

COPYRIGHT

A BUSINESS PERSPECTIVE

BUSINESSEUROPE'S PRIORITIES

This paper follows [BUSINESSEUROPE's paper Intellectual property priorities – Unlocking the EU's intangible assets potential](#) which identifies challenges presented in the field of copyright.

Copyright is important for every company even if the business activities are not directly about content creation. Text, photos and computer programs are produced and/or used every company. There have been many attempts to harmonise parts of copyright protection. However, within the European Union (EU) copyright protection remains fragmented. A reflection is needed on how to address these concerns.

When approaching this fragmentation, it is vital that businesses speak up and take a business stance not only from trenches with creators on one side and tech giants on the other. To be able to do that, it is crucial for companies to discuss copyright issues from the overarching business perspective, focusing on competitiveness, foreseeability and not the least rules that are fit for purpose.

This paper lays out our vision on copyright and how EU copyright legislation could support Europe to meet its competitiveness goals.

COPYRIGHT AND THE SINGLE MARKET

Harmonisation of copyright within the EU has been done through more than a dozen EU acts but the legal landscape still remains very fragmented. The main vehicles used for harmonisation have been directives. This has negative implications as key aspects of copyright legislation face 27 different implementations.

In the Draghi report, it is stated that we need a better functioning Single Market. In the field of copyright, we cannot talk about a real Single Market. At the same time, copyright is of growing importance for all types of industries.

Based on the current context, if a company in one Member State seeks to expand its business in another Member State, it will have to first investigate if there are differences in the copyright legislation and if they can use the same templates for agreements in this new market on basic issues, such as e.g. company ownership of software created by employees.

Businesses in Europe, including small and medium sized enterprises and startups, have to handle copyright issues in several ways and face a highly fragmented landscape. The lack of harmonisation and the fragmentation led to increasing costs in critical stages. This is not how the Single Market is supposed to function. In addition to differences in the existing copyright legislation, businesses may also face practical challenges arising from divergent licensing practices and collective rights management systems across Member States.

RECOMMENDATIONS :

- ▶ **Ensure a co-ordinate and harmonised approach in the implementation of the EU copyright acquis. Crucially, this must not entail reopening existing EU legislation, particularly where years of intense stakeholders' negotiation have already established a delicate balance of interests.**
- ▶ **We advocate for a more consistent implementation of the existing copyright legislations among Member States.**
- ▶ **Any further fragmentation of copyright legislation should also be avoided. The EU approach should be the preferred solution, and new emerging issues should not be regulated at Member State level, without prejudice to the capacity of Member States to implement appropriate measures for the enforcement of EU laws.**

COPYRIGHT AND NEW EMERGING TECHNOLOGIES

New emerging technologies take time to understand in terms of any copyright relevant aspects for both rightsholders and users. In Europe, the AI Act includes the development of a Code of Practice including use of copyright protected works.¹

The discussion is often simplified as a choice between innovation and copyright protection. From a business perspective, these interests need not be in conflict. The goal should be to find approaches that balance them, so that we can both have high levels of innovation and well-functioning copyright protection. It is not an either-or situation. There is also an international dimension to this issue.

In addition, it is of utmost importance that copyright protection legislation remains technologically neutral rather than responding to the needs of individual sectors.

¹ The AI Act is built without prejudice to the foundational copyright *acquis*.

RECOMMENDATIONS :

- ▶ EU-wide approaches to emerging technologies already exist. Therefore, the priority must be to ensure a co-ordinated and harmonised approach in the implementation of e.g. the Digital Services Act, the AI Act, its Codes of Practice, and the EU acquis. Unilateral action at the Member State level directly undermines this alignment and policy certainty, resulting in unnecessary regulatory fragmentation of copyright in Europe. We must avoid a proliferation of national solutions to safeguard legal certainty, innovation, and the functioning of the Single Market. Member States should however remain competent to adopt appropriate enforcement measures, consistently to the EU legal framework, to ensure its effective implementation.
- ▶ Copyright protection legislation must remain technologically neutral.

COPYRIGHT AND OTHER POLICY AREAS

Copyright protected works are all around us, all the time. Some works are crucial to digitalisation, like computer programmes. Some works are what many businesses take to market, like architecture. This means that copyright issues often become part of other policy areas as well.

The EU Commission is aiming at working in some policy areas which are particularly relevant from a copyright perspective.

SINGLE MARKET STRATEGY

In the Draghi report, harmonisation of intellectual property was mentioned, and one could think that that reference was made with the fragmented copyright legislation in mind. However, in the Single Market Strategy² harmonisation of copyright is not mentioned. How a better performing Single Market is to become reality when keeping the fragmented copyright protection as a barrier is difficult to understand.

EU STARTUP AND SCALEUP STRATEGY³

One barrier for startups and scaleups to grow in Europe is the fragmented copyright legislation. Every time a startup wants to enter the market in another Member State, it will have to make a legal due diligence on what is allowed. Compare this to the situation for US, Indian or Chinese startups, EU startups can make one legal investigation and then aim at a big market.

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - The Single Market: our European home market in an uncertain world, Brussels, 21.5.2025, COM(2025) 500 final, available [here](#).

³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - The EU Startup and Scaleup Strategy - Choose Europe to start and scale, Brussels, 28.5.2025 COM(2025) 270 final, available [here](#).

KNOWLEDGE VALORISATION

The EU Commission has done a lot of work regarding knowledge valorisation, focusing on making research results possible to take to market. A copyright perspective seems to be missing and cannot be treated as any other registered rights. A specific response is therefore needed.

PUBLIC PROCUREMENT

As the EU revises its public procurement rules, public authorities must abandon their counterproductive default demands for full copyright and IP ownership. Requiring suppliers to automatically surrender their intellectual property creates severe market barriers, particularly for SMEs whose proprietary assets are essential for investment and commercial growth. Instead, procurement frameworks should transition to a proportional “User Right” approach, securing the specific licenses the state needs without seizing the underlying title. By shifting from automatic IP transfer to flexible licensing, the EU can prevent public procurement from becoming a restrictive industrial copyright policy while fostering a truly competitive and innovative market.

RECOMMENDATIONS :

- ▶ Copyright should be a part of policy discussions also in relation to all areas which have an impact on innovation, technology diffusion and business competitiveness in Europe.

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BusinessEurope is the leading advocate for growth and competitiveness at the European level, standing up for companies across the continent and campaigning on the issues that most influence their performance. A recognised social partner, we speak for enterprises of all sizes in 36 European countries whose national business federations are our direct members.

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