

Joint ECSA-EWC letter on the right of revocation

The way forward to a fair and pragmatic solution to the benefit of creators and cultural diversity

10 December 2018

Dear Member of the European Parliament,

In light of the ongoing negotiations 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 reiterate our strong support for the right of revocation/rights reversion mechanism (Article 16A). Such a right has been adopted by an overwhelming cross party majority in the European Parliament's (EP) Legal Affairs committee on 20 June 2018 and confirmed in Plenary on 12 September 2018.

Now that the Council intends to drastically restrict its scope, in full disrespect for the European Parliament's position, we call on Members of the European Parliament to defend this right, which can benefit hundreds of thousands of authors and greatly improve the dissemination of our cultural heritage.

All authors (journalists, writers, film directors, screenwriters, composers and songwriters) in all cultural sectors support such a right (see [here](#)). As adopted by the EP, it would apply to all types of works and could be triggered in two cases a) "*where there is an absence of exploitation*" or b) "*where there is a continuous lack of regular reporting in accordance with Article 14*" (Transparency obligation).

We understand that the Council now intends to a) delete the link with Article 14 **and b) exclude from the scope of this right** "*works or subject matter from the application of the mechanism if such works or subject matter usually contain contributions of a plurality of authors or performers*".

While we regret that the Council has shown no support in case of "a) continuous lack of regular reporting", **we have very strong concerns against b) the exclusion of works "which usually contain contributions of a plurality of authors or performers"**. As underlined by all authors in all sectors, a very large majority of contracts for the exploitation of authors' works "*usually contain contributions of a plurality of authors*".

Excluding those works would result in an empty and ineffective promise:

- In the music sector for example, a very large majority of works contain contributions of several authors. This is almost always the case for popular music and music made for audiovisual works. Such a limitation would tend to discourage collaboration between several authors, instead of encouraging cooperation amongst them.
- Both the texts of the European Parliament and the compromise put forward by the European Commission already provide sufficient flexibility to Member States to take

into account the specificities of different sectors and deal with the question of joint ownership in a flexible and efficient way, in line with the principle of subsidiarity.

- Such a “use it or lose it” clause for music performers already exists in the EU acquis and has been implemented by Member States (as per the Term Extension Directive). The national solutions found have all preserved the notion that collaborative works need a collaboration of creative contributors to exercise this right. There is no reason to believe that any future implementation of Article 16a) would lead to a different result.
- Such an exclusion would also prevent the exercise of this right for a specific contribution if the final work is not even finally made (for a scenario, an article in a book, a music sheet, etc.). This means that a contributive author would not be able to invoke this right to grant his work to another contractual counterpart if the first one does not even start to exploit the full work, leaving millions of works unknown to the public.
- The right of revocation is a) already established in various forms in many EU Member States and in the US (right of termination) b) supported by the Author’s Group, which represents all authors (Journalists, Film Directors, Screenwriters, Writers, Composers and Songwriters) in various sectors c) recommended by the EP JURI Study “Contractual arrangement applicable to Creators”.

As a result, we strongly oppose the exclusion of “works or subject matter from the application of the mechanism if such works or subject matter usually contain contributions of a plurality of authors or performers” and we urge you to reject it, to the benefit of authors, fair competition and cultural diversity.

We very much hope that the European Institutions can now deliver a meaningful right of revocation 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, writing altogether in 28 languages. EWC's members represent more than 160,000 authors in the text-sector

Web: www.europeanwriterscouncil.eu

EU Transparency Register ID: 56788289570-24