

PUBLISHING AND THE DIGITAL SINGLE MARKET

THE VALUE OF PUBLISHING

1. **Publishing is one of the biggest success stories of the digital age.** Building on its heritage of developing and harnessing new technology, in recent years the sector has made the transition from being a print-only business to one which combines digital and physical products (for example, academic journals have been available online since the 1990s). In this process publishing has retained its role as the essential human interface between the author, the works, the technologies which support and distribute them, and ultimately the reader.
2. **Publishing underpins academic research excellence and educational attainment.** Its role in the curation, presentation and dissemination of research, knowledge and teaching materials ensures that present and future generations can use today's technology to learn from and build on the knowledge of the past. Publisher developed tools are enabling academia efficient and speedy access to the growing corpus of human knowledge.
3. Culture forms part of Europe's wealth and **publishing sits at the heart of Europe's cultural tradition.** The enjoyment and engagement with books has long been a hallmark of what we regard as civilisation. Publishers provide the risk capital to invest in writers. Publishing stimulates other creative sectors, with literary works frequently being the inspiration for plays, films and television programmes. Publishing and reading are responsible for the perpetuation of Europe's languages, its major cultural norms, and the acquisition of reading skills.
4. The conveyance of the written word and opinion which publishing supports is a central nostrum of the **fundamental human right to the freedom of expression.** Publishers and authors embody the exercise of this right in their daily activity and in so doing provide the environment in which thoughts and ideas are exchanged, challenged and improved. In this way publishing underpins social values through helping people gain awareness of and develop respect for diverse opinions
5. **Publishing is the most prominent cultural industry** in Europe and in the world. It delivers clear benefits for the economies and societies of the European Union and we believe that what is good for publishing is, by extension, a benefit to the EU. In monetary terms, revenues from book exports to the rest of the world (i.e. non-EU) were worth €900m in 2013 alone. Publishing is a central part of a European creative industries sector which collectively employs more than seven million people and contributes 4.5% of EU GDP annually.

THE DIGITAL SINGLE MARKET

6. The **Digital Single Market is already a reality for publishing**. In the main, publishers license rights from authors on a pan-European basis, indeed increasingly often on a global basis. For the purposes of a single language translation the EU is treated as a single territory. Publishing - together with other creative industries – has been able to adapt to, and drive, the changing digital landscape thanks to the inherent flexibility of copyright law. The existence of a framework for copyright law, within which different business models can evolve and flourish, has been central to the economic success of the sector.
7. The **activity, the jobs and investments of the publishing sector directly depend on copyright** and on a balanced legal framework. Copyright law is a key facilitator of the Digital Single Market and works to the equal benefit of start-ups, existing companies be they SMEs or international companies, and consumers. Copyright ensures the intra-EU trade in published works; it performs this function by supporting and stimulating both the development and marketing of new products and services, and the creation and dissemination of creative content. It ensures that creators are appropriately rewarded and that the companies which invest in them can achieve a return.
8. Publishers see the continued development of the DSM as vital, but **it is being held back by factors such as poor broadband infrastructure, a shortage of digital skills and out-dated taxation rules** – as exemplified by the different treatment of physical and e-books. The development of cross-border availability of content services in the Single Market could be further encouraged by the European Commission by ensuring there is healthy competition within the distribution supply chain and that interoperability between devices and platforms is supported.
9. Whilst the Digital Single Market needs to operate across the whole of the European Union, there is nevertheless **still a role for the principle of subsidiarity**. Not all aspects of the market can be homogenised, particularly those pertaining to national cultures and languages. Where national markets have developed well-functioning licensing schemes - and which can operate across borders – these should be respected. Many if not all Member States still believe it is appropriate for national governments to have a great say in the curriculum of their schools. A single copyright law which did not acknowledge, respect and accommodate national differences would imperil cultural diversity.

THE DIGITAL SINGLE PUBLISHING MARKET IN ACTION

10. In **Open Access publishing** of scholarly journals, works published through the Gold or author-pays route, are made digitally available to the whole world. Also within academia, data and text mining licensing means that those researchers using this new technology are able to analyse huge corpuses of works to help discover hitherto hidden links between facts and data. The UK has gone further and has interpreted the current Directive to introduce an exception to permit data and text analysis for non-commercial research where there is prior legal access to the mined content, whilst ensuring publishers maintain management of the integrity of the platform.
11. Consumers of fiction and non-fiction can find their **works as available online as they are in bookshops**. Whilst the number of e-reading platforms is not at the optimum level which the market would require, publishers ensure that authors' works are available in whatever format and whichever platforms consumers require. In their drive to harness the full opportunities offered by the digital age, publishers are still developing answers and business models in certain areas. Publishers have a long tradition of co-operation with the public library system on the **lending of books**. We are working closely with libraries to identify the best and most sustainable way to facilitate the lending of e-books too.
12. Some markets, notably **schools-based educational works**, are more focused on particular Member States, both for linguistic reasons and because curriculum development remains a responsibility at Member State level. Hence the market for books, which teach to a specific syllabus, is correspondingly based upon individual territories. In this context, there is little demand for cross-border licensing, but what little there is can be met. **The ability of schools to photocopy parts of works for educational use**, underpinned in many cases by licensing schemes, helps deliver on the wider social utility of education whilst still ensuring that authors and the companies which invest in them can earn rewards.

DOES COPYRIGHT FRAMEWORK NEED REFORMING?

13. For publishers, given the strength and adaptability of the sector as outlined above, there are currently **no particular areas which we would highlight as being in urgent need of reform**. Should there be areas which require attention, **the current legislative framework and innovations in licensing strike the right balance of clarity, strength and flexibility** to allow authors and publishers in whichever discipline to flourish, giving consumers a choice of works, accessible in a variety of ways at different price points.
14. **Should it be felt that legislative reform is required, this – as with any policy area – has to be evidence-based**. Policy analysis needs always to proceed from a clear understanding of the current state of the market. There needs to be appreciation of how revenues are earned, what prices customers pay and what they get in return. There also needs to be a detailed investigation into the ramifications – both proximate

and widespread – of any particular change, with due regard paid to the ever-present possibility of unintended consequences. Such a study needs to fully engage with the businesses in the sector so that any mis-conceptions are identified and rectified, and so that policy-makers are fully conversant with the current business practices and future intentions. In the fast-moving digital world such information rapidly becomes outdated and so it is vital that the EU policy-makers upgrade their knowledge frequently. We look forward to engaging fully with the Commission in its impact assessment exercises and to seeing the results of this work.

15. Any evidence gathered for the case for reform must take into consideration the **impact of reform on the long term interests of consumers and cultural diversity** across the Union. Price and immediacy of access must only be one element considered when analysing consumer benefits. Other factors such as investment, development of untried services and genres must also be included. The long-term interests of consumer are clearly harmed if this is a decrease of choice, range and platforms.
16. Where areas for improvement are identified, **voluntary negotiations between rightsholders and users are very often the best way** to arrive at workable, sustainable solutions. The creation of new exceptions should be limited to only those areas where non-legislative solutions are impractical or impossible to achieve. International law also provides clear guidance on how exceptions should be considered.
17. The on-going value of this approach to publishers, authors and readers can be seen in particular in the way in **which publishers and authors can license the use of their works**, meaning that as well as the “primary” markets of sales, further reproduction and licensing in “secondary” markets can take place.
18. If there was one area which we would suggest required some improvement it would be in the area of **copyright enforcement**. Not all Member States are as active in tackling infringement of copyright as others; and whilst in some, such as the UK and France, there are strong relationships between rightsholders and government on developing a framework for promoting and protecting IP, this is not the case across the 28 Members.

March 2015