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EVENTS:

29 June to 3 July 2015 [WIPO Standing Committee on Copyright and Related Rights \(SCCR\) - 30th session](#), Geneva Switzerland

5 to 14 October 2015 [Assemblies of Member States of WIPO \(55th series\)](#), Geneva, Switzerland

14 to 18 October 2015 [Frankfurt Book Fair](#), Frankfurt, Germany

11 November 2015 IFRRO World Congress & Annual General Meeting 2015, Mexico City, Mexico

1 to 2 December 2015 [The Future of Author's Rights](#), Berlin, Germany

7-11 December 2015 [WIPO Standing Committee on Copyright and Related Rights \(SCCR\) - 31st session](#), Geneva, Switzerland

LINKS TO OTHER NEWS:



IFRRO

IFRRO welcomes NPPA as member

The IFRRO Board has approved the application by National Press Photographers Association, USA ([NPPA](#)) for IFRRO membership in the Creator and Publisher Association category.

NPPA was established in 1946 and is dedicated to the advancement of visual journalism, its creation, practice, training, editing and distribution, in all news media and works to promote its role as a vital public service.

This brings IFRRO's membership to 145 members in 78 countries.

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IFRRO EG urges Austrian government to enable fair compensation for rightholders through levies

The IFRRO European Group meeting in Vienna adopted a statement in support of Literar-Mechana, which concluded by urging the Austrian government to:

1. ensure that the compensation, which authors, publishers and other rightholders receive for the copying of their works under limitations in the Austrian copyright Act is fair, in conformity with the European Union Copyright Directive
2. amend Section 42b of the Austrian Copyright Act, so as to clearly include any media, device, or equipment capable of making copies of copyright works
3. refrain from substituting the existing levy system for private copying with a statutory tax, or a similar mechanism
4. refrain from introducing a cap on the levy to be paid, to substitute the current mechanisms for the establishment of the levy through negotiations and recourse procedures

[Click here for full statement](#)

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RRO News

Copyright Agency appoints new Chief Executive

Mr Adam Suckling has been appointed as Chief Executive of Copyright Agency, the Australian RRO.

Mr Suckling is News Corp's Director Policy, Corporate Affairs and Community Relations.

He joins the Copyright Agency after 20 years holding senior commercial, communications and policy roles in the media and telecommunications sector, including working in the Asia-Pacific region.

IFRRO CEO, Olav Stokkmo, and President, Rainer Just, congratulate Mr Suckling on his appointment and welcome him to the IFRRO family. They also expressed their gratitude to Mr Murray St Leger, the out-going Chief Executive, for his cooperation with IFRRO over the years.

[See full Press release](#)

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EU News

Outcome of the vote on Julia Reda's report on the implementation of Directive 2001/29/EC

Five months after the release of MEP Julia Reda's draft report on the implementation of Directive 2001/29/EC, a vote was held this morning at the European Parliament's Legal Affairs Committee, on the draft report itself, the 556 amendments tabled to it by other MEPs and the compromise amendments that MEPs agreed on across political groups.

The report was adopted as a whole with 23 votes in favour, 2 against and no abstention. A consolidated version of the report will soon be made available, and will then be voted on during the European Parliament's July plenary session, likely on the 9th of July.

The key proposals to the text and image sector adopted today by the Legal Affairs Committee are the following:

- Proposal 16, on works in public places, the so-called "freedom of panorama":
16. Considers that the commercial use of photographs, video footage or other images of works which are permanently located in physical public places should always be subject to prior authorisation from the authors or any proxy acting for them;
16a. Maintains that the development of the digital market is impossible unless creative and cultural industries are developed alongside it;
- Proposal 18, on Text and data mining:
18. Stresses the need to properly assess the enablement of automated analytical techniques for text and data (e.g. 'text and data mining' or 'content mining') for research purposes, provided that permission to read the work has been acquired;
18a. Maintains that the development of the digital market is closely linked to, and has to go hand in hand with, the development of creative and cultural industries, this being the only way to achieve lasting prosperity;
- Proposal 19, on an exception for education:
19. Calls for an exception for research and education purposes, which should cover not only educational establishments, but accredited educational or research activities, including online and cross-border activities, linked to an educational establishment or institution recognised by the competent authorities or legislation or within the purview of an educational programme;
19a. Stresses that any new exceptions or limitations introduced to the EU copyright legal system needs to be duly justified by a sound and objective economic and legal analysis;
- Proposal 20, on an exception for libraries:
20. Recognizes the importance of libraries for access to knowledge and calls upon the

Commission to assess the adoption of an exception allowing public and research libraries to legally lend works to the public in digital formats for personal use, for a limited duration through the internet or libraries' networks, so that their public interest duty of disseminating knowledge can be fulfilled effectively and in an up-to-date manner; recommends that authors should be fairly compensated for e-lending to the same extent as this is the case for the lending of physical books according to national territorial restrictions;

20a. Calls upon the Commission to assess the adoption of an exception allowing libraries to digitalise content for the purposes of consultation, cataloguing and archiving;

(New) Stresses the importance of taking into account the conclusions of the numerous experiments being undertaken by the book industry to establish fair, balanced and viable business models;

- Proposal 21, on statutory licences:

21. Notes that in some Member States statutory licences aimed at compensatory schemes have been introduced; stresses the need to ensure that acts which are permissible under an exception should remain so; reminds that compensation for the exercise of exceptions and limitations should only be considered in cases where acts deemed to fall under an exception cause harm to the right holder; further calls on the OHIM Observatory for a full scientific evaluation of these Member state measures and their effect on each affected stakeholder;

- Proposal 22, on private copying levies:

22. Recalls the importance of the private copying exception that may not be technically limited, coupled with fair compensation of creators; invites the Commission to analyse on the basis of scientific evidence, the European Parliament's resolution of February 2014⁶ and the results of the latest mediation process conducted by the Commission⁷, the viability of existing measures for the fair compensation of rightholders in respect of reproductions made by natural persons for private use, in particular in regard to transparency measures;

22a. Notes that the right to impose private copying levies should be governed in such a way as to inform citizens of the actual amount of the levy, its purpose and how it is going to be used;

22b. Stresses that digital levies should be made more transparent and optimised to safeguard rightholder and consumer rights and by taking into account Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market;

22c. Stresses the importance of bringing more clarity and transparency of the copyright regime for copyright users, in particular with regard to user-generated content and copyright levies, to foster creativity, the further development of online platforms, and ensure appropriate remuneration of copyright holders;

Finally, we can note that the original provision 4 (calling for a Single European Copyright Title) has been replaced with a provision calling on the Commission to study the impact of such a single title on "jobs and innovation, on the interests of authors, performers and other rightholders, and on the promotion of consumers' access to regional cultural diversity"; and the original provision 13 (calling on the introduction of an open norm introducing flexibility in the interpretation of exceptions and limitations) has been deleted all-together and replaced with a provision stressing that "new usages of content" made possible by technology advances should be construed in line with existing exceptions and limitations, provided that the "new usage is similar to the existing one" and subject to the three-step test.

In a comment, Olav Stokkmo, the Chief Executive of IFRRO, noted the adoption of the own-initiative report by the Legal Affairs Committee and acknowledged that “while not all provisions adopted are satisfactory, there have been some major improvements compared with the original provisions and therefore IFRRO can live with this outcome”.

All documents, including the draft report and amendments, can be found [here](#).

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Legislation

New website blocking legislation supports Australian creators

The Australian Government has introduced new legislation, targeting overseas websites whose main purpose is to allow massive online theft at the expense of writers, visual artists, photographers, journalists and publishers.

A similar mechanism to block websites was recently granted to the British Publishers Association to take down infringing sites distributing millions of e-books.

The Australian RRO, Copyright Agency, welcomes this new legislation. Copyright Agency's media release is available [here](#).

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U.S. Copyright Office: Some recent developments

On June 4, 2015, Reps. [Judy Chu](#) and [Tom Marino](#) introduced “[The Copyright Office for the Digital Economy Act](#)”, a discussion draft of legislation towards modernisation of the U.S. Copyright Office, shifting the Office to an independent agency outside the Library of Congress, where it currently resides. More information on the intended modernisation, its reasons, and the issues involved, can be found here: [Copyright Office Modernization](#).

On the same day, the U.S. Copyright Office released its report “[Orphan Works and Mass Digitization](#)”, covering orphan works and mass digitisation, recommending legislation to limit remedies for users of orphan works following a good faith diligent search for the copyright owner. Furthermore, the Copyright Office proposes a system of extended collective licensing (ECL) to help facilitate non-profit mass digitisation projects for education and research purposes, and suggests to start with a limited “pilot program” for a small number of classes of works.

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New Portuguese Private Copying Law approved

The Portuguese President has finally approved a new Private Copying Law after first vetoing it in March. The new law, which extends the payment of an equitable compensation to most of the equipment, devices and media used in digital reproduction, will come into force as soon as it is officially published.

[See full press release from SPA](#)

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Court cases

EU Advocate General's Opinion in case C 572/13, HP Belgium v. Reprobel

In the Opinion published on 11 June 2015, Advocate General Cruz Villalón suggests that the EU Court of Justice should respond to the reference by the Cour d'appel de Bruxelles as follows:

1. Art. 5(2)(a) of Directive 2001/29 allows EU Member States to implement a modulated equipment levy system for multi-functional devices on the basis of the individual characteristics of the user (private person or legal body) and/or the aim for which the equipment is used (private use or professional use), as long as the compensation is in correlation to the harm occurred and the differentiation is based on objective, transparent and non-discriminatory criteria. However, member states are under no obligation at all to provide for such a modulated equipment levy system.

2. Art. 5(2)(a) of Directive 2001/29 allows provisions on a national level, which:

- foresee an equipment levy to be paid by the producers, importers or purchasers, as long as the criteria underpinning the levy (e.g. speed, destination, ...) are relevant, coherent and non-discriminatory, the purchasers can pass on the payment duty to users, and the amount to be paid is appropriate in view of the possible harm towards the rightholders; OR
- provide for a proportional operator fee to be paid by users or those who provide the equipment in question; the operator levy can follow different tariffs (i.e. based on cooperation of the debtor or not), as long as these are coherent and non-discriminatory, and as long as the difference between the tariffs in question is based on objective, fair and proportionate criteria.

However, Art. 5(2)(a) of Directive 2001/29 does not allow provisions on a national level which enable a system of a subsequent and cumulative equipment levy and a proportional operator fee, to be paid by the same user, without considering the actually paid amount for the equipment levy and without enabling any refund or discount thereof (upon payment of the subsequent proportional operator fee) in this regard.

3. Art. 5(2)(a) of Directive 2001/29 does not permit EU Member States to give a part of the amount to publishers for works created by authors, without obliging the publishers to – at least indirectly – pass on this part to the authors.

However, Member States are free to implement a levy system which permits remuneration for publishers, as a sui generis right outside the scope of the Directive for their own harm, as long as authors do not incur any disadvantage regarding Art. 5(2)(a) and 5(2)(b) of Directive 2001/29.

4. Art. 5(2)(a) of Directive 2001/29 does not permit provisions on a national level which enable a remuneration system for copies of sheet music or illegal reproductions.

The Opinion of the Advocate General is not binding. The EU Court of Justice is expected to publish its decision towards the end of 2015.

The complete Opinion (available in several languages, but not yet in English) is available [here](#):

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New references to the CJEU: SPA v. Ministério Público; Vereniging Openbare Bibliotheken; Reha Training v. GEMA

Some recent references for a preliminary ruling by the Court of Justice of the European Union (CJEU) are worth highlighting:

a) [Case C-151/15](#), a case involving the IFRRO member SPA, in Sociedade Portuguesa de Autores CRL v Ministério Público, upon request from the Tribunal da Relação de Coimbra, Portugal, on the meaning of “communication of works to the public” in [Directive 2001/29](#). Inter alia, the Portuguese court asked the CJEU for clarification whether the concept of the communication of works to the public is to be interpreted as encompassing the transmission of broadcast works in commercial premises, via television receiving apparatus, where the transmission of such works is amplified by speakers or amplifiers, thus constituting, in that context, a new use of copyright-protected works.

b) [Case C-174/15](#), Vereniging Openbare Bibliotheken, concerning the digital use of “copyright-protected novels, collections of short stories, biographies, travelogues, children’s books and youth literature”. The case (referred to the CJEU by the Rechtbank Den Haag in the Netherlands), in essence, deals with making available digital works by way of a download option on a non-profit basis. It is for the CJEU to decide under which conditions EU Member States may impose a statutory limitation upon the rightholder’s exclusive lending right set out in Article 6 of [Directive 2006/115](#), and whether Article 4(2) of [Directive 2001/29](#) is to be construed as meaning that the initial sale or other transfer of ownership of material also includes making available remotely by downloading (for use for an unlimited period) a digital copy of copyright-protected novels, collections of short stories, biographies, travelogues, children’s books and youth literature. All questions referred for a preliminary ruling are available [here](#).

c) [Case C-160/15](#), GS Media, a reference from the Hoge Raad der Nederlanden. GS Media is a company which runs a website which allegedly infringed copyright in relation to photographs taken for a feature by publishing a hyperlink on its website that allowed the public to access those photos on an external, third-party hosted site, which also did not have the rightholders’ consent to publish the photos in question. In a nutshell, the questions asked seek clarification on “communication to the public” within the meaning of Article 3(1) of [Directive 2001/29](#), if (by means of a hyperlink) access is provided to a work which has not been (previously) communicated to the public with the consent of the rightholder. All questions referred can be accessed [here](#).

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Creator and Publisher Associations

EWC Assembly elects new board

The EWC has elected a new board for the period 2015-2017 at its Annual General Assembly and 2015 Authors’ Rights event in Brussels on 8 June 2015. Mr. Nick Yapp (United Kingdom) replaces Professor Pirjo Hiidenmaa (Finland) as EWC President.

The rest of the Board is as follows.

Vice-Presidents:

- Ms. Malin Koch (Sweden)
- Ms. Gerlinde Schermer-Rauwolf (Germany)

The regular members of the Board are:

- Mr. Tiit Aleksjev (Estonia)
- Ms. Ružica Cindori (Croatia)
- Ms. Tittamari Marttinen (Finland)
- Mr. Jeroen Thijssen (The Netherlands)

IFRRO CEO, Olav Stokkmo, and President, Rainer Just, congratulated the new EWC board and expressed their appreciation for the cooperation of EWC and Professor Hiidenmaa (who is now a member of the IFRRO Board, nominated by the authors association) over the past years.

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Talking Copyright

Eleonora Rosati: "Online Copyright Exhaustion in a Post-Allposters World"

Dr. Eleonora Rosati, lecturer in intellectual property law at the University of Southampton, a regular contributor to [The 1709 Blog](#) and [IPKat blogs](#), has recently published a new article in the Journal of Intellectual Property Law & Practice, "Online Copyright Exhaustion in a Post-Allposters World".

Article 4(2) of Directive 2001/29 ("InfoSoc Directive") provides that the authorised first sale of a work within the territory of the EU exhausts the right of the copyright owner to control any subsequent distribution of the work in question. The Court of Justice of the European Union (CJEU) had been asked to clarify in C-419/13, *Art & Allposters International BV v. Stichting Pictoright*, whether this rule also applies to works that, following their authorised first sale, are subject to an alteration of their mediums and are then re-marketed in this new form. The CJEU referred to both Recital 28 in the preamble to the InfoSoc Directive and Article 6 of the WIPO Copyright Treaty, including the Agreed Statement on Articles 6 and 7, to hold the view that exhaustion of the right of distribution only applies to the tangible copy of a work. The author concludes that, at the EU level, whether the law should – or should not – allow for digital exhaustion is due to remain for some time a matter for the judiciary alone.

The article is available [here](#).

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Lack of local content deters mobile users in developing countries

Although most of the world lives within reach of an internet signal, many mobile users in developing countries are deterred from going online because of lack of good local content, according to a report in IP Watch, which cites the findings of a panel of the World Summit on the Information Society (WSIS) Forum.

This confirms the importance of fostering the development of local content through collective management. The work of Reproduction Rights Organisations (RROs) and IFRRO is crucial to helping develop markets for copyright works in developing economies by the encouragement and protection of local creators.

[Click here for IP Watch article](#)

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