

Freedom of use of copyrighted works for academic purposes

The emergence of e-Science

The emergence of new research methods and practices that exploit advanced computational resources, data collection, and scientific instruments, made easily accessible within a distributed information network that combines all such resources into a virtually singular entity – that is e-Science – will revolutionize how science is done. In this era of e-Science, researchers work in a global, borderless world where data can be accessed, combined and processed across scientific disciplines and geographical barriers in a multitude of ways. In order to make this new way of creating scientific knowledge possible, there is one big barrier, which has to be torn down – the current inflexible copyright regime.

The importance and value of data in research

Knowledge can be regarded as a global public good which is non-exclusive and non-rival. The use of knowledge by any one person does not prevent others from using it, nor does the use of knowledge diminish it – quite the contrary, using existing knowledge cumulatively creates new knowledge. Treating knowledge as private intellectual property turns knowledge exclusive and thus retracts it from the public sphere. In particular, research data produced by public funding should be regarded as a public good, openly available to the maximum extent possible at the global level. The production, sharing and open dissemination of primary research data are essential attributes of, and inputs to, modern systems of scientific research and innovation.

Current state of regulating use of copyrighted works for academic purposes

The European Commission has in its *Green Paper on Copyright in the Knowledge Economy* recognized that current Copyright law within the EU is not harmonized nor does it support creating pan-European research networks.

The EU Directive *Copyright in the Information Society* specifies an exhaustive but unfortunately nonmandatory list of exceptions, which the EU Member States may opt to implement. Importantly, these exceptions include the option of allowing the “[u]se [of copyrighted works] 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.

However, the European Commission acknowledges that this exception has been implemented in diverse ways among the Member States and typically in a narrow sense. This goes directly against the free movement of knowledge within the Common Market which is emphasized in the Lissabon goals of the European Union. Indeed, since the free circulation of knowledge is regarded as one of the cornerstones for the future development of the knowledge economy in Europe, it is essential that the public interest with respect to the creation and availability of scientific knowledge is governed by similar rules throughout the community.

What we need is a detailed but flexible copyright exception that provides the Member States the clear path to adapt their legal framework to the changes in technology, in the practices of producing scientific knowledge, and in the markets, and which takes into account the public interest.

Common ESFRI proposal

The creation as well as the efficient functioning of any pan-European research infrastructure is virtually impossible if the exemptions for academic use are not harmonized within EU, and eventually world-wide.

Therefore, we urge the legislatures at the European level and at the national level to harmonize copyright law in such a way that the free use of copyrighted works for academic purposes, which does not unreasonably prejudice the legitimate interests of the right-holders, is permitted in all member states.