<i>Article 10</i> <i>Negotiation mechanism</i>	<i>Article 10</i> <i>Negotiation mechanism</i>	<i>Article 10</i> <i>Negotiation mechanism</i>
205.	Art. 10, sub-para 1	Member States shall ensure that where parties wishing to conclude an agreement for the purpose of making available audiovisual works on video-on-demand platforms face difficulties relating to the licensing of rights, they may rely on the assistance of an impartial body with relevant	Member States shall ensure that where parties wishing to conclude an agreement for the purpose of making available audiovisual works on video-on-demand platforms face difficulties relating to the licensing of <i>audiovisual</i> rights, they may rely on the assistance of an impartial body with	Member States shall ensure that where parties wishing <u>facing difficulties related to the licensing of rights when seeking</u> to conclude an agreement for the purpose of making available audiovisual works on video-on-demand platforms face difficulties relating to the licensing of rights, they <u>services,</u> may	GREEN Member States shall ensure that parties facing difficulties related to the licensing of rights when seeking to conclude an agreement for the purpose of making available audiovisual works on video-on-demand services, may rely on the assistance of an impartial body or of mediators. The

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		experience. That body shall provide assistance with negotiation and help reach agreements.	relevant experience. That body <i>The impartial body created or designated by the Member State for the purpose of this Article</i> shall provide assistance <i>to the parties</i> with negotiation and help <i>them</i> to reach agreement.	rely on the assistance of an impartial body with relevant experience. <u>That or of mediators. The body or mediators</u> shall provide assistance <u>to the parties</u> with negotiation <u>their negotiations</u> and help <u>them</u> reach agreements, <u>including, where appropriate, by submitting proposals to the parties.</u>	impartial body created or designated by the Member State for the purpose of this Article or mediators shall provide assistance to the parties with their negotiations and help them reach agreements, including, where appropriate, by submitting proposals to the parties. [provisionally agreed at Trilogue 26/11/2018]
206.	Art. 10, sub-para 2	No later than [date mentioned in Article 21(1)] Member States shall notify to the Commission the body referred to in paragraph 1.	No later than [date mentioned in Article 21(1)] Member States shall notify to <i>inform</i> the Commission <i>of</i> the body referred to in paragraph 1. <i>they create or designate pursuant to the first paragraph.</i>	No later than [date mentioned in Article 21(1)] Member States shall notify to the Commission the body <u>or mediators</u> referred to in paragraph 1 <u>no later than [date mentioned in Article 21(1)]. In cases where Member States have chosen to rely on mediation, the</u>	GREEN Member States shall notify to the Commission the body or mediators referred to in paragraph 1 no later than [date mentioned in Article 21(1)]. In cases where Member States have chosen to rely on mediation, the notification to the Commission shall at least include, when available, the

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				<u>notification to the Commission shall at least include, when available, the source where relevant information on the entrusted mediators can be found.</u>	source where relevant information on the entrusted mediators can be found. [provisionally agreed at Trilogue 26/11/2018]
207.	Art. 10, sub-para 3		<i>To encourage the availability of audiovisual works on video-on-demand platforms, Member States shall foster dialogue between representative organisations of authors, producers, video-on-demand platforms and other relevant stakeholders.</i>		GREEN [provisionally agreed at Trilogue on 26/11/2018 to insert part of the EP mandate of this row into a recital (not in Article) along the following lines: Member States should encourage dialogue between representative organisations, without it being an obligation for Member States]
208.			CHAPTER 2a Access to Union publications		

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209.	Art. 10a, title		<i>Article 10 a Union Legal Deposit</i>		
210.	Art. 10a, para 1		<i>1. Any electronic publication dealing with Union-related matters such as Union law, Union history and integration, Union policy and Union democracy, institutional and parliamentary affairs, and politics, that is made available to the public in the Union shall be subject to a Union Legal Deposit.</i>		
211.	Art. 10a, para 2		<i>2. The European Parliament Library shall be entitled to delivery, free of charge, of one copy of every publication referred to in paragraph 1.</i>		
212.	Art. 10a, para 3		<i>3. The obligation set out in paragraph 1 shall apply to publishers, printers and importers of publications for the works</i>		

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			<i>they publish, print or import in the Union.</i>		
213.	Art. 10a, para 4		<i>4. From the day of the delivery to the European Parliament Library, the publications referred to in paragraph 1 shall become part of the European Parliament Library permanent collection. They shall be made available to users at the European Parliament Library's premises exclusively for the purpose of research or study by accredited researchers and under the control of the European Parliament Library.</i>		
214.	Art. 10a, para 5		<i>5. The Commission shall adopt acts to specify the modalities relating to the delivery to the European Parliament Library of publications</i>		

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			<i>referred to in paragraph 1.</i>		
215.		TITLE IV MEASURES TO ACHIEVE A WELL- FUNCTIONING MARKETPLACE FOR COPYRIGHT	TITLE IV MEASURES TO ACHIEVE A WELL- FUNCTIONING MARKETPLACE FOR COPYRIGHT	TITLE IV MEASURES TO ACHIEVE A WELL- FUNCTIONING MARKETPLACE FOR COPYRIGHT	TITLE IV MEASURES TO ACHIEVE A WELL-FUNCTIONING MARKETPLACE FOR COPYRIGHT
216.		CHAPTER 1 Rights in publications	CHAPTER 1 Rights in publications	CHAPTER 1 Rights in publications	CHAPTER 1 Rights in publications
217.	Art. 11, title	<i>Article 11 Protection of press publications concerning digital uses</i>	<i>Article 11 Protection of press publications concerning digital uses</i>	<i>Article 11 Protection of press publications concerning digitalonline uses</i>	<i>[To be further discussed at political level; Preparatory work to be done at technical level]</i>
218.	Art. 11, para 1	1. Member States shall provide publishers of press publications with the rights provided for in Article 2 and Article 3(2) of Directive 2001/29/EC for the digital use of their press publications.	1. Member States shall provide publishers of press publications with the rights provided for in Article 2 and Article 3(2) of Directive 2001/29/EC <i>so that they may obtain fair and proportionate remuneration</i> for the digital use of their press	1. Member States shall provide publishers of press publications <u>established in a Member State</u> with the rights provided for in Article 2 and Article 3(2) of Directive 2001/29/EC for the digital online use of their press publications <u>by</u>	

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			publications <i>by information society service providers</i> .	<u>information society service providers</u> .	
219.	Art. 11, para 1, sub- para 2			<u>The rights referred to in the first subparagraph shall not apply in respect of uses of insubstantial parts of a press publication. Member States shall be free to determine the insubstantial nature of parts of press publications taking into account whether these parts are the expression of the intellectual creation of their authors, or whether these parts are individual words or very short excerpts, or both criteria.</u>	
220.	Art. 11, para 1a		<i>1a. The rights referred to in paragraph 1 shall not prevent legitimate private and non-</i>		

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			<i>commercial use of press publications by individual users.</i>		
221.	Art. 11, para 2	2. The rights referred to in paragraph 1 shall leave intact and shall in no way affect any rights provided for in Union law to authors and other rightholders, in respect of the works and other subject-matter incorporated in a press publication. Such rights may not be invoked against those authors and other rightholders and, in particular, may not deprive them of their right to exploit their works and other subject-matter independently from the press publication in which they are incorporated.	2. The rights referred to in paragraph 1 shall leave intact and shall in no way affect any rights provided for in Union law to authors and other rightholders, in respect of the works and other subject-matter incorporated in a press publication. Such rights may not be invoked against those authors and other rightholders and, in particular, may not deprive them of their right to exploit their works and other subject-matter independently from the press publication in which they are incorporated.	2. The rights referred to in paragraph 1 shall leave intact and shall in no way affect any rights provided for in Union law to authors and other rightholders, in respect of the works and other subject-matter incorporated in a press publication. Such The rights <u>referred to in paragraph 1</u> may not be invoked against those authors and other rightholders and, in particular, may not deprive them of their right to exploit their works and other subject-matter independently from the press publication in which they are incorporated.	

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222.	Art. 11, para 2, sub- para 2			<u>When a work or other subject-matter is incorporated in a press publication on the basis of a non-exclusive licence, the rights referred to in paragraph 1 may not be invoked to prohibit the use by other authorised users. The rights referred to in paragraph 1 may not be invoked to prohibit the use of works or other subject-matter whose protection has expired.</u>	
223.	Art. 11, para 2a		<i>2a. The rights referred to in paragraph 1 shall not extend to mere hyperlinks which are accompanied by individual words.</i>		
224.	Art. 11, para 3	3. Articles 5 to 8 of Directive 2001/29/EC and	3. Articles 5 to 8 of Directive 2001/29/EC and	3. Articles 5 to 8 of Directive 2001/29/EC and	

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		Directive 2012/28/EU shall apply <i>mutatis mutandis</i> in respect of the rights referred to in paragraph 1.	Directive 2012/28/EU shall apply <i>mutatis mutandis</i> in respect of the rights referred to in paragraph 1.	Directive 2012/28/EU shall apply <i>mutatis mutandis</i> in respect of the rights referred to in paragraph 1.	
225.	Art. 11, para 4	4. The rights referred to in paragraph 1 shall expire 20 years after the publication of the press publication. This term shall be calculated from the first day of January of the year following the date of publication.	4. The rights referred to in paragraph 1 shall expire 20 5 years after the publication of the press publication. This term shall be calculated from the first day of January of the year following the date of publication. <i>The right referred to in paragraph 1 shall not apply with retroactive effect.</i>	4. The rights referred to in paragraph 1 shall expire 20 years <u>1 year</u> after the publication of the press publication. This term shall be calculated from the first day of January of the year following the date o publication.	
226.	Art. 11, para 4a		<i>4a. Member States shall ensure that authors receive an appropriate share of the additional revenues press publishers receive for the use of a press publication by information society service providers</i>		

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227.	Art. 11, para 5			5. Paragraph 1 shall not apply to press publications first published before [entry into force of the Directive].	
228.	Art, 12, title	<i>Article 12 Claims to fair compensation</i>	<i>Article 12 Claims to fair compensation</i>	<i>Article 12 Claims to fair compensation</i>	<i>Article 12 Claims to fair compensation</i>
229.	Art. 12, sub-para 1 (EP)/ Art. 12, introductory part (Council)]	Member States may provide that where an author has transferred or licensed a right to a publisher, such a transfer or a licence constitutes a sufficient legal basis for the publisher to claim a share of the compensation for the uses of the work made under an exception or limitation to the transferred or licensed right.	Member States <i>with compensation-sharing systems between authors and publishers for exceptions and limitations</i> may provide that where an author has transferred or licensed a right to a publisher, such a transfer or a licence constitutes a sufficient legal basis for the publisher to claim a share of the compensation for the uses of the work made under an exception or limitation to the transferred or licensed	Member States may provide that where an author has transferred or licensed a right to a publisher, such a transfer or a licence constitutes a sufficient legal basis for the publisher to claim be entitled to a share of it <i>[remaining part of this paragraph of the COM proposal was moved to new point (a) (see row 230)]</i>	<i>[discussed at Trilogue 26/11/2018; COM to provide recital language to address EP's concerns regarding "cut off date"]</i> <i>[to be further discussed at political level]</i>

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			right, <i>provided that an equivalent compensation-sharing system was in operation in that Member State before 12 November 2015.</i>		
230.	Art. 12, point (a)			(a) the compensation for the uses of the work made under an exception or limitation to the transferred or licensed right; and <i>[See Parliament's sub-paragraph 1 of Article 12 (row 229)]</i>	
231.	Art. 12, point (b)			(b) the remuneration for public lending provided for in Article 6(1) of Directive 2006/115/EC.	
232.	Art. 12, sub- para 2		<i>The first paragraph shall be without prejudice to the arrangements in Member States concerning public lending rights, the</i>		

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			<i>management of rights not based on exceptions or limitations to copyright, such as extended collective licensing schemes, or concerning remuneration rights on the basis of national law.</i>		
233.			CHAPTER 1a <i>Protection of sport event organizers</i>		
234.	Art. 12a, title		Article 12a <i>Protection of sport event organizers</i>		
235.	Art. 12a		<i>Member States shall provide sport event organizers with the rights provided for in Article 2 and Article 3 (2) of Directive 2001/29/EC and Article 7 of Directive 2006/115/EC.</i>		

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236.		CHAPTER 2 Certain uses of protected content by online services	CHAPTER 2 Certain uses of protected content by online services	CHAPTER 2 Certain uses of protected content by online services	CHAPTER 2 Certain uses of protected content by online services
237.	Art. 13, title	<i>Article 13 Use of protected content by information society service providers storing and giving access to large amounts of works and other subject-matter uploaded by their users</i>	<i>Article 13 Use of protected content by information society online content sharing service providers storing and giving access to large amounts of works and other subject-matter uploaded by their users</i>	<i>Article 13 Use of protected content by information society online content sharing service providers storing</i>	<i>[To be further discussed at political level; Preparatory work started at technical level]</i>
238.	Art. 13, para 1	1. Information society service providers that store and provide to the public access to large amounts of works or other subject- matter uploaded by their users shall, in cooperation with rightholders, take measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter or to	1. <i>Without prejudice to Article 3(1) and (2) of Directive 2001/29/EC, online content sharing</i> Information society service providers that store and provide <i>perform an act of communication</i> to the public access to large amounts of works or other subject-matter uploaded by their users. <i>They</i> shall in cooperation with rightholders, take measures	1. <u>Member States shall provide that an online content sharing service provider performs an act of communication to the public or an act of making available to the public when it gives the public access to copyright protected works or other protected subject matter uploaded by its users.</u>	

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		prevent the availability on their services of works or other subject-matter identified by rightholders through the cooperation with the service providers. Those measures, such as the use of effective content recognition technologies, shall be appropriate and proportionate. The service providers shall provide rightholders with adequate information on the functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the works and other subject-matter.	to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter or to prevent the availability on their services of works or other subject-matter identified by rightholders through the cooperation with the service providers. Those measures, such as the use of effective content recognition technologies, shall be <i>therefore</i> appropriate and proportionate. The service providers shall provide rightholders with adequate information on the functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the works and other subject-	<u>An online content sharing service provider shall obtain an authorisation from the rightholders referred to in Article 3(1) and giving access to large amounts of(2) of Directive 2001/29/EC in order to communicate or make available to the public works or other subject matter. Where no such authorisation has been obtained, the service provider shall prevent the availability on its service of those</u> works and other subject-matter uploaded by <u>matter, including through the application of measures referred to in paragraph 4. This subparagraph shall apply without prejudice to exceptions</u>	

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			matter. <i>licensing agreements with right holders.</i>	<u>and limitations provided for in Union law.</u> <u>Member States shall provide that when an authorisation has been obtained, including via a licensing agreement, by an online content sharing service provider, this authorisation shall also cover acts of uploading by the users of the service falling within Article 3 of Directive 2001/29/EC when they are not acting on a commercial basis.</u> <i>[Last two sentences of COM proposal were moved to Council's paragraphs 5 and 6 respectively]</i>	
239.	Art. 13, para 2 (EP)		2. Member States shall ensure that the <i>Licensing agreements which are concluded by online content sharing</i> service		

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			<p>providers <i>with right holders for the acts of communication</i> referred to in paragraph 1 put in place complaints and redress mechanisms that are available to users in case of disputes over the application of the measures referred to in paragraph 1., <i>shall cover the liability for works uploaded by the users of such online content sharing services in line with the terms and conditions set out in the licensing agreement, provided that such users do not act for commercial purposes.</i></p> <p><i>[See Council's paragraph 1, subparagraph 3 (row 238)]</i></p>		
240.	Art. 13, para 2a (EP)		<p>2a. Member States shall provide that where right holders do not wish</p>		

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			<i>to conclude licensing agreements, online content sharing service providers and right holders shall cooperate in good faith in order to ensure that unauthorised protected works or other subject matter are not available on their services. Cooperation between online content service providers and right holders shall not lead to preventing the availability of non-infringing works or other protected subject matter, including those covered by an exception or limitation to copyright.</i>		
241.	Art. 13, para 2 / para 2b (EP)	2. Member States shall ensure that the service providers referred to in paragraph 1 put in place complaints and redress mechanisms that are available to users in	<i>2b. Members States shall ensure that online content sharing service providers referred to in paragraph 1 put in place effective and expeditious complaints and redress</i>	<i>[Paragraph 2 of the COM proposal was moved to new paragraph 7 of Council's text]</i>	

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		case of disputes over the application of the measures referred to in paragraph 1.	<i>mechanisms that are available to users in case the cooperation referred to in paragraph 2a leads to unjustified removals of their content. Any complaint filed under such mechanisms shall be processed without undue delay and be subject to human review. Right holders shall reasonably justify their decisions to avoid arbitrary dismissal of complaints. Moreover, in accordance with Directive 95/46/EC, Directive 2002/58/EC and the General Data Protection Regulation, the cooperation shall not lead to any identification of individual users nor the processing of their personal data. Member States shall also ensure that users have access to an independent body for</i>		

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			<p><i>the resolution of disputes as well as to a court or another relevant judicial authority to assert the use of an exception or limitation to copyright rules.</i></p> <p><i>[See Council's Article 13(7) (row 252)]</i></p>		
242.	Art. 13, para 3 (EP)	3. Member States shall facilitate, where appropriate, the cooperation between the information society service providers and rightholders through stakeholder dialogues to define best practices, such as appropriate and proportionate content recognition technologies, taking into account, among others, the nature of the services, the availability of the technologies and their effectiveness in light of	<p>3. <i>As of [date of entry into force of this directive], the Commission and the</i> Member States shall facilitate where appropriate, the <i>organise dialogues</i> between the information society service providers and rightholders through stakeholder dialogues <i>stakeholders to harmonise and</i> to define best practices, such as appropriate and proportionate content recognition technologies,</p>	<i>[See new paragraph 8 of Council's text]</i>	<i>[to be further discussed]</i>

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		technological developments.	<p>taking into account, among others, the nature of the services, the availability of the technologies and their effectiveness in light of technological developments. <i>and issue guidance to ensure the functioning of licensing agreements and on cooperation between online content sharing service providers and right holders for the use of their works or other subject matter within the meaning of this Directive. When defining best practices, special account shall be taken of fundamental rights, the use of exceptions and limitations as well as ensuring that the burden on SMEs remains appropriate and that automated blocking of content is avoided.</i></p>		

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243.	Art. 13, para 3 (Council)			<u>3. When an online content sharing service provider performs an act of communication to the public or an act of making available to the public, it shall not be eligible for the exemption of liability provided for in Article 14 of Directive 2000/31/EC for unauthorised acts of communication to the public and making available to the public, without prejudice to the possible application of Article 14 of Directive 2000/31/EC to those services for purposes other than copyright relevant acts.</u>	<i>[to be further discussed at political level]</i>
244.	Art. 13, para 4, introductory part			<u>4. In the absence of the authorisation referred to in the second subparagraph of</u>	<i>[to be further discussed at political level]</i>

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				<u>paragraph 1, Member States shall provide that an online content sharing service provider shall not be liable for acts of communication to the public or making available to the public within the meaning of this Article when:</u>	
245.	Art. 13, para 4, point (a)			<u>(a) it demonstrates that it has made best efforts to prevent the availability of specific works or other subject matter by implementing effective and proportionate measures, in accordance with paragraph 5, to prevent the availability on its services of the specific works or other subject matter identified by rightholders and for</u>	<i>[to be further discussed at political level]</i>

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				<u>which the rightholders have provided the service with relevant and necessary information for the application of these measures; and</u>	
246.	Art. 13, para 4, point (b)			<u>(b) upon notification by rightholders of works or other subject matter, it has acted expeditiously to remove or disable access to these works or other subject matter and it demonstrates that it has made its best efforts to prevent their users future availability through the measures referred to in point (a).</u>	<i>[to be further discussed at political level]</i>
247.	Art. 13, para 5, introductory part			<u>5. The measures referred to in point (a) of paragraph 4 shall be effective and proportionate, taking</u>	<i>[to be further discussed at political level]</i>

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				<u>into account, among other factors:</u>	
248.	Art. 13, para 5, point (a)			<u>(a) the nature and size of the services, in particular whether they are provided by a microenterprise or a small-sized enterprise within the meaning of Title I of the Annex to Commission Recommendation 2003/361/EC, and their audience;</u>	<i>[to be further discussed at political level]</i>
249.	Art. 13, para 5, point (b)			<u>(b) the amount and the type of works or other subject matter uploaded by the users of the services;</u>	<i>[to be further discussed at political level]</i>
250.	Art. 13, para 5, point (c)			<u>(c) the availability and costs of the measures as well as their effectiveness in light of technological developments in line with</u>	<i>[to be further discussed at political level]</i>

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				<u>the industry best practice referred to in paragraph 8.</u>	
251.	Art. 13, para 6			<u>6. Member States shall ensure that online content sharing service providers and rightholders cooperate with each other in a diligent manner to ensure the effective functioning of the measures referred to in point (a) of paragraph 4 over time. Online content sharing service providers shall provide rightholders, at their request, with adequate information on the deployment and functioning of these measures to allow the assessment of their effectiveness, in particular information on the type of measures</u>	<i>[to be further discussed at political level]</i>

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				<u>used and, where licensing agreements are concluded between service providers and rightholders, information on the use of content covered by the agreements.</u>	
252.	Art. 13, para 7			7. _____ Member States shall ensure that <u>the measures referred to in paragraph 4 are implemented by the online content sharing service provider without prejudice to the possibility for their users to benefit from exceptions or limitations to copyright. For that purpose,</u> the service providers referred to in paragraph 1 <u>shall</u> put in place <u>a</u> complaints and redress mechanisms that are <u>is</u> available to users of the service in case of	<i>[to be further discussed at political level]</i>

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				<p>disputes over the application of the measures referred to in paragraph 1 <u>to their content. Complaints submitted under this mechanism shall be processed by the online content sharing service provider in cooperation with relevant rightholders within a reasonable period of time. Rightholders shall duly justify the reasons for their requests to remove or block access to their specific works or other subject matter. Member States shall endeavour to put in place independent bodies to assess complaints related to the application of the measures.</u></p> <p><i>[Paragraph 2 of the COM proposal, amended]</i></p>	

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253.	Art. 13, para 8			<p><u>8. The Commission and the Member States shall encourage stakeholder dialogues to define best practices for the measures referred to in point (a) of paragraph 4. Member States shall also endeavour to establish mechanisms to facilitate the assessment of the effectiveness and proportionality of these measures and provide the Commission regularly with information on those mechanisms. The Commission shall, in consultation with online content sharing service providers, rightholders and other relevant stakeholders and taking into account the results of the stakeholder dialogues and the</u></p>	<i>[to be further discussed at political level]</i>

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				<u>national mechanisms, issue guidance on the application of the measures referred to in point (a) of paragraph 4.</u> <i>[Paragraph 3 of the COM proposal, reworded]</i>	
254.	Art. 13a, title		<i>Article 13a</i>		
255.	Art. 13a, sub-para 1		<i>Member States shall provide that disputes between successors in title and information society services regarding the application of Article 13(1) may be subject to an alternative dispute resolution system.</i>		
256.	Art. 13a, sub-para 2		<i>Member States shall establish or designate an impartial body with the necessary expertise, with the aim of helping the</i>		

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			<i>parties to settle their disputes under this system.</i>		
257.	Art. 13a, sub-para 3		<i>The Member States shall inform the Commission of the establishment of this body no later than (date mentioned in Article 21(1)).</i>		
258.	Art. 13b, title		<i>Article 13b</i> <i>Use of protected content by information society services providing automated image referencing</i>		
259.	Art. 13b		<i>Member States shall ensure that information society service providers that automatically reproduce or refer to significant amounts of copyright-protected visual works and make them available to the public for the purpose of indexing and referencing conclude</i>		

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			<i>fair and balanced licensing agreements with any requesting rightholders in order to ensure their fair remuneration. Such remuneration may be managed by the collective management organisation of the rightholders concerned.</i>		
260.				<u>TITLE IV</u> <u>MEASURES TO</u> <u>ACHIEVE A WELL-</u> <u>FUNCTIONING</u> <u>MARKETPLACE FOR</u> <u>COPYRIGHT</u>	
261.		CHAPTER 3 Fair remuneration in contracts of authors and performers	CHAPTER 3 Fair remuneration in contracts of authors and performers	CHAPTER 3 Fair remuneration in <u>exploitation</u> contracts of authors and performers	<i>[to be discussed at political level]</i>
262.	Art. -14, title		<i>Article -14</i>		<i>[Article -14 to be further discussed at political level]</i>

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			<i>Principle of fair and proportionate remuneration</i>		
263.	Art. -14, para 1		1. <i>Member States shall ensure that authors and performers receive fair and proportionate remuneration for the exploitation of their works and other subject matter, including for their online exploitation. This may be achieved in each sector through a combination of agreements, including collective bargaining agreements, and statutory remuneration mechanisms.</i>		
264.	Art. -14, para 2		2. <i>Paragraph 1 shall not apply where an author or performer grants a non-exclusive usage right for the benefit of all users free of charge.</i>		

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265.	Art. -14, para 3		3. <i>Member States shall take account of the specificities of each sector in encouraging the proportionate remuneration for rights granted by authors and performers.</i>		
266.	Art. -14, para 4		4. <i>Contracts shall specify the remuneration applicable to each mode of exploitation.</i>		
267.	Art. 14, title	<i>Article 14 Transparency obligation</i>	<i>Article 14 Transparency obligation</i>	<i>Article 14 Transparency obligation</i>	<i>Article 14 Transparency obligation</i>
268.	Art. 14, para 1	1. Member States shall ensure that authors and performers receive on a regular basis and taking into account the specificities of each sector, timely, adequate and sufficient information on the exploitation of their works and performances from those to whom they	1. Member States shall ensure that authors and performers receive on a regular basis, <i>not less than once a year</i> , and taking into account the specificities of each sector <i>and the relative importance of each individual contribution</i> , timely adequate and	1. Member States shall ensure that authors and performers receive on a regular basis, <u>at least once a year</u> , and taking into account the specificities of each sector, timely, adequate and sufficient information on the exploitation of their works and performances	1. Member States shall ensure that authors and performers receive on a regular basis, <i>at least once a year</i> , and taking into account the specificities of each sector <i>[and the relative importance of each individual contribution]</i> , timely, [adequate and sufficient] <i>up to date</i> ,

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		have licensed or transferred their rights, notably as regards modes of exploitation, revenues generated and remuneration due.	sufficient , <i>accurate, relevant and comprehensive</i> information on the exploitation of their works and performances from those to whom they have licensed or transferred their rights, notably as regards modes of exploitation, <i>direct and indirect</i> revenues generated, and remuneration due.	from those to whom they have licensed or transferred their rights <u>or their successors in title</u> , notably as regards modes of exploitation, revenues generated and remuneration due.	<i>relevant and comprehensive</i> information on the exploitation of their works and performances from those to whom they have licensed or transferred their rights <i>or their successors in title</i> , notably as regards modes of exploitation, direct and indirect <i>all(*)</i> revenues generated and remuneration due. [(*) subject to explicit reference to 'merchandising' as example of a possible form of covered revenues in the recitals (see recital (40a), row 92, and recital (42), row 95] [yellow part depending agreement on Article 14(3)]
269.	Art. 14, para 1a		<i>1a. Member States shall ensure that where the licensee or transferee of rights of authors and performers subsequently</i>	<u>1a. Member States shall ensure that where the rights referred to in paragraph 1 have subsequently been</u>	[To be further discussed at political level, to be prepared at TM]

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			<i>licenses those rights to another party, such party shall share all information referred to in paragraph 1 with the licensee or transferee.</i>	<u>licensed to another party, authors and performers may, at their request, receive from those third parties additional information if their first contractual counterpart does not hold all the information that would be necessary for the purposes of the information provision set out in paragraph 1. Member States may provide that such request to those third parties is made directly by the author or performer or indirectly through the contractual counterpart of the author or the performer.</u>	
270.	Art. 14, para 1a, sub-para 2		<i>The main licensee or transferee shall pass all the information referred to in the first subparagraph on to the</i>		<i>[to be discussed at Trilogue]</i>

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			<p><i>author or performer. That information shall be unchanged, except in the case of commercially sensitive information as defined by Union or national law, which, without prejudice to Articles 15 and 16a, may be subject to a non-disclosure agreement, for the purpose of preserving fair competition. Where the main licensee or transferee does not provide the information as referred to in this subparagraph in a timely manner, the author or performer shall be entitled to request that information directly from the sub-licensee.</i></p> <p><i>[See Council's Article 14(1a) (row 269)]</i></p>		

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271.	Art. 14, para 2	2. The obligation in paragraph 1 shall be proportionate and effective and shall ensure an appropriate level of transparency in every sector. However, in those cases where the administrative burden resulting from the obligation would be disproportionate in view of the revenues generated by the exploitation of the work or performance, Member States may adjust the obligation in paragraph 1, provided that the obligation remains effective and ensures an appropriate level of transparency.	2. The obligation in paragraph 1 shall be proportionate and effective and shall ensure an appropriate a high level of transparency in every sector. However, in those cases where the administrative burden resulting from the obligation would be disproportionate in view of the revenues generated by the exploitation of the work or performance, Member States may adjust the obligation in paragraph 1, provided that the obligation remains effective and ensures an appropriate a high level of transparency.	2. The obligation in paragraph 1 shall be proportionate and effective and shall ensure an appropriate level of transparency in every sector. However, in those cases where the administrative burden resulting from the obligation Member States may provide that in duly justified cases where the administrative burden resulting from the obligation in paragraph 1 would be become disproportionate in view of the revenues generated by the exploitation of the work or performance, Member States may adjust the obligation in paragraph 1, provided that is limited to the obligation remains effective types and ensures an appropriate level of transparency. information that can reasonably be expected in such cases.	GREEN 2. The obligation in paragraph 1 shall be proportionate and effective and shall to ensure an appropriate a high level of transparency in every sector. Member States may provide that in duly justified cases where the administrative burden resulting from the obligation in paragraph 1 would be become disproportionate in view of the revenues generated by the exploitation of the work or performance, the obligation is limited to the types and level of information that can reasonably be expected in such cases. <i>[provisionally agreed at TTrilogue 26/11/2018]</i>

	Location	COMMISSION PROPOSAL COM(2016)593	EP TEXT	COUNCIL TEXT doc. 9134/18	POSSIBLE COMPROMISE SOLUTION
272.	Art. 14, para 3	3. Member States may decide that the obligation in paragraph 1 does not apply when the contribution of the author or performer is not significant having regard to the overall work or performance.	<i>Deleted</i>	3. Member States may decide that the obligation in paragraph 1 does not apply when the contribution of the author or performer is not significant having regard to the overall work or performance.	3. [<i>Council preference:</i> Member States may decide that the obligation in paragraph 1 does not apply when the contribution of the author or performer is not significant having regard to the overall work or performance.] [<i>EP compromise proposal:</i> Member States may decide that in the case of authors and performers whose contribution is not significant having regard to the overall work or performance the obligation in paragraph 1 apply only on request of the author or performer.] [to be discussed at political level]
273.	Art. 14, para 3a			<u>3a. Members States may provide that for agreements subject to or based on collective bargaining agreements</u>	GREEN <i>3a. Members States may provide that for agreements subject to or based on collective bargaining</i>

	Location	COMMISSION PROPOSAL COM(2016)593	EP TEXT	COUNCIL TEXT doc. 9134/18	POSSIBLE COMPROMISE SOLUTION
				<u>the transparency rules of the relevant collective bargaining agreement are applicable provided that they meet the minimum criteria laid down in the national provisions adopted in conformity with the requirements of paragraphs 1 to 3.</u>	<i>agreements the transparency rules of the relevant collective bargaining agreement are applicable provided that they are comparable to the obligations – meet the minimum criteria laid down in the national provisions adopted in conformity with the requirements of paragraphs 1 to 3.</i> <i>[provisionally agreed at rilogue 26/11/2018]</i>
274.	Art. 14, para 4	4. Paragraph 1 shall not be applicable to entities subject to the transparency obligations established by Directive 2014/26/EU.	4. Paragraph 1 shall not be applicable to entities subject to the transparency obligations established by Directive 2014/26/EU <i>or to collective bargaining agreements, where those obligations or agreements provide for transparency requirements comparable to those referred to in paragraph 2.</i>	4. Paragraph 1 shall not be applicable to <u>agreements concluded by entities subject to the transparency obligations established by defined in Article 3(a) and (b) of Directive 2014/26/EU, or by other entities subject to the national rules implementing Directive 2014/26/EU.</u>	GREEN <i>4. Paragraph 1 shall not be applicable to a Agreements concluded by entities defined in Article 3(a) and (b) of Directive 2014/26/EU or by other entities subject to the national rules implementing Directive 2014/26/EU shall not be subject to the obligation laid down in paragraph 1 when Article</i>

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					<i>18 of Directive 2014/26/EU is applicable.[aim of the paragraph provisionally agreed at Trilogue 26/11/2018;/ actual text provisionally agreed at TM 29/11/2018, together with wording of recital 41, row 94 tbc at trilogue]</i>
275.	Art. 15, title	<i>Article 15 Contract adjustment mechanism</i>	<i>Article 15 Contract adjustment mechanism</i>	<i>Article 15 Contract adjustment mechanism</i>	<i>Article 15 Contract adjustment mechanism</i>
276.	Art. 15, [para 1 (Council)]	Member States shall ensure that authors and performers are entitled to request additional, appropriate remuneration from the party with whom they entered into a contract for the exploitation of the rights when the remuneration originally agreed is disproportionately low compared to the subsequent relevant	Member States shall ensure, <i>in the absence of collective bargaining agreements providing for a comparable mechanism,</i> that authors and performers <i>or any representative organisation acting on their behalf</i> are entitled to request <i>claim</i> additional, appropriate <i>and fair</i> remuneration from the party with whom they	<u>1.</u> Member States shall ensure that authors and performers are entitled to request additional, appropriate remuneration from the party with whom they entered into a contract for the exploitation of the rights <u>or their successors in title,</u> when the remuneration originally agreed is <u>turns out to be</u> disproportionately low compared to the	1. Member States shall ensure, <i>in the absence of an applicable collective bargaining agreement providing for a comparable mechanism,</i> that authors and performers <i>or any [representatives] [representative organisation acting [at the specific request / on behalf] of one or more authors or performers]</i> are entitled to <i>claim</i> additional, appropriate

	Location	COMMISSION PROPOSAL COM(2016)593	EP TEXT	COUNCIL TEXT doc. 9134/18	POSSIBLE COMPROMISE SOLUTION
		revenues and benefits derived from the exploitation of the works or performances.	entered into a contract for the exploitation of the rights when the remuneration originally agreed is disproportionately low compared to the subsequent relevant <i>direct or indirect</i> revenues and benefits derived from the exploitation of the works or performances. <i>[See Council's Article 15(1a) (row277)]</i>	subsequent relevant revenues and benefits derived from the <u>actual</u> exploitation of the works or performances.	<i>and fair</i> remuneration from the party with whom they entered into a contract for the exploitation of the rights or their successors in title, when the remuneration originally agreed turns out to be disproportionately low compared to <u>all</u> the subsequent relevant {direct or indirect} revenues and benefits derived from the exploitation of the works or performances. <i>[to be discussed further at political level;</i> <i>Deletion of 'direct or indirect' provisionally agreed at Trilogue 26/11/2018: see comment on Article 14(1), row 268]</i>
277.	Art. 15, para 1a			<u>1a. Members States may provide that for agreements subject to or based on collective bargaining agreements</u>	<i>[Article 15(1a) Council's text deleted/incorporated into paragraph 1]</i>

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				<u>the rules of the relevant collective bargaining agreement for the adjustment of remuneration are applicable instead of the national provisions implementing the contract adjustment mechanism.</u>	[provisionally agreed at TM tbc by trilogue]
278.	Art. 15, para 2			<u>2. Paragraph 1 shall not be applicable to agreements concluded by entities defined in Article 3(a) and (b) of Directive 2014/26/EU or by other entities subject to the national rules implementing Directive 2014/26/EU.</u>	[to be discussed at trilogue]
279.	Art. 16, title	Article 16 Dispute resolution mechanism	Article 16 Dispute resolution mechanism	Article 16 Dispute resolution mechanism <u>procedure</u>	GREEN Article 16 Dispute resolution procedure

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					<i>[provisionally agreed at Trilogue 26/11/2018]</i>
280.	Art. 16, [para 1 (Council)]	Member States shall provide that disputes concerning the transparency obligation under Article 14 and the contract adjustment mechanism under Article 15 may be submitted to a voluntary, alternative dispute resolution procedure.	Member States shall provide that disputes concerning the transparency obligation under Article 14 and the contract adjustment mechanism under Article 15 may be submitted to a voluntary, alternative dispute resolution procedure. <i>Member States shall ensure that representative organisations of authors and performers may initiate such procedures at the request of one or more authors and performers.</i> <i>[See Council's Article 16(2) (row 281)]</i>	<u>1.</u> Member States shall provide that disputes concerning the transparency obligation under Article 14 and the contract adjustment mechanism under Article 15 may be submitted to a voluntary, alternative dispute resolution procedure.	GREEN Member States shall provide that disputes concerning the transparency obligation under Article 14 and the contract adjustment mechanism under Article 15 may be submitted to a voluntary, alternative dispute resolution procedure. <i>Member States shall ensure that representative organisations of authors and performers may initiate such procedures at the specific request of one or more authors and performers.</i> <i>[provisionally agreed at Trilogue 26/11/2018]</i>

	Location	COMMISSION PROPOSAL COM(2016)593	EP TEXT	COUNCIL TEXT doc. 9134/18	POSSIBLE COMPROMISE SOLUTION
281.	Art. 16, para 2		<i>[See Parliament's Article 16 last phrase (row 280)]</i>	<u>2. Member States shall ensure that representative organisations of authors and performers, including collective management organisations, may initiate such disputes on behalf of one or more authors and performers at their request.</u>	<i>[Article 16(2) Council's text deleted/incorporated into paragraph 1] [provisionally agreed at Trilogue 26/11/2018]</i>
282.	Art. 16a (Council), title			<u>Article 16a</u> <u>Contractual provisions</u>	GREEN <u>Article 16a</u> <u>Contractual</u> Common <u>provisions</u> <i>[provisionally agreed at Trilogue 26/11/2018]</i>
283.	Art. 16a (Council)			<u>Member States shall ensure that any contractual provision which prevents the compliance with the provisions in Articles 14</u>	GREEN <u>Member States shall ensure that any contractual provision which prevents the compliance with the provisions in Articles 14</u>

	Location	COMMISSION PROPOSAL COM(2016)593	EP TEXT	COUNCIL TEXT doc. 9134/18	POSSIBLE COMPROMISE SOLUTION
				<u>and 15 of this Directive shall be unenforceable in relation to authors and performers.</u>	<u>and 15 of this Chapter(*) Directive shall be unenforceable in relation to authors and performers.</u> [(*) 'Chapter' refers to Articles 14,15 and 16, ie the provisions of the initial Commission proposal] [provisionally agreed at Trilogue 26/11/2018]
284.	Art. 16a (EP), title		<i>Article 16 a</i> <i>Right of revocation</i>		[Article 16a to be further discussed at political level; Preparatory work to be done at technical level]
285.	Art. 16a (EP), para 1		1. <i>Member States shall ensure that where an author or a performer has licensed or transferred her or his rights concerning a work or other protected subject-matter on an exclusive basis, the author or performer has a right of revocation where there is an absence of</i>		

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			<i>exploitation of the work or other protected subject matter or where there is a continuous lack of regular reporting in accordance with Article 14. Member States may provide for specific provisions taking into account the specificities of different sectors and works and anticipated exploitation period, notably provide for time limits for the right of revocation.</i>		
286.	Art. 16a (EP), para 2		<i>2. The right of revocation provided for in paragraph 1 may be exercised only after a reasonable time from the conclusion of the licence or transfer agreement, and only upon written notification setting an appropriate deadline by which the exploitation of the licensed or transferred</i>		

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			<i>rights is to take place. After the expiration of that deadline, the author or performer may choose to terminate the exclusivity of the contract instead of revoking the rights. Where a work or other subject-matter contains the contribution of a plurality of authors or performers, the exercise of the individual right of revocation of such authors or performers shall be regulated by national law, laying down the rules on the right of revocation for collective works, taking into account the relative importance of the individual contributions.</i>		
287.	Art. 16a (EP), para 3		<i>3. Paragraphs 1 and 2 shall not apply if the non-exercise of the rights is predominantly due to</i>		

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			<i>circumstances which the author or the performer can be reasonably expected to remedy.</i>		
288.	Art. 16a (EP), para 4		4. <i>Contractual or other arrangements derogating from the right of revocation shall be lawful only if concluded by means of an agreement which is based on a collective bargaining agreement.</i>		
289.		TITLE V FINAL PROVISIONS	TITLE V FINAL PROVISIONS	TITLE V FINAL PROVISIONS	TITLE V FINAL PROVISIONS
290.	Art. 17, title	<i>Article 17 Amendments to other directives</i>	<i>Article 17 Amendments to other directives</i>	<i>Article 17 Amendments to other directives</i>	<i>Article 17 Amendments to other directives</i>
291.	Art. 17, para 1	1. Directive 96/9/EC is amended as follows:	1. Directive 96/9/EC is amended as follows:	1. Directive 96/9/EC is amended as follows:	1. Directive 96/9/EC is amended as follows:
292.	Art. 17, para 1, point (a)	(a) In Article 6(2), point (b) is replaced by the following:	(a) In Article 6(2), point (b) is replaced by the following:	(a) In Article 6(2), point (b) is replaced by the following:	(a) In Article 6(2), point (b) is replaced by the following:

	Location	COMMISSION PROPOSAL COM(2016)593	EP TEXT	COUNCIL TEXT doc. 9134/18	POSSIBLE COMPROMISE SOLUTION
293.	Art. 17, para 1, point (a)	"(b) where there is use for the sole purpose of illustration for teaching or scientific research, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved, without prejudice to the exceptions and the limitation provided for in Directive [this Directive];"	"(b) where there is use for the sole purpose of illustration for teaching or scientific research, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved, without prejudice to the exceptions and the limitation provided for in Directive [this Directive];"	"(b) where there is use for the sole purpose of illustration for teaching or scientific research, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved, without prejudice to the exceptions and the limitation provided for in Articles 3 and 4 of Directive [this Directive];"	GREEN "(b) where there is use for the sole purpose of illustration for teaching or scientific research, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved, without prejudice to the exceptions and the limitation provided for in Articles 3 and 4 of Directive [this Directive];" <i>[provisionally agreed at technical meeting of 13.11.2018]</i>
294.	Art. 17, para 1, point (b)	(b) In Article 9, point (b) is replaced by the following:	(b) In Article 9, point (b) is replaced by the following:	(b) In Article 9, point (b) is replaced by the following:	(b) In Article 9, point (b) is replaced by the following:
295.	Art. 17, para 1, point (b)	"(b) in the case of extraction for the purposes of illustration	"(b) in the case of extraction for the purposes of illustration	"(b) in the case of extraction for the purposes of illustration	GREEN

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		for teaching or scientific research, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved, without prejudice to the exceptions and the limitation provided for in Directive [this Directive];"	for teaching or scientific research, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved, without prejudice to the exceptions and the limitation provided for in Directive [this Directive];"	for teaching or scientific research, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved, without prejudice to the exceptions and the limitation provided for in <u>Articles 3 and 4</u> of Directive [this Directive];"	"(b) in the case of extraction for the purposes of illustration for teaching or scientific research, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved, without prejudice to the exceptions and the limitation provided for in Articles 3 and 4 of Directive [this Directive];" <i>[provisionally agreed at technical meeting of 13.11.2018]</i>
296.	Art. 17, para 2	2. Directive 2001/29/EC is amended as follows:	2. Directive 2001/29/EC is amended as follows:	2. Directive 2001/29/EC is amended as follows:	2. Directive 2001/29/EC is amended as follows:
297.	Art. 17, para 2, point (a)	(a) In Article 5(2), point (c) is replaced by the following:	(a) In Article 5(2), point (c) is replaced by the following:	(a) In Article 5(2), point (c) is replaced by the following:	(a) In Article 5(2), point (c) is replaced by the following:
298.	Art. 17, para 2, point (a)	"(c) in respect of specific acts of reproduction made by publicly accessible libraries, educational establishments or	"(c) in respect of specific acts of reproduction made by publicly accessible libraries, educational establishments or	"(c) in respect of specific acts of reproduction made by publicly accessible libraries, educational establishments or	GREEN "(c) in respect of specific acts of reproduction made by publicly accessible libraries, educational

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		museums, or by archives, which are not for direct or indirect economic or commercial advantage, without prejudice to the exceptions and the limitation provided for in Directive [this Directive];"	museums, or by archives, which are not for direct or indirect economic or commercial advantage, without prejudice to the exceptions and the limitation provided for in Directive [this Directive];"	museums, or by archives, which are not for direct or indirect economic or commercial advantage, without prejudice to the exceptions and the limitation <u>exception</u> provided for in <u>Article 5 of</u> Directive [this Directive];"	establishments or museums, or by archives, which are not for direct or indirect economic or commercial advantage, without prejudice to the exception and the limitations provided for in Article 5 of Directive [this Directive];" <i>[provisionally agreed at technical meeting of 13.11.2018]</i>
299.	Art. 17, para 2, point (b)	(b) In Article 5(3), point (a) is replaced by the following:	(b) In Article 5(3), point (a) is replaced by the following:	(b) In Article 5(3), point (a) is replaced by the following:	(b) In Article 5(3), point (a) is replaced by the following:
300.	Art. 17, para 2, point (b)	"(a) use for the sole purpose of illustration for teaching or scientific research, as long as the source, including the author's name, is indicated, unless this turns out to be impossible and to the extent justified by the	"(a) use for the sole purpose of illustration for teaching or scientific research, as long as the source, including the author's name, is indicated, unless this turns out to be impossible and to the extent justified by the non-commercial	"(a) use for the sole purpose of illustration for teaching or scientific research, as long as the source, including the author's name, is indicated, unless this turns out to be impossible and to the extent justified by the	GREEN "(a) use for the sole purpose of illustration for teaching or scientific research, as long as the source, including the author's name, is indicated, unless this turns out to be impossible

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		non-commercial purpose to be achieved, without prejudice to the exceptions and the limitation provided for in Directive [this Directive];"	purpose to be achieved, without prejudice to the exceptions and the limitation provided for in Directive [this Directive];"	non-commercial purpose to be achieved, without prejudice to the exceptions and the limitation provided for in Articles 3 and 4 of Directive [this Directive];"	and to the extent justified by the non-commercial purpose to be achieved, without prejudice to the exceptions and the limitation provided for in Articles 3 and 4 of Directive [this Directive];" <i>[provisionally agreed at technical meeting of 13.11.2018]</i>
301.	Art. 17, para 2, point (c)	(c) In Article 12(4), the following points are added:	(c) In Article 12(4), the following points are added:	(c) In Article 12(4), the following points are added:	(c) In Article 12(4), the following points are added:
302.	Art. 17, para 2, point (c)	"(e) to examine the impact of the transposition of Directive [this Directive] on the functioning of the internal market and to highlight any transposition difficulties;	"(e) to examine the impact of the transposition of Directive [this Directive] on the functioning of the internal market and to highlight any transposition difficulties;	"(e) to examine the impact of the transposition of Directive [this Directive] on the functioning of the internal market and to highlight any transposition difficulties;	"(e) to examine the impact of the transposition of Directive [this Directive] on the functioning of the internal market and to highlight any transposition difficulties;
303.	Art. 17, para 2, point (c)	(f) to facilitate the exchange of information on the relevant	(f) to facilitate the exchange of information on the relevant	(f) to facilitate the exchange of information on the relevant	(f) to facilitate the exchange of information on the relevant developments in

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		developments in legislation and case law as well as on the practical application of the measures taken by Member States to implement Directive [this Directive];	developments in legislation and case law as well as on the practical application of the measures taken by Member States to implement Directive [this Directive];	developments in legislation and case law as well as on the practical application of the measures taken by Member States to implement Directive [this Directive];	legislation and case law as well as on the practical application of the measures taken by Member States to implement Directive [this Directive];
304.	Art. 17, para 2, point (c)	(g) to discuss any other questions arising from the application of Directive [this Directive]."	(g) to discuss any other questions arising from the application of Directive [this Directive]."	(g) to discuss any other questions arising from the application of Directive [this Directive]."	(g) to discuss any other questions arising from the application of Directive [this Directive]."
305.	Art. 17a, title		<i>Article 17 a</i>		GREEN <i>Article 17 a</i>
306.	Art. 17a		<i>Member States may adopt or maintain in force broader provisions, compatible with the exceptions and limitations existing in Union law, for uses covered by the exceptions or the</i>		GREEN <i>Member States may adopt or maintain in force broader provisions, compatible with the exceptions and limitations set out in Directives 96/9/EC and 2001/29/EC, for uses or fields covered by the</i>

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			<i>limitation provided for in this Directive.</i>		<i>exceptions or limitations provided for in this Directive and on condition that their application does not adversely affect nor circumvent the mandatory rules set out in this Directive.</i> <i>[provisional agreement at trilogue 25/10/2018 /26/11/2018; a recital should clarify that Article 17a does not allow MS to not implement the mandatory exceptions under this Directive]</i>
307.	Art. 18	<i>Article 18 Application in time</i>	<i>Article 18 Application in time</i>	<i>Article 18 Application in time</i>	<i>Article 18 Application in time</i>
308.	Art. 18, para 1	1. This Directive shall apply in respect of all works and other subject-matter which are protected by the Member States' legislation in the field of copyright on or after [the	1. This Directive shall apply in respect of all works and other subject-matter which are protected by the Member States' legislation in the field of copyright on or after [the	1. This Directive shall apply in respect of all works and other subject-matter which are protected by the Member States' legislation in the field of copyright on or after [the	1. This Directive shall apply in respect of all works and other subject-matter which are protected by the Member States' legislation in the field of copyright on or after [the date mentioned in Article 21(1)].

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		date mentioned in Article 21(1)].	date mentioned in Article 21(1)].	date mentioned in Article 21(1)].	
309.	Art. 18, para 2	2. The provisions of Article 11 shall also apply to press publications published before [the date mentioned in Article 21(1)].	<i>Deleted</i>	2. <i>[Deleted]</i>	<i>(Deleted)</i>
310.	Art. 18, para 3	3. This Directive shall apply without prejudice to any acts concluded and rights acquired before [the date mentioned in Article 21(1)].	3. This Directive shall apply without prejudice to any acts concluded and rights acquired before [the date mentioned in Article 21(1)].	3. This Directive shall apply without prejudice to any acts concluded and rights acquired before [the date mentioned in Article 21(1)].	3. This Directive shall apply without prejudice to any acts concluded and rights acquired before [the date mentioned in Article 21(1)].
311.	Art. 19, title	<i>Article 19 Transitional provision</i>	<i>Article 19 Transitional provision</i>	<i>Article 19 Transitional provision</i>	<i>Article 19 Transitional provision</i>
312.	Art. 19	Agreements for the licence or transfer of rights of authors and performers shall be subject to the transparency obligation in Article 14 as from [one year after the date	Agreements for the licence or transfer of rights of authors and performers shall be subject to the transparency obligation in Article 14 as from [one year after the date	Agreements for the licence or transfer of rights of authors and performers shall be subject to the transparency obligation in Article 14 as from [one year after the date	Agreements for the licence or transfer of rights of authors and performers shall be subject to the transparency obligation in Article 14 as from [one year after the date mentioned in Article 21(1)].

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		mentioned in Article 21(1)].	mentioned in Article 21(1)].	mentioned in Article 21(1)].	
313.	Art. 20, title	<i>Article 20 Protection of personal data</i>	<i>Article 20 Protection of personal data</i>	<i>Article 20 Protection of personal data</i>	<i>Article 20 Protection of personal data</i>
314.	Art. 20	The processing of personal data carried out within the framework of this Directive shall be carried out in compliance with Directives 95/46/EC and 2002/58/EC.	The processing of personal data carried out within the framework of this Directive shall be carried out in compliance with Directives 95/46/EC and 2002/58/EC.	The processing of personal data carried out within the framework of this Directive shall be carried out in compliance with Directives 95/46/EC and 2002/58/EC.	The processing of personal data carried out within the framework of this Directive shall be carried out in compliance with Directives 95/46/EC and 2002/58/EC.
315.	Art. 21, title	<i>Article 21 Transposition</i>	<i>Article 21 Transposition</i>	<i>Article 21 Transposition</i>	<i>Article 21 Transposition</i>
316.	Art. 21, para 1	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [12 months after entry into force] at the latest. They shall forthwith communicate to the	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [12 months after entry into force] at the latest. They shall forthwith communicate to the	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [12 ²⁴ months after entry into force] at the latest. They shall forthwith communicate to the	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [12][24] months after entry into force] at the latest. They shall forthwith communicate

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		Commission the text of those provisions.	Commission the text of those provisions.	Commission the text of those provisions.	to the Commission the text of those provisions.
317.	Art. 21, para 1, sub-para 2	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.
318.	Art. 21, para 2	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.
319.	Art. 22, title	<i>Article 22 Review</i>	<i>Article 22 Review</i>	<i>Article 22 Review</i>	<i>Article 22 Review</i>
320.	Art. 22, para 1	1. No sooner than [five years after the date	1. No sooner than [five years after the date	1. No sooner than [five years after the date	1. No sooner than [five years after the date

	Location	COMMISSION PROPOSAL COM(2016)593	EP TEXT	COUNCIL TEXT doc. 9134/18	POSSIBLE COMPROMISE SOLUTION
		mentioned in Article 21(1)], the Commission shall carry out a review of this Directive and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee.	mentioned in Article 21(1)], the Commission shall carry out a review of this Directive and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee.	mentioned in Article 21(1)], the Commission shall carry out a review of this Directive and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee.	mentioned in Article 21(1)], the Commission shall carry out a review of this Directive and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee.
321.	Art. 22, para 2	2. Member States shall provide the Commission with the necessary information for the preparation of the report referred to in paragraph 1.	2. Member States shall provide the Commission with the necessary information for the preparation of the report referred to in paragraph 1.	2. Member States shall provide the Commission with the necessary information for the preparation of the report referred to in paragraph 1.	2. Member States shall provide the Commission with the necessary information for the preparation of the report referred to in paragraph 1.
322.	Art. 23, title	<i>Article 23 Entry into force</i>	<i>Article 23 Entry into force</i>	<i>Article 23 Entry into force</i>	<i>Article 23 Entry into force</i>
323.	Art. 23	This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .

	Location	COMMISSION PROPOSAL COM(2016)593	EP TEXT	COUNCIL TEXT doc. 9134/18	POSSIBLE COMPROMISE SOLUTION
324.	Art. 24, title	<i>Article 24 Addressees</i>	<i>Article 24 Addressees</i>	<i>Article 24 Addressees</i>	<i>Article 24 Addressees</i>
325.	Art. 24	This Directive is addressed to the Member States.	This Directive is addressed to the Member States.	This Directive is addressed to the Member States.	This Directive is addressed to the Member States.