

FOI Release
Information released under the Freedom of Information Act

Title: Copyright Directive Proposal, Article 15

Date of release: 25 July 2017

Information request:

I am interested in Article 15 of the Copyright Directive Proposal (*Proposal for a Directive of the European Parliament and of the Council on copyright in the Digital Single Market - COM(2016)593*), which makes provisions for ‘contract adjustment mechanisms’ to be introduced at national level. I was wondering what the position of the UK was on the question, whether the UK IPO views the provision as a welcome development of copyright law, or not. Will the UK look to transpose the mechanism, if Directive there is prior to leaving the EU, and what forms have been envisaged until now?

I am looking to compare the current UK framework to France whose framework already provides for such adjustment mechanisms.

More generally, I was also wondering what the position the UK IPO was with regard to the transposition of the Directive, if indeed Directive there, in light of Brexit.

Information released:

Some relevant information which the Intellectual Property Office holds is exempt under sections 35 (1) (a) and 27 (1) (b) of the Freedom of Information Act and is therefore being withheld.

Section 35 (1) (a) applies to information relating to the formulation and development of government policy and section 27 (1) (b) to information the disclosure of which would, or would be likely, to prejudice relations between the United Kingdom and the European Union.

Sections 35 (1) and 27 (1) are qualified exemptions which require the IPO to apply a public interest test. Having considered the public interest, the IPO’s decision is to withhold the information at this stage in the negotiations.

As the matter is part of an ongoing negotiation, the Government does not intend to publish a formal policy statement on the proposed contract adjustment mechanism. However, the Government does believe it is important that creators are remunerated fairly while making sure that investment in new content and innovative services is encouraged. This would be good for everyone.

While the UK remains in the EU, our copyright laws will continue to comply with the EU copyright regime, and we will continue to participate in EU negotiations. The continued effect of EU Directives and Regulations following our exit from the EU will depend on the terms of our future relationship. It is currently unclear whether the proposed Directive on copyright in the DSM will be agreed and implemented before we leave the EU.

There is some other information in the public domain which may be useful to you:

1) Explanatory Memorandum on Copyright in the DSM Directive:

http://europeanmemoranda.cabinetoffice.gov.uk/files/2016/10/EM_12254.16_Proposed_Directive_on_copyright_in_the_Digital_Single_Market_.pdf

2) Westminster Hall debate, 6 July 2016:

<https://hansard.parliament.uk/Commons/2016-07-06/debates/7FDF426D-98B9-493A-BB1B-014E39BA3514/ArtisticRemunerationForOnlineContent>

3) Debate on importance of IP to British economy, 28 February 2017:

<https://hansard.parliament.uk/Commons/2017-02-28/debates/908CF943-4505-44C0-8554-2829E7EBBE72/IntellectualPropertyBritishEconomy>

After the debate in February, the Minister wrote to Nigel Adams MP to follow up on some points he couldn't cover during the debate. That letter is attached.