

21 November 2018

The right of revocation in the Copyright Directive:

A key “use it or lose it” principle to the benefit of creators, fair competition and cultural diversity

Dear Permanent Representative, Dear Member of the IP Working Group,

In view of the next COREPER meeting on the Copyright Directive, we - the European Writers' Council and the European Composer and Songwriter Alliance, representing more than 200.000 authors across the EU - would like to express our strong support for the right of revocation/rights reversion mechanism (Article 16a) and recall its key added value for authors and the dissemination of our cultural heritage.

Fundamentally, copyright and authors rights have a two-fold objective: stimulate and encourage creativity while ensuring citizens' access to culture. Those two objectives support each other: we want consumers to access and enjoy our works as much as possible.

When we sign a contract for the exploitation of our works, we have one obvious and legitimate expectation: our works should be exploited and made available to the public by our contractual counterparts. If this is not the case, this results in a lose-lose situation for creators, citizens' access to cultural diversity and fair competition. There is no legitimate business explanation that can justify that our hands are tied when our works are suffering from a lack of exploitation.

While we regret that the Council has shown no support for a mandatory rights reversion mechanism in the case of lack of reporting, we urge you to:

- 1) Support such a mechanism in case of “a lack of exploitation” (instead of “absence of exploitation”) so that it is compliant with national laws already providing such a right.
- 2) Allow Member States (“may”) to take into account the lack of reporting obligations to establish such a lack of exploitation. In practice, authors should at least be able to rely on the non-compliance of reporting obligations to establish a lack of exploitation.

By supporting this simple “use it or lose it” mechanism that can allow us to get back our rights on our works if those are not exploited, you have now the power to promote a win-win situation for:

- 1) Authors – by preventing that our hands are tied (often for decades) if our works suffer from a lack of exploitation.
- 2) Consumers, and fair competition: if our contractual counterparts are not properly exploiting our works, we would have the possibility to transfer our works to another licensee, thus promoting a fair competition between our contractual counterparts.
- 3) Cultural diversity, since it would “unlock” works that are not exploited. At a time when we celebrate the European Year of Cultural Heritage, such a right would greatly contribute to make sure that unexploited works (especially niche and regional music, literature and audio-visual works) could be exploited again and become widely available.

In addition, the rights reversion mechanism/right of revocation is:

- The result of an overwhelming and cross political support in the European Parliament.
- Already established in various forms in many EU Member States and in the US (right of termination).
- [Supported by the Author's Group](#), which represents all authors (Journalists, Film Directors, Screenwriters, Writers, Composers and Songwriters) in various sectors.
- Provided for performers in the "Term Directive" (2011/77/EU).
- Recommended by the EP JURI Study "Contractual arrangement applicable to Creators".

Ultimately, all citizens have an interest in promoting this right which benefits the whole society. **We therefore urge you to integrate Article 16A) into the final Directive and thus provide the key to unlock access to millions of unexploited works, that form part of our common immense cultural heritage across the EU.**

Sincerely yours,

The European Composer and Songwriter Alliance (ECSA) represents over 50,000 professional composers and songwriters in 27 European countries. With 56 member organizations across Europe, the Alliance speaks for the interests of music creators of art & classical music (contemporary), film & audiovisual music, as well as popular music.

Web: www.composeralliance.org

EU Transparency Register ID: 71423433087-91

EWC, founded in 1977 in Germany and newly constituted in 2006 in Brussels as an international non-profit organisation, the European Writers' Council is the federation of 45 European national organisations of professional writers and literary translators in all genres in 34 countries. EWC's members represent more than 160,000 authors in the book sector

Web: www.europeanwriterscouncil.eu

EU Transparency Register ID: 56788289570-24