

Joint Conclusions from the ETUCE-EFEE-COMMUNIA Conference on Copyright in Higher Education and Research in the EU

-Key messages-



Introduction

On 11 April 2018, ETUCE/EI held a high-level conference entitled “*A better copyright for quality higher education and research in Europe and beyond*”. The conference was organised in partnership with the European Federation of Education Employers (EFEE) and COMMUNIA (a non-governmental network of copyright advocates, researchers and experts), - with the financial support of the European Union Intellectual Property Office (EUIPO).

These joint conclusions are to be directed to the EU institutions, in particular, the European Parliament with the view to take an influence on the Copyright Directive in the interests of teachers, school leaders, the academic community as well as of education institutions and employers in education.

An EU-wide exception for the use of digital materials for, non-commercial education and research purposes means that the copyrighted works can freely be shared and exchanged across member states, without any kind of request for permission or mandatory fee. It would also allow researchers to have legal access to copyright protected content without restrictions. Educational resources would be more open and easily accessible for all.

Indeed, on the European Union’s copyright debate, the conference partners advocated for the exception or a limitation for education and for a text data mining exception for research as it provides a more diverse choice of learning materials and resources for students, teachers, school leaders, academics and researchers as well as enhancing their academic freedom in the selection process of the relevant teaching materials. Moreover, an EU-wide exception for education can contribute to the development of cross-border cooperation between institutions, students, teachers, school leaders, academics and researchers in the EU. It would promote collaboration and exchange in online learning and teaching environments, relieve teachers and researchers of the fear of breaking the law as well as eliminate the legal uncertainty about the use of digital materials.

There are several topics on which the conference partners see a need for further clarification such as granting access to online education tools and how the quality of the teaching materials is to be monitored and guaranteed.

Even though conference partners have diverse approaches on the copyright debate at international and EU level **the conference emphasised the following aspects:**

- A broad coverage of stakeholders is helpful when discussing copyright, including education trade unions, employers in education and experts in education.
- Awareness-raising activities and familiarity with basic intellectual property issues is important, to understand creative and intellectual work, including that of students, teachers, school leaders, academics and other education personnel to ensure legal clarity and legitimate access to online learning materials.

- A clear and broad EU exception for education and research purposes across the EU gives teachers and researchers legal certainty and empowers them to engage in teaching and research practices for the benefit of quality education and research.
- In addition to ensuring that copyright legislation does not create barriers, but facilitates the provision of quality education, it is also important to promote EU-wide policies on open education and research as well as to ensure that publicly funded works are openly licensed.
- The need to look at existing informative materials and how to empower stakeholders to make their voice heard in the debate on copyright.
- Universities, colleges and other education institutions can establish specialised units with copyright experts for both students and academics.
- The idea of a repository of materials to be accessed without worry about copyright or licenses can only be helpful if it enhances the professional autonomy of teachers, school leaders and academics. There should be clear policies on copyright ownership which allow for institutional archiving and provide that teachers, researchers, school leaders and educational personnel retain reasonable and practicable control over work. At the same time a culture of sharing should be encouraged.
- Social Partners should consider including copyright issues on their agenda in the framework of the attractiveness of the profession and for the benefit of quality education.

Within the context of the EU Copyright directive, ETUCE, EFEE and COMMUNIA consider essential:

#1: A genuine copyright exception

Educators should not need to be lawyers to understand what they can and cannot do. ETUCE, EFEE and COMMUNIA believe in transparency. Educators would benefit from an EU-wide education exception – without mandatory remuneration - , which educators can rely upon across the European Union and which defines a minimum standard. Removing copyright restrictions on the digital use of illustrative materials including textbooks for educational purposes would increase legal certainty as this would reduce the financial burdens on education systems and institutions, most of which are already paying substantial licensing fees to provide students and teachers with access to teaching and learning materials. Opt-out provisions from the exception can essentially undermine the fair use of copyrighted works and contribute to indirect commercialisation of education.

#2 Copyright and social dialogue

Transposing copyright legislation without social partners consultation into European education systems that vary significantly across the EU can jeopardise the national implementation and social dialogue on the EU Copyright directive. The European Commission should ensure that social partners are consulted in the national implementation of the EU copyright directive. The selection of works for teaching and learning as well as related quality assurance measures need to take place at national level, as this is an exclusive national competence of Member States.

#3: Balance between the rights of teachers as users and the rights of teachers as creators

The new EU-wide exception should balance the rights of creators and users. Students, teachers, school leaders, researchers and other educational personnel have an interest in fair remuneration and correct attribution as well as in making knowledge accessible for public interest activities including education and research. Copyright exceptions and limitations establish this balance between rights holders and the public at large and contribute to the development of prosperous societies. Exceptions should not be subordinated to commercial imperatives.

#4: Remuneration should not be mandatory

Some members of the European Parliament propose a mandatory remuneration for educational uses. Currently, 17 member states have exceptions for educational purposes that are completely or largely unremunerated. In these countries educators can use copyrighted works for educational purposes for free. Payments should therefore remain optional and any changes to this model should be subject to consultation with the respective Ministries of Education.

#5: Closed-door policy

In today's Europe, educational activities are legitimately provided in many locations and through various means of communication. The consequence of the European Commission's proposal to limit digital uses to secure institutional networks and to the premises of an educational establishment is that educators will not develop and conduct educational activities in other facilities such as libraries and museums, and they will not be able to use modern means of communication, such as emails.

The influence of politics, the social and economic developments and the future of education determine the future of a society based on culture, creativity and innovation. An EU-wide exception for non-commercial educational purposes that cannot be sidelined by licenses and that cannot be overridden by a private contract but that at the same time respects successful national Copyright models in certain EU countries is crucial. An EU-wide exception that includes all relevant providers of education and an exception that permits the diversity of educational uses – both digital and analogue – of copyrighted content is fundamental.

Access to quality education is a prerequisite for a thriving knowledge-based economy. Providing access turns learners into co-creators of education, information and culture and thus enhances science and innovation.



With the financial support of EUIPO

Supported by:

