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Transposition of EU Directive on Copyright and related rights in the Digital Single Market (EU) 2019/790

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Contents

1. Background	3
2. Public Consultation Process	3
3. Transposition	4
Appendix	6

1. Background

The EU Directive on Copyright in the Digital Single Market was negotiated and agreed under the Digital Single Market Strategy between September 2016 and May 2019. The Directive contains a number of varied provisions that constitute a significant updating of European Union Copyright Law.

The Directive provides a framework for a more modern copyright legislation that will strengthen the rights and protections afforded to various categories of rightsholders, to reflect the impact of technological advances and increased digitisation and to provide for wider access and use of copyright protected works to the potential benefit of the creative sectors, press publishers, researchers, educators, cultural heritage institutions, and citizens.

During the course of the negotiations on the Directive at EU level, the Department consulted extensively with stakeholders and ensured that the views of Irish stakeholders were given expression in the negotiation process.

The final text of the Directive represents the outcome of negotiations that took place over a two-and-a-half-year period.

All Member States, including Ireland, have until 7 June 2021 to transpose the Directive into national legislation.

2. Public Consultation Process

Following the publication of the Directive, the Department conducted a series of public consultations seeking the views of all stakeholders on the various provisions in the Directive to help inform how the provisions should be applied in the context of Irish copyright legislation.

The Department carefully considered the large number of submissions received in the context of this consultation process, with cognizance taken of the diversity of views expressed by all stakeholders.

In April 2020, the Department also issued a Non-Paper to stakeholders on its preliminary observations and proposed transposition of Article 8 of the Directive concerning the licensing of Out-of-Commerce works.

Article 17 of the Directive concerns the use of protected content by online content-sharing service providers. For this specific provision, the European Commission conducted its own stakeholder dialogue process to discuss best practice for cooperation between online content-sharing service providers and rightsholders. Six stakeholder dialogue meetings were hosted by

the Commission between October 2019 and February 2020 following which the process was continued by way of a targeted consultation. The Commission is expected to issue a final guidance document on the application of Article 17, to take account of these targeted consultations, in May 2021.

3. Transposition

Most of the provisions in the Copyright Directive are mandatory and Member States are therefore obliged to transpose these into their national legislation. In addition, there are several optional provisions that Member States may choose to transpose into national law at their discretion where to do so is consistent with their own policy preferences and priorities.

In assessing the optional provisions contained in the Directive, the Department took note of the submissions received over the course of the stakeholder consultation process. This helped to inform a detailed policy analysis of the options available which was conducted in the context of the existing copyright policy and the related legislative framework. In its approach, the Department was guided by the overarching objective of providing a copyright legislative framework fit for the digital age but which represents a balanced consideration of the interests of all stakeholders.

The analysis also included consideration of legal advice received regarding certain elements of the Directive, and clarification on how certain provisions would interact with existing copyright legislation.

In concluding its analysis of the Directive, and taking into account the breadth of views expressed by stakeholders, the Department has decided to transpose the mandatory provisions by way of Regulations contained in secondary legislation i.e., **Statutory Instrument**. This is required only for provisions that do not already reside in existing copyright legislation.

A draft Statutory Instrument is currently with the Office of the Parliamentary Counsel for formal drafting, as is normal in these circumstances. A schedule of the Directive's provisions which it is proposed to transpose through Statutory Instrument is contained in the attached appendix.

As with all matters relating to copyright, the Department is committed to the ongoing review of copyright legislation in consultation with all stakeholders.

The Department is working towards transposition of the Directive by the deadline of 7 June 2021.

Disclaimer

This Information Note has been produced for the purposes of offering a broad update on current plans for the transposition of the EU Copyright Directive 2019/790. The Department of Enterprise, Trade and Employment reserves the right to develop and/or amend its approach to the transposition of the Directive but will seek to provide further updates where necessary.

In addition, this Information Note should not be relied upon to provide a legal interpretation of any aspect of the Directive. Any party with a legal query should acquire their own legal advice from suitably qualified professionals.

Appendix

Articles in the Copyright Directive that are being transposed by way of Statutory Instrument

Article 1

Subject matter and scope

1. This Directive lays down rules which aim to harmonise further 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 to copyright and related rights, on the facilitation of licences, as well as rules which aim to ensure a well-functioning marketplace for the exploitation of works and other subject matter.
2. Except in the cases referred to in Article 24, 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.

Article 2

Definitions

For the purposes of this Directive, the following definitions apply:

(1) **'research organisation'** means a university, including its libraries, a research institute or any other entity, the primary goal of which is to conduct scientific research or to carry out educational activities involving also the conduct of scientific research:

- (a) on a not-for-profit basis or by reinvesting all the profits in its scientific research; or
- (b) pursuant to a public interest mission recognised by a Member State;

in such a way that the access to the results generated by such scientific research cannot be enjoyed on a preferential basis by an undertaking that exercises a decisive influence upon such organisation;

(2) **'text and data mining'** means any automated analytical technique aimed at analysing text and data in digital form in order to generate information which includes but is not limited to patterns, trends and correlations;

(3) **'cultural heritage institution'** means a publicly accessible library or museum, an archive or a film or audio heritage institution;

(4) **'press publication'** means a collection composed mainly of literary works of a journalistic nature, but which can also include other works or other subject matter, and which:

- (a) 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;
- (b) has the purpose of providing the general public with information related to news or other topics; and
- (c) is published in any media under the initiative, editorial responsibility and control of a service provider.

Periodicals that are published for scientific or academic purposes, such as scientific journals, are not press publications for the purposes of this Directive;

(5) **'information society service'** means a service within the meaning of point (b) of Article 1(1) of Directive (EU) 2015/1535;

(6) **'online content-sharing service provider'** means a provider of an information society service of which the main or one of the main purposes is to store and give the public access to a large amount of copyright-protected works or other protected subject matter uploaded by its users, which it organises and promotes for profit-making purposes.

Providers of services, such as not-for-profit online encyclopedias, not-for-profit educational and scientific repositories, open-source software-developing and-sharing platforms, providers of electronic communications services as defined in Directive (EU) 2018/1972, online marketplaces, business-to-business cloud services and cloud services that allow users to upload content for their own use, are not 'online content-sharing service providers' within the meaning of this Directive.

Article 3

Text and data mining for the purposes of scientific research

1. Member States shall provide for an exception to the rights provided for in Article 5(a) and Article 7(1) of Directive 96/9/EC, Article 2 of Directive 2001/29/EC, and Article 15(1) of this Directive for reproductions and extractions made by research organisations and cultural heritage institutions in order to carry out, for the purposes of scientific research, text and data mining of works or other subject matter to which they have lawful access.
2. 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 research, including for the verification of research results.
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.
4. Member States shall encourage rightholders, research organisations and cultural heritage institutions to define commonly agreed best practices concerning the application of the obligation and of the measures referred to in paragraphs 2 and 3 respectively.

Article 4

Exception or limitation for text and data mining

1. Member States shall provide for an exception or limitation to the rights provided for in Article 5(a) and Article 7(1) of Directive 96/9/EC, Article 2 of Directive 2001/29/EC, Article 4(1)(a) and (b) of Directive 2009/24/EC and Article 15(1) of this Directive for reproductions and extractions of lawfully accessible works and other subject matter for the purposes of text and data mining.
2. Reproductions and extractions made pursuant to paragraph 1 may be retained for as long as is necessary for the purposes of text and data mining.
3. The exception or limitation provided for in paragraph 1 shall apply on condition that the use of works and other subject matter referred to in that paragraph has not been expressly reserved by their rightholders in an appropriate manner, such as machine-readable means in the case of content made publicly available online.
4. This Article shall not affect the application of Article 3 of this Directive.

Article 5

Use of works and other subject-matter in digital and cross-border teaching activities

1. Member States shall provide for an exception or limitation to the rights provided for in Article 5(a), (b), (d) and (e) and Article 7(1) of Directive 96/9/EC, Articles 2 and 3 of Directive 2001/29/EC, Article 4(1) of Directive 2009/24/EC and Article 15(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, on condition that such use:

(a) takes place under the responsibility of an educational establishment, on its premises or at other venues, or through a secure electronic environment accessible only by the educational establishment's pupils or students and teaching staff; and

(b) is accompanied by the indication of the source, including the author's name, unless this turns out to be impossible.

3. The use of works and other subject matter for the sole purpose of illustration for teaching through secure 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.

Article 7

Common provisions

1. Any contractual provision contrary to the exceptions provided for in Articles 3, 5 and 6 shall be unenforceable.

2. Article 5(5) of Directive 2001/29/EC shall apply to the exceptions and limitations provided for under this Title. The first, third and fifth subparagraphs of Article 6(4) of Directive 2001/29/EC shall apply to Articles 3 to 6 of this Directive.

Article 8

Use of out-of-commerce works and other subject matter by cultural heritage institutions

1. Member States shall provide that a collective management organisation, in accordance with its mandates from rightholders, 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 that are permanently in the collection of the institution, irrespective of whether all rightholders covered by the licence have mandated the collective management organisation, on condition that:

(a) the collective management organisation is, on the basis of its mandates, sufficiently representative of rightholders in the relevant type of works or other subject matter and of the rights that are the subject of the licence; and

(b) all rightholders are guaranteed equal treatment in relation to the terms of the licence.

2. Member States shall provide for an exception or limitation to the rights provided for in Article 5(a), (b), (d) and (e) and Article 7(1) of Directive 96/9/EC, Articles 2 and 3 of Directive 2001/29/EC, Article 4(1) of Directive 2009/24/EC, and Article 15(1) of this Directive, in order to allow cultural heritage institutions to make available, for non-commercial purposes, out-of-commerce works or other subject matter that are permanently in their collections, on condition that:

(a) the name of the author or any other identifiable rightholder is indicated, unless this turns out to be impossible; and

(b) such works or other subject matter are made available on non-commercial websites.

3. Member States shall provide that the exception or limitation provided for in paragraph 2 only applies to types of works or other subject matter for which no collective management organisation that fulfils the condition set out in point (a) of paragraph 1 exists.

4. 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 set out in paragraph 1 or from the application of the exception or limitation provided for in paragraph 2, either in general or in specific cases, including after the conclusion of a licence or after the beginning of the use concerned.

5. A work or other subject matter shall be deemed to be out of commerce when it can be 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 has been made to determine whether it is available to the public.

6. Member States shall provide that the licences referred to in paragraph 1 are to be sought from a collective management organisation that is representative for the Member State where the cultural heritage institution is established.

7. This Article shall not apply to sets of out-of-commerce works or other subject matter if, on the basis of the reasonable effort referred to in paragraph 5, there is evidence that such sets predominantly consist of:

(a) works or other subject matter, other than cinematographic or audiovisual works, first published or, in the absence of publication, first broadcast in a third country;

(b) cinematographic or audiovisual works, of which the producers have their headquarters or habitual residence in a third country; or

(c) works or other subject matter of third country nationals, where after a reasonable effort no Member State or third country could be determined pursuant to points (a) and (b).

By way of derogation from the first subparagraph, this Article shall apply where the collective management organisation is sufficiently representative, within the meaning of point (a) of paragraph 1, of rightholders of the relevant third country.

Article 9

Cross-border uses

1. Member States shall ensure that licences granted in accordance with Article 8 may allow the use of out-of-commerce works or other subject matter by cultural heritage institutions in any Member State.

2. The uses of works and other subject matter under the exception or limitation provided for in Article 8(2) shall be deemed to occur solely in the Member State where the cultural heritage institution undertaking that use is established.

Article 10

Publicity measures

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 8(1), or used under the exception or limitation provided for in Article 8(2), as well as information about the options available to rightholders as referred to in Article 8(4), and, as soon as it is available and where relevant, information on the parties to the licence, the territories covered and the uses, is made permanently, easily and effectively accessible on 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.

The portal shall be established and managed by the European Union Intellectual Property Office in accordance with Regulation (EU) No 386/2012.

2. Member States shall provide that, if necessary, for the general awareness of rightholders, additional appropriate publicity measures are taken regarding the ability of collective management organisations to license works or other subject matter in accordance with Article 8, the licences granted, the uses under the exception or limitation provided for in Article 8(2) and the options available to rightholders as referred to in Article 8(4).

The appropriate publicity measures referred to in the first subparagraph of this paragraph shall be taken in the Member State where the licence is sought in accordance with Article 8(1) or, for uses under the exception or limitation provided for in Article 8(2), in the Member State 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 those Member States and third countries.

Article 13

Negotiation mechanism

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 impartial body established or designated by a Member State for the purpose of this Article and mediators shall provide assistance to the parties with their negotiations and help the parties reach agreements, including, where appropriate, by submitting proposals to them.

Member States shall notify the Commission of the body or mediators referred to in the first paragraph no later than 7 June 2021. Where Member States have chosen to rely on mediation, the notification to the Commission shall at least include, when available, the source where relevant information on the mediators entrusted can be found.

Article 15

Protection of press publications concerning online uses

1. Member States shall provide publishers of press publications established in a Member State with the rights provided for in Article 2 and Article 3(2) of Directive 2001/29/EC for the online use of their press publications by information society service providers.

The rights provided for in the first subparagraph shall not apply to private or non-commercial uses of press publications by individual users.

The protection granted under the first subparagraph shall not apply to acts of hyperlinking.

The rights provided for in the first subparagraph shall not apply in respect of the use of individual words or very short extracts of a press publication.

2. The rights provided for 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. The rights provided for in paragraph 1 shall not be invoked against those authors and other rightholders and, in particular, shall not deprive them of their right to exploit their works and other subject matter independently from the press publication in which they are incorporated.

When a work or other subject matter is incorporated in a press publication on the basis of a non-exclusive licence, the rights provided for in paragraph 1 shall not be invoked to prohibit the use by other authorised users. The rights provided for in paragraph 1 shall not be invoked to prohibit the use of works or other subject matter for which protection has expired.

3. Articles 5 to 8 of Directive 2001/29/EC, Directive 2012/28/EU and Directive (EU) 2017/1564 of the European Parliament of the Council¹ shall apply mutatis mutandis in respect of the rights provided for in paragraph 1 of this Article.

4. The rights provided for in paragraph 1 shall expire two years after the press publication is published. That term shall be calculated from 1 January of the year following the date on which that press publication is published.

Paragraph 1 shall not apply to press publications first published before 6 June 2019.

5. Member States shall provide that authors of works incorporated in a press publication receive an appropriate share of the revenues that press publishers receive for the use of their press publications by information society service providers.

Article 17

Use of protected content by online content-sharing service providers

1. 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 for the purposes of this Directive when it gives the public access to copyright-protected works or other protected subject matter uploaded by its users.

An online content-sharing service provider shall therefore obtain an authorisation from the rightholders referred to in Article 3(1) and (2) of Directive 2001/29/EC, for instance by concluding a licensing agreement, in order to communicate to the public or make available to the public works or other subject matter.

2. Member States shall provide that, where an online content-sharing service provider obtains an authorisation, for instance by concluding a licensing agreement, that authorisation shall also cover acts carried out by users of the services falling within the scope of Article 3 of Directive 2001/29/EC when they are not acting on a commercial basis or where their activity does not generate significant revenues.

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 under the conditions laid down in this Directive, the limitation of liability established in Article 14(1) of Directive 2000/31/EC shall not apply to the situations covered by this Article.

The first subparagraph of this paragraph shall not affect the possible application of Article 14(1) of Directive 2000/31/EC to those service providers for purposes falling outside the scope of this Directive.

4. If no authorisation is granted, online content-sharing service providers shall be liable for unauthorised acts of communication to the public, including making available to the public, of copyright-protected works and other subject matter, unless the service providers demonstrate that they have:

- (a) made best efforts to obtain an authorisation, and
- (b) made, in accordance with high industry standards of professional diligence, best efforts to ensure the unavailability of specific works and other subject matter for which the rightholders have provided the service providers with the relevant and necessary information; and in any event
- (c) acted expeditiously, upon receiving a sufficiently substantiated notice from the rightholders, to disable access to, or to remove from their websites, the notified works or other subject matter, and made best efforts to prevent their future uploads in accordance with point (b).

5. In determining whether the service provider has complied with its obligations under paragraph 4, and in light of the principle of proportionality, the following elements, among others, shall be taken into account:

- (a) the type, the audience and the size of the service and the type of works or other subject matter uploaded by the users of the service; and
- (b) the availability of suitable and effective means and their cost for service providers.

6. Member States shall provide that, in respect of new online content-sharing service providers the services of which have been available to the public in the Union for less than three years and which have an annual turnover below EUR 10 million, calculated in accordance with Commission Recommendation 2003/361/EC¹, the conditions under the liability regime set out in paragraph 4 are limited to compliance with point (a) of paragraph 4 and to acting expeditiously, upon receiving a sufficiently substantiated notice, to disable access to the notified works or other subject matter or to remove those works or other subject matter from their websites.

Where the average number of monthly unique visitors of such service providers exceeds 5 million, calculated on the basis of the previous calendar year, they shall also demonstrate that they have

made best efforts to prevent further uploads of the notified works and other subject matter for which the rightholders have provided relevant and necessary information.

7. The cooperation between online content-sharing service providers and rightholders shall not result in the prevention of the availability of works or other subject matter uploaded by users, which do not infringe copyright and related rights, including where such works or other subject matter are covered by an exception or limitation.

Member States shall ensure that users in each Member State are able to rely on any of the following existing exceptions or limitations when uploading and making available content generated by users on online content-sharing services:

- (a) quotation, criticism, review;
- (b) use for the purpose of caricature, parody or pastiche.

8. The application of this Article shall not lead to any general monitoring obligation.

Member States shall provide that online content-sharing service providers provide rightholders, at their request, with adequate information on the functioning of their practices with regard to the cooperation referred to in paragraph 4 and, where licensing agreements are concluded between service providers and rightholders, information on the use of content covered by the agreements.

9. Member States shall provide that online content-sharing service providers put in place an effective and expeditious complaint and redress mechanism that is available to users of their services in the event of disputes over the disabling of access to, or the removal of, works or other subject matter uploaded by them.

Where rightholders request to have access to their specific works or other subject matter disabled or to have those works or other subject matter removed, they shall duly justify the reasons for their requests. Complaints submitted under the mechanism provided for in the first subparagraph shall be processed without undue delay, and decisions to disable access to or remove uploaded content shall be subject to human review. Member States shall also ensure that out-of-court redress mechanisms are available for the settlement of disputes. Such mechanisms shall enable disputes to be settled impartially and shall not deprive the user of the legal protection afforded by national law, without prejudice to the rights of users to have recourse to efficient judicial remedies. In particular, Member States shall ensure that users have access to a court or another relevant judicial authority to assert the use of an exception or limitation to copyright and related rights.

This Directive shall in no way affect legitimate uses, such as uses under exceptions or limitations provided for in Union law and shall not lead to any identification of individual users nor to the processing of personal data, except in accordance with Directive 2002/58/EC and Regulation (EU) 2016/679.

Online content-sharing service providers shall inform their users in their terms and conditions that they can use works and other subject matter under exceptions or limitations to copyright and related rights provided for in Union law.

Article 18

Principle of appropriate and proportionate remuneration

1. Member States shall ensure that where authors and performers license or transfer their exclusive rights for the exploitation of their works or other subject matter, they are entitled to receive appropriate and proportionate remuneration.

Article 19

Transparency obligation

1. Member States shall ensure that authors and performers receive on a regular basis, at least once a year, and taking into account the specificities of each sector, up to date, relevant and comprehensive information on the exploitation of their works and performances from the parties to whom they have licensed or transferred their rights, or their successors in title, in particular as regards modes of exploitation, all revenues generated and remuneration due.

2. Member States shall ensure that, where the rights referred to in paragraph 1 have subsequently been licensed, authors and performers or their representatives shall, at their request, receive from sub-licensees additional information, in the event that their first contractual counterpart does not hold all the information that would be necessary for the purposes of paragraph 1.

Where that additional information is requested, the first contractual counterpart of authors and performers shall provide information on the identity of those sub-licensees.

Member States may provide that any request to sub-licensees pursuant to the first subparagraph is made directly or indirectly through the contractual counterpart of the author or the performer.

3. The obligation set out in paragraph 1 shall be proportionate and effective in ensuring 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 set out in paragraph 1 would become disproportionate in the light 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.

6. Where Article 18 of Directive 2014/26/EU is applicable, the obligation laid down in paragraph 1 of this Article shall not apply in respect of agreements concluded by entities defined in Article 3(a) and (b) of that Directive or by other entities subject to the national rules implementing that Directive.

Article 20

Contract adjustment mechanism

1. Member States shall ensure that, in the absence of an applicable collective bargaining agreement providing for a mechanism comparable to that set out in this Article, authors and performers or their representatives are entitled to claim additional, appropriate and fair remuneration from the party with whom they entered into a contract for the exploitation of their rights, or from the successors in title of such party, when the remuneration originally agreed turns out to be disproportionately low compared to all the subsequent relevant revenues derived from the exploitation of the works or performances.
2. Paragraph 1 of this Article shall not apply to agreements concluded by entities defined in Article 3(a) and (b) of Directive 2014/26/EU or by other entities that are already subject to the national rules implementing that Directive.

Article 21

Alternative dispute resolution procedure

Member States shall provide that disputes concerning the transparency obligation under Article 19 and the contract adjustment mechanism under Article 20 may be submitted to a voluntary, alternative dispute resolution procedure. Member States shall ensure that representative organisations of authors and performers may initiate such procedures at the specific request of one or more authors or performers.

Article 22

Right of revocation

1. Member States shall ensure that where an author or a performer has licensed or transferred his or her rights in a work or other protected subject matter on an exclusive basis, the author or performer may revoke in whole or in part the licence or the transfer of rights where there is a lack of exploitation of that work or other protected subject matter.
3. Member States shall provide that the revocation provided for in paragraph 1 may only be exercised after a reasonable time following the conclusion of the licence or the transfer of the rights. The author or performer shall notify the person to whom the rights have been licensed or transferred and set an appropriate deadline by which the exploitation of the licensed or transferred rights is to take place. After the expiry of that deadline, the author or performer may choose to terminate the exclusivity of the contract instead of revoking the licence or the transfer of the rights.
4. Paragraph 1 shall not apply if the lack of exploitation is predominantly due to circumstances that the author or the performer can reasonably be expected to remedy.

Article 23

Common provisions

1. Member States shall ensure that any contractual provision that prevents compliance with Articles 19, 20 and 21 shall be unenforceable in relation to authors and performers.
2. Member States shall provide that Articles 18 to 22 of this Directive do not apply to authors of a computer program within the meaning of Article 2 of Directive 2009/24/EC.

Article 24

Amendments to Directives 96/9/EC and 2001/29/EC

1. Directive 96/9/EC is amended as follows:

(a) In Article 6(2), point (b) is replaced by the following:

‘(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 limitations provided for in Directive (EU) 2019/790 of the European Parliament and of the Council ^{([*1](#))};

^{([*1](#))} Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC ([OJ L 130, 17.5.2019, p. 92](#)).’.

(b) In Article 9, point (b) is replaced by the following:

‘(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 limitations provided for in Directive (EU) 2019/790;’.

2. Directive 2001/29/EC is amended as follows:

(a) In Article 5(2), point (c) is replaced by the following:

‘(c) in respect of specific acts of reproduction made by publicly accessible libraries, educational establishments or museums, or by archives, which are not for direct or indirect economic or commercial advantage, without prejudice to the exceptions and limitations provided for in Directive (EU) 2019/790 of the European Parliament and of the Council ^{([*2](#))};

^{([*2](#))} Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC ([OJ L 130, 17.5.2019, p. 92](#)).’.

(b) In Article 5(3), point (a) is replaced by the following:

‘(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 purpose to be achieved, without prejudice to the exceptions and limitations provided for in Directive (EU) 2019/790;’.

(c) In Article 12(4), the following points are added:

‘(e) 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 purpose to be achieved, without prejudice to the exceptions and limitations provided for in Directive (EU) 2019/790;’.

(f) to facilitate the exchange of information on relevant developments in legislation and case law as well as on the practical application of the measures taken by Member States to implement Directive (EU) 2019/790;

(g) to discuss any other questions arising from the application of Directive (EU) 2019/790.’.

Article 27

Transitional provision

Agreements for the licence or transfer of rights of authors and performers shall be subject to the transparency obligation set out in Article 19 as from 7 June 2022.