

Proposal for a European Network for Copyright in support of Education and Science (ENCES)

Invitation to participate in a conference on the perspectives for an education- and science-friendly copyright, in Berlin November 14-15, 2008

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There is currently no organized group representing European interest in a science- and education-friendly copyright. This needs to be changed. One way to do so is by developing an EU-wide network of organizations and individuals in science and education who share the view that copyright is a socially valuable construct and that the primary objective of copyright is to promote the progress of science, education, and culture as public goods.

According to existing copyright regimes, the goals of copyright are to be achieved by ensuring some, but not all rights to the producers and private exploiters of knowledge. The private appropriation of knowledge, in particular in science, education and culture, has never been considered a means in itself but is only justified when it serves fundamental rights, enshrined not least in the Charter of the EU, such as freedom of expression (art 15), freedom to receive and impart information and ideas, and the right to education (art 16). These rights are crucially dependent which is also indispensably dependent on access to published knowledge under fair conditions. They should not be considered as mere limitations on or exceptions to exclusive exploitation rights but as genuine parts of copyright regulation. Access to knowledge is a fundamental right in open information societies and a fortiori for science and education, where it is indispensable.

In the past years, copyright regulation, world-wide and in the EU, seems to have forgotten its primary goals and has pursued a strategy of protecting private commercial interests for the exploitation of knowledge, even when this knowledge is produced in the public domain. This may be acceptable if science and education can rely on innovative information products, on a reasonable price policy, and on fair access chances. But they cannot, when access to published knowledge, particularly in scientific journals, is made scarce by an aggressive price policy and by intensively using technical protection measures (which are also protected by copyright law). Economists are already speaking of market failure, in particular in the field of scientific publication dominated by some major international publishing companies.

Is there a need for an interest group, for a European network in support of a science- and education-friendly copyright? There are, of course, many organizations and individuals in Europe who have become intensively involved in the struggle, for example, for an open and user-friendly library system or for new publication forms in the open access paradigm. And there are also many law institutes and scientists working on a revitalization of copyright law in the broader public interest in consideration of the negative externalities of a rigid private control of knowledge.

One might even ask whether copyright is still an appropriate means for achieving public goals in education and science. Open access, an initiative from science itself, is on its way to becoming the dominant scientific publishing model, making possible free access to knowledge for all. But one still has to take into account commercial publication markets, also in science and education (increasingly in e-learning), which promise to hold their own in the foreseeable future. And these markets are strongly influenced by copyright regulation.

Therefore we believe that there is a need for coordinating the different existing European interest groups and initiatives working towards a copyright in the public interest. The voice of science and education will only be heard when it is legitimized by as many science organizations and individual scientists as possible. In Germany, and this is very likely true in other countries, we have

experienced the powerlessness of single experts and even of single scientific copyright institutions when presenting their best arguments in public hearings before executive or legislative committees. The voice of science and education could no longer be ignored and neglected when, three years ago, the Coalition for Copyright in Science and Education, was founded – supported by the major German science organizations, by some three hundred learned societies and many thousands of individuals from science, education, and information infrastructure.

But one has to admit that the success of such a national coordinated initiative was very limited, and will be so in the future. Copyright is a concern and in the responsibility of the respective national legislative power of the states in the EU, but is highly dependent on directives from the EU, in this case, among others, from the Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society.

In order to achieve an education- and science-friendly copyright, science and education need to be present on the European level (and in the future, also in international arenas, such as WTO and WIPO).

This is the main purpose of ENCES (European Network for Copyright in support of Education and Science): to provide a platform for organizations and individuals who work towards improving the European and respective members' national copyright legislation. It is hoped that ENCES will serve not only as a means for lobbying work at the EU level and for supporting comparable national efforts in EU member countries but also as a forum for the development of a copyright understanding which both goes back to its roots and takes into account the free potentials of electronic environments for the production, distribution and usage of knowledge and information.

ENCES intends to pursue a twofold strategy under the basic assumption that knowledge and information in its digital form should be made available to everyone from everywhere and at any time under fair conditions. This is particularly true in science and education, where access to knowledge and information is indispensable:

- (a) ENCES will make concrete proposals in the public interest of science and education for the evaluation and the improvement of the EU directives related to copyright. These proposals should also have effects on legislation at the different national levels.
- (b) What is really needed is a fundamental change, a paradigm shift in the way all aspects of the production, dissemination, and usage of knowledge and information are organized in the information society, taking into account the value-building potential of information and communication technology.

The planning committee for a European Network for Copyright in support of Education and Science (ENCES) encourages organizations and individuals in all EU countries to participate in a scientific conference on the perspectives of an education- and science-friendly copyright, to take place in Berlin from November 14 to 15, 2008. This conference will also be the kick-off meeting for ENCES.

Comments on this proposal are very welcome. If you have suggestions for organizations or experts who should participate in this activity or if you consider yourself to join the conference please contact: rainer.kuhlen@uni-konstanz.de as soon as possible.

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<http://www.urheberrechtsbuendnis.de/index.html.en>