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PRESIDENCY CONSOLIDATED TEXT
from: Presidency
to: Working Party on Intellectual Property (Copyright)

No. prev. doc.: 12166/1/99 REV 1 + ADD 1 PI 55 CULTURE 71 CODEC 592
No. Cion prop.: 8723/99 PI 29 CULTURE 36 CODEC 297

Delegations will find attached a consolidated text of the revised Presidency non-paper circulated under reference 12166/1/99 REV 1 + REV 1 ADD 1. Reservations and scrutiny reservations on this text expressed or confirmed during the Working Party's discussion on 1, 16 and 17 December 1999 are indicated in footnotes.

Amendments suggested by the Presidency in response to the discussions in the Working Party are set out in the Annex.
EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

on the harmonisation of certain aspects of copyright and related rights in the Information Society

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 47(2), 55 and 95 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the Economic and Social Committee²,

Acting in accordance with the procedure laid down in Article 251 of the Treaty³,

(1) Whereas the Treaty provides for the establishment of an Internal Market, the removal of barriers to the free movement of goods, the freedom to provide services and the right of establishment and the institution of a system ensuring that competition in the Internal Market is not distorted; whereas harmonisation of the laws of the Member States on copyright and related rights contributes to the achievement of these objectives;

(2) Whereas the European Council, meeting at Corfu on 24 and 25 June 1994, stressed the need to create a general and flexible legal framework at Community level in order to foster the development of the Information Society in Europe; whereas this requires, inter alia, the existence of an Internal Market for new products and services; whereas important Community legislation to ensure such a regulatory framework is already in place or is well under way; whereas copyright and related rights play an important role in this context as they protect and stimulate the development and marketing of new products and services and the creation and exploitation of their creative content;

(2bis) Whereas the proposed harmonisation will help to implement the four freedoms of the internal market and relates to compliance with the fundamental principles of law and especially of property - including intellectual property - freedom of expression and the public interest;

(3) Whereas a harmonised legal framework on copyright and related rights, through increased legal certainty and while providing for a high level of protection of intellectual property, will foster substantial investment in creativity and innovation, including network infrastructure, and lead in turn to growth and increased competitiveness of European industry, both in the area of content provision and information technology and more generally across a wide range of industrial and cultural sectors; whereas this will safeguard employment and encourage new job creation;

(4) Whereas technological development has multiplied and diversified the vectors for creation, production and exploitation; whereas, while no new concepts for the protection of intellectual property are needed, the current law on copyright and related rights will have to be adapted and supplemented to respond adequately to economic realities such as new forms of exploitation;

(5) Whereas, without harmonisation at Community level, legislative activities at national level which have already been initiated in a number of Member States in order to respond to the technological challenges might result in significant differences in protection and thereby in restrictions on the free movement of services and products incorporating, or based on, intellectual property, leading to a refragmentation of the Internal Market and legislative inconsistency; whereas the impact of such legislative differences and uncertainties will become more significant with the further development of the Information Society, which has already greatly increased transborder exploitation of intellectual property; whereas this development will and should further increase; whereas significant legal differences and uncertainties in protection may hinder economies of scale for new products and services containing copyright and related rights;

(6) Whereas the Community legal framework for the legal protection of copyright and related rights must, therefore, also be adapted and supplemented as far as is necessary for the smooth functioning of the Internal Market; whereas, to that end, those national provisions on copyright and related rights which vary considerably from one Member State to another or which cause legal uncertainties hindering the smooth functioning of the Internal Market and the proper development of the Information Society in Europe should be adjusted, and inconsistent national responses to the technological developments should be avoided, whilst differences not adversely affecting the functioning of the Internal Market need not be removed or prevented;

(7) Whereas the various social, societal and cultural implications of the Information Society require that account be taken of the specific features of the content of products and services;

(8) Whereas any harmonisation of copyright and related rights must take as a basis a high level of protection, since such rights are crucial to intellectual creation; whereas their protection helps to ensure the maintenance and development of creativity in the interests of authors, performers, producers, consumers, culture, industry and the public at large; whereas intellectual property has therefore been recognised as an integral part of property;

(9) Whereas, if authors or performers are to continue their creative and artistic work, they have to receive an appropriate reward for the use of their work, as must producers in order to be able to finance this creative work; whereas the investment required to produce products such as phonograms, films or multimedia products, and services such as 'on-demand' services, is considerable; whereas adequate legal protection of intellectual property rights is necessary in order to guarantee the availability of such a reward and provide the opportunity for satisfactory returns on this investment;

(9bis) Whereas a rigorous, effective system for the protection of copyright and related rights is one of the main ways of ensuring that European cultural production receives the necessary resources and of safeguarding the independence and dignity of artistic creators and performers;

(10) Whereas adequate protection of copyright works and subject matter of related rights is also of great importance from a cultural standpoint; whereas Article 151 of the Treaty requires the Community to take cultural aspects into account in its action;
(10bis) Whereas a common search for, and consistent application at European level of, technical measures to protect works and to provide the necessary information on rights are essential insofar as the ultimate aim of these measures is to give effect to the principles and guarantees laid down in law;

(10ter) Whereas this Directive must seek to promote learning and culture by protecting creative and artistic works while permitting exceptions in the public interest for the purpose of education and teaching;

(11) Whereas the Diplomatic Conference held under the auspices of the World Intellectual Property Organisation (WIPO) in December 1996 led to the adoption of two new Treaties, the 'WIPO Copyright Treaty' and the 'WIPO Performances and Phonograms Treaty', dealing respectively with the protection of authors and the protection of performers and phonogram producers; whereas those Treaties update the international protection for copyright and related rights significantly, not least with regard to the so-called 'digital agenda', and improve the means to fight piracy world-wide; whereas the Community and a majority of Member States have already signed the Treaties and the process of making arrangements for the ratification of the Treaties by the Community and the Member States is under way; whereas this Directive also serves to implement a number of the new international obligations;

(12) Whereas liability for activities in the network environment concerns not only copyright and related rights but also other areas, such as defamation, misleading advertising, or infringement of trademarks, and will be addressed horizontally in European Parliament and Council Directive ...(EC) on certain legal aspects of electronic commerce in the internal market which clarifies and harmonises various legal issues relating to Information Society services including electronic commerce; whereas the provisions relating to liability in the context of electronic commerce should come into force within a timescale similar to that of this Directive, since they should provide a harmonised framework of principles and provisions relevant to inter alia important parts of this Directive;

(12bis) Whereas, especially in the light of the requirements arising out of the digital environment, it is necessary to ensure that collecting societies achieve a higher level of rationalisation and transparency with regard to compliance with competition rules;

(12ter) Whereas this Directive is without prejudice to modalities, in the Member States, of management of rights, such as extended collective licences;

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(14) Whereas this Directive should define the scope of the acts covered by the reproduction right with regard to the different beneficiaries; whereas this should be done in conformity with the acquis communautaire; whereas a broad definition of these acts is needed to ensure legal certainty within the Internal Market;

(14bis) Whereas the objective of proper support for the dissemination of culture must not be achieved by sacrificing strict protection of rights or by tolerating illegal forms of distribution of counterfeited or pirated works;

(15) Whereas this Directive should harmonise further the author's right applicable to the communication to the public of works; whereas this right should be understood in a broad sense covering all communication to the public not present at the place where the communication originates; whereas this right covers any transmission or retransmission of a work to the public by wire or wireless means, including broadcasting;

(16) Whereas the legal uncertainty regarding the nature and the level of protection of acts of on-demand transmission of copyright works and subject matter protected by related rights over networks should be overcome by providing for harmonised protection at Community level; whereas it should be made clear that all rightholders recognised by the Directive have an exclusive right to make available to the public copyright works or any other subject matter by way of interactive on-demand transmissions; whereas such interactive on-demand transmissions are characterised by the fact that members of the public may access them from a place and at a time individually chosen by them;

(17) Whereas the mere provision of physical facilities for enabling or making a communication does not in itself amount to communication within the meaning of this Directive;


6 Request by the UK, NL, D, S and DK delegations that Recital 15 state explicitly which acts fall outside the scope of the right of communication to the public for the purposes of this Directive. See Annex.

7 Request by the IT delegation that the definitions contained in Recital 15 be transferred to the main body of the Directive.
(18) Whereas copyright protection under this Directive includes the exclusive right to control distribution of the work incorporated in a tangible article; whereas the first sale in the Community of the original of a work or copies thereof by the rightholder or with his consent exhausts the right to control resale of that object in the Community; whereas this right should not be exhausted in respect of the original or of copies thereof sold by the rightholder or with his consent outside the Community; whereas the rights of rental and lending for authors have been established in Directive 92/100/EEC; whereas the distribution right provided for in this Directive shall be without prejudice to the provisions relating to the rental and lending rights contained in Chapter I of that Directive;

(19) Whereas the question of exhaustion does not arise in the case of services and on-line services in particular; whereas this also applies with regard to a material copy of a work or other subject matter made by a user of such a service with the consent of the rightholder; whereas, therefore, the same applies to rental and lending of the original and copies of works or other subject matter which are services by nature; whereas, unlike CD-ROM or CD-I, where the intellectual property is incorporated in a material medium, namely an item of goods, every on-line service is in fact an act which will have to be subject to authorisation where the copyright or related right so provides;

(20) Whereas the rights referred to in this Directive may be transferred, assigned or subject to the granting of contractual licences, without prejudice to the relevant national legislation on copyright and related rights;

(21) Whereas a fair balance of rights and interests between the different categories of rightholders, as well as between the different categories of rightholders and users of protected subject matter must be safeguarded; whereas the existing exceptions to the rights as set out by the Member States have to be reassessed in the light of the new electronic environment; whereas existing differences in the limitations and exceptions to certain restricted acts have direct negative effects on the functioning of the Internal Market of copyright and related rights; whereas such differences could well become more pronounced in view of the further development of transborder exploitation of works and cross-border activities; whereas, in order to ensure the proper functioning of the Internal Market, such exceptions should be defined more harmoniously; whereas the degree of their harmonisation should be based on their impact on the smooth functioning of the Internal Market;

(22) Whereas this Directive provides for an exhaustive enumeration of exceptions to the reproduction right and the right of communication to the public; whereas some exceptions only apply to the reproduction right, where appropriate; whereas this list takes due account of the different legal traditions in Member States, while, at the same time, aiming to ensure a functioning Internal Market; whereas it is desirable that Member States should arrive at a coherent application of these exceptions, which will be assessed when reviewing implementing legislation in the future;

(23) Whereas the exclusive right of reproduction should be subject to an exception to allow certain acts of temporary reproduction, which are transient or incidental reproductions, forming an integral part of a technological process carried out for the sole purpose of enabling the use of a work or other protected subject matter and which have no separate economic value on their own; whereas under these conditions this exception should include acts of caching, including those which facilitate the effective functioning of transmission systems, or browsing;

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8 For delegations' positions regarding regional or international exhaustion see footnote 29 below under Article 4(2).
9 Reservation by the DK, S, NL, FIN and UK delegations on the term "exhaustive".
10 Reservation by the UK delegation on the appropriateness of covering in a single provision, i.e. Article 5(1), both caching and browsing. See Annex.
(24) Whereas Member States should be given the option of providing for certain exceptions for cases such as educational and scientific purposes, for the benefit of public institutions such as libraries and archives, for purposes of news reporting, for quotations, for use by people with disabilities, for public security uses and for uses in administrative and judicial proceedings;

(24bis) Whereas, in certain cases of exceptions, rightholders should receive fair compensation to compensate them adequately for the use made of their protected works or other subject matter; whereas, when determining the form, modalities and possible level of such fair compensation, account should be taken of the particular circumstances of each case; whereas, when evaluating these circumstances, valuable criteria would be the degree of benefit for the user and/or of possible harm to the rightholders resulting from the act in question; whereas, therefore, in certain de minimis cases, such as reproductions on paper for private study, no obligation for payment may arise; whereas, in cases where rightholders have received payment in some other form, no specific or separate payment may be due;

(25) Whereas existing national schemes on reprography, where they do exist, do not create major barriers to the Internal Market; whereas Member States should be allowed to provide for an exception in respect of reprography;

(26) Whereas Member States should be allowed to provide for an exception to the reproduction right for certain types of reproduction of audio, visual and audio-visual material for private use, accompanied by fair compensation; whereas this may include the introduction or continuation of remuneration schemes to compensate for the prejudice to rightholders; whereas, although differences between those remuneration schemes affect the functioning of the Internal Market, those differences, with respect to analogue private reproduction, should not have a significant impact on the development of the Information Society; whereas digital private copying is likely to be more widespread and have a greater economic impact; whereas due account should therefore be taken of the differences between digital and analogue private copying and a distinction should be made in certain respects between them;

(27) Whereas, when applying the exception on private copying, Member States should take due account of technological and economic developments, in particular with respect to digital private copying and remuneration schemes, when effective technological protection measures are available; whereas such exceptions should not inhibit the use of technological measures or their enforcement against circumvention;

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11 Reservation by the F, ES, GR and IT delegations, according to which the terms employed in Recital 24bis, such as private study or de minimis, were too vague. See Annex.

12 Request by the F delegation that the terms "...benefit for the user and/or of ..." be deleted.

13 Reservation by the F and D delegations, according to which fair compensation should always lead to some payment.
(28) Whereas Member States may provide for an exception for the benefit of certain non-profit making establishments, such as publicly accessible libraries and equivalent institutions, as well as archives; whereas, however, this should be limited to certain special cases covered by the reproduction right; whereas such an exception should not cover uses made in the context of on-line delivery of protected works or other subject matter; whereas this Directive should be without prejudice to Member States' option to derogate from the exclusive public lending right in accordance with Article 5 of Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property, as amended by Directive 93/98/EEC; whereas, therefore, specific contracts or licences should be promoted which, without creating imbalances, favour such establishments and the disseminative purposes they serve;

(28bis) Whereas, when applying the exception for non-commercial educational and scientific research purposes, the non-commercial nature of the activity in question should be determined by that activity as such; whereas the organisational structure and the means of funding of the establishment concerned are not the decisive factors in this respect;

(28ter) Whereas it is in any case important for the Member States to adopt all necessary measures to facilitate access to works by persons suffering from a disability which constitutes an obstacle to the use of the works themselves, and to pay particular attention to accessible formats;

(28quater) Whereas in certain other cases of minor importance, such as use for the purpose of demonstration or repair of equipment, use in connection with public exhibitions or public auction or certain forms of humorous use, Member States may apply exceptions which already exist in their national law, to the extent that such application is only in respect of analogue uses and does not affect free circulation of goods and services within the Community;

(29) Whereas, when applying those exceptions, they should be exercised in accordance with international obligations; whereas such exceptions may not be applied in a way which prejudices the legitimate interests of the rightholder or which conflicts with the normal exploitation of his work or other subject matter; whereas the provision of such exceptions by Member States should, in particular, duly reflect the increased economic impact that such exceptions may have in the context of the new electronic environment; whereas, therefore, the scope of certain exceptions may have to be even more limited when it comes to certain new uses of copyright works and other subject matter;

(29bis) Whereas the exceptions referred to in Article 5(2) and (3) must not, however, prevent the definition of contractual relations designed to ensure fair compensation for the rightholders;

(29ter) Whereas recourse to mediation could help users and rightholders to settle disputes; whereas the Commission, in co-operation with the Member States within the Contact Committee, should undertake a study to consider new legal ways of settling disputes concerning copyright and related rights;

14 Scrutiny reservation by the DK, UK and S delegations.
15 See reservations in respect of Article 5(3)(k).
(30) Whereas technological development will allow rightholders to make use of technological measures designed to restrict acts not authorized by the rightholders of any copyright, rights related to copyright or the sui generis right in databases; whereas the danger, however, exists that illegal activities might be carried out in order to enable or facilitate the circumvention of the technical protection provided by these measures; whereas, in order to avoid fragmented legal approaches that could potentially hinder the functioning of the Internal Market, there is a need to provide for harmonised legal protection against circumvention of effective technological measures and against provision of devices and products or services to this effect;

(30bis) Whereas such a legal protection should be provided to technological measures that effectively restrict acts not authorized by the rightholders of any copyright, rights related to copyright or the sui generis right in databases; whereas such legal protection implies no obligation to design devices, products, components or services to correspond to technological measures, so long as such device, product, component or service does not otherwise fall under the prohibition of Article 6; whereas such legal protection should respect proportionality and should not prohibit those devices or activities which have a commercially significant purpose or use other than to circumvent the technical protection; whereas, in particular, this protection should not hinder research into cryptography;


(32) Whereas important progress has been made in the international standardisation of technical systems of identification of works and protected subject matter in digital format; whereas, in an increasingly networked environment, differences between technological measures could lead to an incompatibility of systems within the Community; whereas compatibility and interoperability of the different systems should be encouraged; whereas it would be highly desirable to encourage the development of global systems;

(33) Whereas technological development will facilitate the distribution of works, notably on networks, and this will entail the need for rightholders to identify better the work or other subject matter, the author or any other rightholder, and to provide information about the terms and conditions of use of the work or other subject matter in order to render easier the management of rights attached to them; whereas rightholders should be encouraged to use markings indicating, in addition to the information referred to above, inter alia their authorisation when putting works or other subject matter on networks;

(33bis) Whereas there is, however, the danger that illegal activities might be carried out in order to remove or alter the electronic copyright-management information attached to it, or otherwise to distribute, import for distribution, broadcast, communicate to the public or make available to the public works or other protected subject matter from which such information has been removed without authority; whereas, in order to avoid fragmented legal approaches that could potentially hinder the functioning of the Internal Market, there is a need to provide for harmonised legal protection against any of these activities;
(34) Whereas any such rights-management information systems referred to above may, depending on their design, at the same time process personal data about the consumption patterns of protected subject matter by individuals and allow for tracing of on-line behaviour; whereas these technical means, in their technical functions, should incorporate privacy safeguards in accordance with European Parliament and Council Directive 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data and the free movement of such data¹⁶;

(35) deleted – see Recital 36ter.

(36) Whereas Member States should provide for effective sanctions and remedies for infringements of rights and obligations as set out in this Directive; whereas they shall take all the measures necessary to ensure that those sanctions and remedies are applied; whereas the sanctions thus provided for shall be effective, proportionate and dissuasive;

(36bis) Whereas, in particular in the digital environment, the services of intermediaries may increasingly be used by third parties for infringing activities; whereas in many cases such intermediaries are best placed to bring an end to such infringing activities; whereas, therefore, the sanctions available to rightsholders should include the possibility of applying for an injunction against an intermediary who carries a third party's infringement of a protected work or other subject matter; whereas this possibility should be available even where the acts carried out by the intermediary are exempted under Article 5; whereas the conditions and modalities relating to such injunctions should be left to the national law of the Member States;

(36ter) Whereas the protection provided under this Directive should be without prejudice to national or Community legal provisions in other areas, such as industrial property, data protection, conditional access, and access to public documents;¹⁷¹⁸¹⁹

(37) Whereas, in order to comply with the WIPO Performances and Phonograms Treaty, Directives 92/100/EEC and 93/98/EEC should be amended;

(38) Whereas, after a period of two years following the date of implementation of this Directive, the Commission should report on its application; whereas this report should examine in particular whether the conditions set out in the Directive have resulted in ensuring a proper functioning of the Internal Market, and should propose action if necessary;

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¹⁷ The S delegation, supported by the DK and NL delegations, requested that the sentence read "...in other areas, which may affect the protection provided under this Directive, such as industrial property, ...". See Annex.
¹⁸ Scrutiny reservation by the UK delegation.
(39) Whereas it is appropriate to establish a Contact Committee under the aegis of the Commission; whereas this Contact Committee should have the tasks of facilitating the effective implementation of this Directive by organising consultations on all questions deriving from its application and of facilitating the exchange of information on relevant developments in legislation and case-law, as well as relevant economic, social, cultural and technological developments;\(^20\)

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\(^{20}\) Without prejudice to its reservation on the need for such a Committee, the UK delegation requested that the tasks thereof be set out in the main body of the Directive rather than in a Recital. See Annex.
CHAPTER I

Objective and scope

Article 1

Scope

1. This Directive concerns the legal protection of copyright and related rights in the framework of the Internal Market, with particular emphasis on the Information Society.

2. Except in the cases referred to in Article 10, this Directive shall leave intact and shall in no way affect existing Community provisions relating to:

   a) the legal protection of computer programs;

   b) rental right, lending right and certain rights related to copyright in the field of intellectual property;

   c) copyright and related rights applicable to broadcasting of programmes by satellite and cable retransmission;

   d) the term of protection of copyright and certain related rights;

   e) the legal protection of databases.

21 Acceptance by the UK delegation of Article 1 is subject to a satisfactory solution being found on the content of Article 10.
CHAPTER II

Rights and exceptions

Article 2

Reproduction right

Member States shall provide for the exclusive right to authorise or prohibit\(^{22}\) direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part:

a) for authors, of their works,

b) for performers, of fixations of their performances;

c) for phonogram producers, of their phonograms;

d) for the producers of the first fixations of films, in respect of the original and copies of their films;

e) for broadcasting organisations, of fixations of their broadcasts, whether those broadcasts are transmitted by wire or over the air, including by cable or satellite.

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\(^{22}\) Reservation by the IT and D delegations on the use of the terms "or prohibit". Scrutiny reservation by the F delegation. The GR delegation and the Commission representative spoke in favour of maintaining these terms.
**Article 3**

Right of communication to the public of works and right of making available to the public of other subject matter\(^{23}\)

1. Member States shall provide authors with the exclusive right to authorise or prohibit\(^{24}\) any communication to the public of their works, by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access them from a place and at a time individually chosen by them.

2. Member States shall provide for the exclusive right to authorise or prohibit\(^{25}\) the making available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them:

   a) for performers, of fixations of their performances;

   b) for phonogram producers, of their phonograms;

   c) for the producers of the first fixations of films, of the original and copies of their films;

   d) for broadcasting organisations, of fixations of their broadcasts, whether these broadcasts are transmitted by wire or over the air, including by cable or satellite.

3. The rights referred to in paragraphs 1 and 2 shall not be exhausted by any act of communication to the public or making available to the public as set out in this Article.\(^{26}\)

4. *Deleted.*\(^{27}\)

\(^{23}\) The UK, DK and S delegations endorsed a suggestion by the Chair that the title read "Right of communication to the public, including the right of broadcasting, of works ..."

\(^{24}\) Reservation by the IT and D delegations on the use of the terms "or prohibit". Scrutiny reservation by the F delegation. The GR delegation and the Commission representative spoke in favour of maintaining these terms.

\(^{25}\) Same positions as in previous footnote regarding the use of the terms "or prohibit".

\(^{26}\) Request by the UK delegation that this paragraph be transferred to the Recitals.

\(^{27}\) Scrutiny reservation by the Commission representative on the deletion of this paragraph.
Article 4

Distribution right

1. Member States shall provide for authors, in respect of the original of their works or of copies thereof, the exclusive right to authorise or prohibit any form of distribution to the public by sale or otherwise.

2. The distribution right shall not be exhausted within the Community in respect of the original or copies of the work, except where the first sale or other transfer of ownership in the Community of that object is made by the rightholder or with his consent.

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28 Reservation by the IT and D delegations on the use of the terms "or prohibit". Scrutiny reservation by the F delegation. The GR delegation and the Commission representative spoke in favour of maintaining these terms.

29 Reservation by the DK, P, NL, FIN and S delegations, which prefer international exhaustion. The B and LUX delegations have not yet adopted a final view, while the UK, IRL, A, F, ES, IT, D and GR delegations prefer the present text.
Article 5

Exceptions to the restricted acts set out in Articles 2, 3 and 4

1. Temporary acts of reproduction referred to in Article 2, which are transient or incidental and an integral part of a technological process, whose sole purpose is to enable use to be made of a work or other subject matter, and which have no independent economic significance, shall be exempted from the right set out in Article 2. [Such uses must be authorised by rightholders or permitted by law.]

2. Member States may provide for limitations to the exclusive right of reproduction provided for in Article 2 in the following cases:

   a) in respect of reproductions on paper or any similar medium, effected by the use of any kind of photographic technique or by some other process having similar effects, provided that the rightholders receive fair compensation;

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30 General reservation by the UK delegation on the need for Article 5(1).
31 Request by the F and ES delegations that "or" be replaced by "and".
32 Reservation by the DK, S, LUX and NL delegations and the Commission representative on the sentence "Such uses must be authorised by rightholders or permitted by law." The IT, F, A, ES, GR and UK delegations requested that these terms be retained.
33 General reservation by the DK, S, NL, FIN and UK delegations on the structure (exhaustive list) of Article 5(2).
34 Reservation by the DK, S, FIN, IRL and UK delegations and scrutiny reservation by the NL delegation on the requirement of fair compensation, in particular as regards narrowly drafted exceptions on reprography or reprographic reproductions done for private use. The D and F delegations would prefer "equitable remuneration" to "fair compensation".
35 Request by the IT and F delegations that sheet music be excluded from the scope of this exception. The S delegation could also accept such an exclusion.
b)\textsuperscript{36} in respect of reproductions on any recording media\textsuperscript{37} made by\textsuperscript{38} a natural\textsuperscript{39} person for private use and for non-commercial ends\textsuperscript{40}, on condition that the rightholders receive fair compensation;\textsuperscript{41}

b bis) \textit{Partially merged with b).}

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\textsuperscript{36} General reservation by the F, ES and IT delegations on the lack of distinction in Article 5(2)(b) between analogue and digital private copying. These delegations requested that the amendments suggested by the European Parliament be taken on board.

\textsuperscript{37} Reservation by the UK, NL, A and S delegations on the terms "on any recording media". See Annex.

\textsuperscript{38} Request by the DK, D and A delegations that the text read "...made by, \textbf{or on behalf of}, a natural person ...". While not opposed to this additional language, the FIN, UK, NL and S delegations share the view that the current text already covers copies made on behalf of a third person.

The F and P delegations and the Commission representative spoke against the suggested additional language.

\textsuperscript{39} Reservation by the A delegation on the restriction of the exception to natural persons only.

\textsuperscript{40} Reservation by the DK and A delegations on the terms "and for non-commercial ends".

\textsuperscript{41} Reservations on the requirement of fair compensation as in footnote 34.
c) in respect of specific acts of reproduction made by publicly accessible libraries, educational establishments or museums, or by archives, which are not for direct or indirect economic or commercial advantage;

d) in respect of ephemeral fixations made by broadcasting organisations by means of their own facilities and for their own broadcasts; the preservation of these recordings in official archives may, on the ground of their exceptional documentary character, be permitted;

e) in respect of reproductions of broadcasts made by social institutions pursuing non-commercial purposes, such as hospitals or prisons, on condition that the rightholders receive fair compensation.

42 General reservation by the F delegation on the need for an exception in this field.
43 Scrutiny reservation by the S delegation on the term "specific".
44 Scrutiny reservation by the DK and S delegations on the terms "educational establishments".
45 Reservation by the F delegation on the inclusion of educational establishments and of archives.
46 The F, IT and UK delegations questioned the appropriateness of using the term "fixations" rather than "recordings". See Annex.
47 Reservation by the NL, S and UK delegations on the terms "by means of their own facilities".
48 Scrutiny reservation by the IT delegation on the scope of this exception.
49 Reservation by the DK and S delegations on the terms "pursuing non-commercial purposes".
50 Reservation by the GR and P delegations on the terms "such as hospitals or prisons".
51 Reservations on the requirement of fair compensation as in footnote 34, as well as by the GR and D delegations.
Member States may provide for limitations to the rights referred to in Articles 2 and 3 in the following cases:

a) use for the sole purpose of illustration for teaching or scientific research, as long as, whenever possible, the source, including the author's name, is indicated and to the extent justified by the non-commercial purpose to be achieved, on condition that the rightholders receive fair compensation;

b) uses, for the benefit of people with a disability, which are directly related to the disability and of a non-commercial nature, to the extent required by the specific disability;

c) use in connection with the reporting of current events, to the extent justified by the informatory purpose and as long as, whenever possible, the source, including the author's name, is indicated;

d) quotations for purposes such as criticism or review, provided that they relate to a work or other subject matter which has already been lawfully made available to the public, that, whenever possible, the source, including the author's name, is indicated, and that their use is in accordance with fair practice, and to the extent required by the specific purpose;

e) use for the purposes of public security or to ensure the proper performance or reporting of administrative, parliamentary or judicial proceedings;

52 General reservation by the DK, S, NL, FIN and UK delegations on the structure (exhaustive list) of Article 5(3).
53 General reservation by the F delegation on the need for such an exception.
54 Reservation by the F delegation on the terms "whenever possible". Scrutiny reservation by the UK delegation on the requirement to indicate the source.
55 Reservation by the DK, A, S, NL and UK delegations on the terms "non-commercial".
56 Reservations on the requirement of fair compensation as in footnote 34, as well as by the GR, ES and A delegations.
57 Scrutiny reservation by the F delegation on the scope of this exception.
58 Request by the F and IT delegations that the terms "of excerpts" be restored.
59 Scrutiny reservation by the F delegation on the terms "whenever possible".
60 Request by the NL and D delegations that it be made clear, either by amending Article 5(3)(c) or by means of a Recital, that press cuttings are covered by this exception. See Annex.
61 Reservation by the DK and S delegations, until a satisfactory solution on the issue of free access to public documents is found (see footnote 17). The DK delegation requested the addition of the phrase "... and use to ensure the right for members of the public to have access to documents kept by public authorities."
f) use of political speeches as well as extracts of public lectures or similar works or subject matter to the extent justified by the informatory purpose and provided that, whenever possible, the source, including the author's name, is indicated;

g) use during religious celebrations;

h) replaced by Article 5(2)(e)

i) use of works located permanently in public places, provided that they do not constitute the main object of the use and to the extent justified by the informatory purpose;

j) incidental use of a work or other subject matter;

Reservation by the F delegation on the need for this exception.

Without questioning the need for such an exception at national level, the UK, P, D, S, NL and IT delegations indicated their willingness to consider whether this could be covered under Article 5(3)(k). The F delegation was opposed to such a hypothesis.

Request by the UK and F delegations that the scope of the exception be limited to buildings, works of applied art and sculpture. See Annex.

Request by the UK, S, A, NL and D delegations that the phrase "provided that ...purpose" be deleted.

Reservation by the F delegation on the need for this exception.

Request by the D and NL delegations that the terms "provided that they do not constitute the main object of the use" be added.

Request by the DK and NL delegations for an additional exception along the following lines: "use, for the purpose of communication to individual members of the public on the spot in establishments referred to in Article 5(2)(c), of works and other subject matter contained in their collections".

Request by the F delegation for an additional exception under Article 5(3) covering parody, pastiche and caricature.
use in certain other cases of minor importance where exceptions already exist\textsuperscript{71} under national law, provided that they only concern analogue uses\textsuperscript{72} and do not affect\textsuperscript{73} the free circulation of goods and services within the Community, without prejudice to the other exceptions and limitations contained in this Article.

3bis. Where the Member States may provide for an exception to the right of reproduction pursuant to paragraphs 2 and 3 of this Article, they may provide similarly for an exception to the right of distribution as referred to in Article 4 for the specific use for which the reproduction is permitted.\textsuperscript{74}

4. The exceptions and limitations provided for in paragraphs 1, 2, 3 and 3bis shall only be applied to certain special cases and shall not be interpreted in such a way as to allow their application to be used in a manner which unreasonably prejudices the rightholders' legitimate interests or conflicts with the normal exploitation of their work or other subject matter.

\textsuperscript{70} Reservation by the F delegation and scrutiny reservation by the Commission representative on Article 5(3)(k). Reservation by the UK and DK delegations on all the conditions fixed under Article 5(3)(k) and request that this paragraph be replaced by the following: "Member States may, without prejudice to paragraphs 2, 3 and 4, provide for other exceptions to the exclusive rights set out in Article 2 and Article 3, including such exceptions which have traditionally been recognised in national law."

\textsuperscript{71} Reservation by the S and NL delegations on the terms "...where exceptions already exist under national law...

\textsuperscript{72} Reservation by the D, S, NL, FIN and A delegations on the terms "only concern analogue uses and".

\textsuperscript{73} Request by the S delegation that the text read :"...and do not \textbf{significantly} affect ...".

\textsuperscript{74} Request by the UK delegation that the terms "... for the specific use for which the reproduction is permitted." be replaced by "...to the extent justified by the purpose of the authorised act of reproduction," as in the Commission's amended proposal.
CHAPTER III

Protection of technological measures and rights-management information

Article 6

Obligations as to technological measures

1. Member States shall provide adequate legal protection against the circumvention of any effective technological measures, which the person concerned carries out in the knowledge, or with reasonable grounds to know, that he or she pursues that objective.

2. Member States shall provide adequate legal protection against the manufacture, import, distribution, sale, rental, advertisement for sale or rental, or possession for commercial purposes of devices, products or components or the provision of services which:

a) are promoted, advertised or marketed for the purpose of circumvention of, or

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75 Scrutiny reservation by the UK delegation on Article 6 as proposed. Request by the UK delegation for a Recital stipulating that Article 6 applies without prejudice to national provisions concerning public policy and public security. See Annex.

76 Request by the NL delegation that the terms "...in the knowledge, or with reasonable grounds to know, that he or she pursues that objective." be replaced by :"for the purpose of infringement or knowing or having reasonable grounds to know that such circumvention will enable infringement."

77 Reservation by the F delegation on the terms "which the person concerned carries out in the knowledge, or with reasonable grounds to know, that he or she pursues that objective."

78 Request by the DK delegation for a clear link between Article 6(2) and the exceptions of Article 5. The D and NL delegations spoke against such a link.

79 Request by the S and D delegations that it be made clear that import for private purposes is excluded from the scope of Article 6(2).

80 Request by the F, UK, S and DK delegations for a Recital along the lines of Recital 21 of the Conditional Access Directive, which would make clear that it was left to national law to regulate private possession of such devices. See Annex.
b) have only a limited commercially significant purpose or use\textsuperscript{81} other than to circumvent, or

c) are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of,

any effective technological measures.\textsuperscript{82}

3. The expression "technological measures", as used in this Article, means any technology, device or component that, in the normal course of its operation, is designed to restrict acts, in respect of works or other subject matter, which are not authorized by the rightholder of any copyright or any right related to copyright as provided by law or the sui generis right provided for in Chapter III of European Parliament and Council Directive 96/9/EC.

Technological measures shall be deemed "effective" where the use of a protected work or other subject matter is controlled by the rightholders through application of a protection process, such as encryption, scrambling or other transformation of the work or other subject matter or a copy control mechanism, which achieves the protection objective.\textsuperscript{83}

\textsuperscript{81} Reservation by the UK delegation on the terms "or use".

\textsuperscript{82} Request by the NL delegation that the terms "carried out by a person knowing or having reasonable grounds to know that such devices, products or components or performance of services will be used to enable infringement." be added at the end of Article 6(2).

\textsuperscript{83} Reservation by the F delegation on the deletion of reference to access control measures under Article 6(3).
4. The legal protection provided for in paragraph 1 shall not be applicable

a) to the extent that the circumvention of a technological measure enables a beneficiary of an exception or limitation provided for in national law in accordance with Article 5 to benefit from that exception, and

b) where that beneficiary has legal access to, or possession of, the protected work or other subject matter.

This paragraph shall not apply to digital private copying.

**Article 7**

Obligations concerning rights-management information

1. Member States shall provide for adequate legal protection against any person knowingly performing without authority any of the following acts:

a) the removal or alteration of any electronic rights-management information;

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84 Reservation by the NL delegation and scrutiny reservation by the UK, S, D, DK and F delegations on Article 6(4). The F delegation would prefer a provision obliging rightholders to provide beneficiaries of exceptions with means of access to works protected by technological measures.

85 Request by the NL, S, DK, P and ES delegations that Article 6(4) apply also in connection with Article 6(2). The IT and D delegations were opposed to such a link. Scrutiny reservation by the UK delegation.

86 Reservation by the French delegation on the term "or limitation". See Annex.

87 Scrutiny reservation by the S and D delegations on the need for the words "in accordance with Article 5".

88 Reservation by the A, P and S delegations and scrutiny reservations by the D, DK and IT delegations on Article 6(4)(b). See Annex.

89 Reservation by the A, IRL, DK, P and D delegations on the absolute exclusion of digital private copying from Article 6(4). Scrutiny reservation by the GR, IT and UK delegations. The NL delegation suggested that a distinction be made between on-line and off-line acts, rather than between digital and analogue technologies.

90 Reservation by the F delegation on the term "knowingly".
b) the distribution, importation for distribution, broadcasting, communication or making available to the public of works or other subject matter protected under this Directive or under Chapter III of Directive 96/9/EC from which electronic rights-management information has been removed or altered without authority,

if such person knows, or has reasonable grounds to know, that by so doing he is inducing, enabling, facilitating or concealing an infringement of any copyright or any rights related to copyright as provided by law, or of the *sui generis* right provided for in Chapter III of Directive 96/9/EC. 91

2. The expression 'rights-management information', as used in this Article, means any information provided by rightholders which identifies the work or other subject matter referred to in this Directive or covered by the *sui generis* right provided for in Chapter III of Directive 96/9/EC, the author or any other rightholder, or information about the terms and conditions of use of the work or other subject matter, and any numbers or codes that represent such information.

The first subparagraph shall apply when any of these items of information is associated with a copy of, or appears in connection with the communication to the public of, a work or other subject matter referred to in this Directive or covered by the *sui generis* right provided for in Chapter III of Directive 96/9/EC.

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91 Reservation by the UK delegation on Article 7(1), as it considers that it should be made clear that the removal or alteration of electronic rights-management information caused inadvertently by broadcasters in the course of their normal day-to-day activity does not fall within the scope of that paragraph.
CHAPTER IV

Common provisions

Article 8

Sanctions and remedies

1. Member States shall provide appropriate sanctions and remedies in respect of infringements of the rights and obligations set out in this Directive and shall take all the measures necessary to ensure that those sanctions and remedies are applied. The sanctions thus provided for shall be effective, proportionate and dissuasive and act as a deterrent to further infringement.

2. Each Member State shall take the measures necessary to ensure that rightholders whose interests are affected by an infringing activity carried out on its territory can bring an action for damages and/or apply for an injunction and, where appropriate, for the seizure of infringing material as well as of devices referred to in Article 6(2).

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92 Request by the UK delegation that the term "illicit" be inserted before "devices".
93 Request by the NL and ES delegation that the text read "...devices, products or components ..."
94 Scrutiny reservation by the S delegation on Article 8(2).
95 Request by the D delegation that mention be made of the possibility to apply for an injunction also against the act of advertising devices or services mentioned in Article 6(2).
3. Member States shall ensure that rightholders are in a position to apply for an injunction against intermediaries whose services are used by a third party to infringe a copyright or related right. Request by the D delegation that it be made clear that the terms "to infringe" would not be interpreted as introducing a requirement to prove intentional behaviour.

**Article 8 bis**

Continued application of other legal provisions

This Directive shall be without prejudice to provisions concerning in particular patent rights, trade marks, design rights, utility models, topographies of semi-conductor products, type faces, conditional access, the protection of national treasures, laws on restrictive practices and unfair competition, trade secrets, security, confidentiality, data protection and privacy, access to public documents, and the law of contract.

**Article 9**

Application over time

1. The provisions of this Directive shall apply in respect of all works and other subject matter referred to in this Directive which are, by the date referred to in Article 11(1), protected by the Member States' legislation in the field of copyright and related rights, or which meet the criteria for protection under the provisions of this Directive or the provisions referred to in Article 1(2).

Request by the D delegation that it be made clear that the terms "to infringe" would not be interpreted as introducing a requirement to prove intentional behaviour.

Scrutiny reservation by the S, A and UK delegations on Article 8(3).

Request by the F and ES delegations that the explicit mention of Article 5(1) be restored.

Request by the NL delegation that Article 8(3) contain a knowledge requirement. The same delegation reiterated the request for a Recital along the following lines: "(Whereas) Article 5(1) is without prejudice to the determination [by law] of liability of service providers in relation to otherwise unauthorised use [by third parties] of a work or other subject matter."

Scrutiny reservation by the UK delegation on Article 8bis in relation to Recital 36ter.
2. This Directive shall apply without prejudice to any acts of exploitation performed before the date referred to in Article 11(1).

3. Deleted.\textsuperscript{101}

4. Deleted\textsuperscript{102}.

\textbf{Article 10}\textsuperscript{103}

Technical adaptations

0.\textsuperscript{104} Directive 91/250/EEC is hereby amended as follows:

a) Article 7(1)(c) and the reference to that subparagraph at the beginning of Article 7(1) are deleted.

b) Article 7(3) is replaced by the following:

"3. Member States may provide for the seizure of any means referred to in Article 7A."

c) A new Article 7A is inserted as follows:

(Equivalent to Article 6 of this Directive).

\textsuperscript{101} Scrutiny reservation by the UK, S, F, ES and D delegations on the deletion of paragraph 3.

\textsuperscript{102} Scrutiny reservation by the ES and D delegations on the deletion of paragraph 4.

\textsuperscript{103} Request by the DK, UK, NL and S delegations for further horizontal harmonisation, in particular as regards the definitions of the rights and any new exceptions thereto, without prejudice to specific solutions found elsewhere in earlier Directives, such as decompilation with regard to computer software. The DK delegation maintained its proposal, contained in Annex II of document 11435/99 COR 1.

\textsuperscript{104} Reservation by the F delegation on paragraph 0. The NL delegation entered a reservation on paragraph 0 in relation to the current wording of Article 6. Scrutiny reservation by the ES and IRL delegations until the wording of Article 6 has been finalised.
1. Directive 92/100/EEC is hereby amended as follows:
   
   a) Article 7 is deleted.

   b) Article 10(3) is replaced by the following:

   "3. The limitations may only be applied to certain special cases and may not be interpreted in such a way as to allow their application to be used in a manner which unreasonably prejudices the rightholders' legitimate interests or conflicts with normal exploitation of their subject matter".

2. Article 3(2) of Directive 93/98/EEC is replaced by the following:

   "2. The rights of producers of phonograms shall expire 50 years after the fixation is made. However, if the phonogram is lawfully published during this period, the rights shall expire 50 years from the date of the first such publication. If no lawful publication takes place during the period mentioned in the first sentence, and if the phonogram is lawfully communicated to the public during this period, the rights shall expire 50 years from the date of the first such communication to the public."

1. **Article 11**

   Final provisions

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than ...(18 months following its publication in the *Official Journal of the European Communities*).\(^{105}\) They shall immediately inform the Commission thereof and shall also communicate to the Commission the text of the provisions of domestic law which they adopt in the field governed by this Directive.

\(^{105}\) Request by the NL delegation for more time for the transposition of the Directive.
When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

2. Not later than at the end of the second year after the date referred to in paragraph 1 and every three years thereafter, the Commission shall submit to the European Parliament, the Council and the Economic and Social Committee a report on the application of this Directive, in which, inter alia, on the basis of specific information supplied by the Member States, it shall examine in particular the application of Articles 5, 6 and 8. Where necessary to ensure the functioning of the Internal Market pursuant to Article 14 of the Treaty, it shall submit proposals for amendments to this Directive.

3. Protection of rights related to copyright under this Directive shall leave intact and shall in no way affect the protection of copyright.

4a) A Contact Committee shall be set up under the aegis of the Commission. It shall be composed of representatives of the competent authorities of the Member States. It shall be chaired by a representative of the Commission and shall meet either on the initiative of the Chairman or at the request of the delegation of a Member State.  

4b) Deleted.

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106 Reservation by the UK, IRL, D and DK delegations on the need of institutionalising such a Committee.
107 Request by the GR and IT delegations for a Recital clarifying that any statements made by a representative of a Member State in the Contact Committee would not be used against the Member State concerned in an infringement procedure.
108 The IT delegation would prefer a requirement that a meeting be requested by more than one Member State.
109 The Commission representative would prefer the tasks of the Contact Committee to be set out in this provision rather than in Recital 39. The UK delegation would support this view if the Contact Committee were to be retained. See Annex.
Article 12

Entry into force

This Directive shall enter into force on the twentieth day following its publication in the Official Journal of the European Communities.

Article 13

Addressees

This Directive is addressed to the Member States.

Done at …………,

For the European Parliament
The President

For the Council
The President
Amendments suggested by the Finnish Presidency

A. Amended or new Recitals

(15) Whereas this Directive should harmonise further the author's right applicable to the communication to the public of works; whereas this right should be understood in a broad sense covering all communication to the public not present at the place where the communication originates; whereas this right covers any transmission or retransmission of a work to the public by wire or wireless means, including broadcasting; whereas this right does not cover any other acts;

(21) Whereas a fair balance of rights and interests between the different categories of rightholders, as well as between the different categories of rightholders and users of protected subject matter must be safeguarded; whereas the existing exceptions to the rights as set out by the Member States have to be reassessed in the light of the new electronic environment; whereas existing differences in the [...] exceptions to certain restricted acts have direct negative effects on the functioning of the Internal Market of copyright and related rights; whereas such differences could well become more pronounced in view of the further development of transborder exploitation of works and cross-border activities; whereas in order to ensure the proper functioning of the Internal Market, such exceptions should be defined more harmoniously; whereas the degree of their harmonisation should be based on their impact on the smooth functioning of the Internal Market;

(23) Whereas the exclusive right of reproduction should be subject to an exception to allow certain acts of temporary reproduction, which are transient or incidental reproductions, forming an integral part of a technological process carried out for the sole purpose of enabling the use of a work or other protected subject matter and which have no separate economic value on their own; whereas under these conditions this exception should include acts which facilitate browsing as well as acts of caching, including those which facilitate the effective functioning of transmission systems [...];

(24bis) Whereas, in certain cases of exceptions, rightholders should receive fair compensation to compensate them adequately for the use made of their protected works or other subject matter; whereas, when determining the form, modalities and possible level of such fair compensation, account should be taken of the particular circumstances of each case; whereas, when evaluating the circumstances, valuable criteria would be the degree of benefit for the user and/or of possible harm to the rightholders resulting from the act in question; whereas, therefore, in certain de minimis cases, such as reproductions on paper made by students for their own private study, no obligation for payment may arise; whereas, in cases where rightholders have received payment in some other form, no specific or separate payment may be due;
(24ter) Whereas the Member States may provide for fair compensation for rightholders also when applying the optional provisions on exceptions which do not require such compensation;

(30ter) Whereas the legal protection of technological measures is without prejudice to the application of any national provisions which may allow the private possession of devices, products or components for the circumvention of technological measures;

(31) Whereas such a harmonised legal protection should extend to the protection of computer programs but does not otherwise affect the specific provisions of protection provided for by Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs, as amended by Directive 93/98/EEC; whereas in particular, it shall not inhibit decompilation permitted by that Directive;

(31bis) Whereas the legal protection of technological measures applies without prejudice to public policy or public security;

(36) Whereas Member States should provide for effective sanctions and remedies for infringements of rights and obligations as set out in this Directive; whereas they shall take all the measures necessary to ensure that those sanctions and remedies are applied; whereas the sanctions thus provided for shall be effective, proportionate and dissuasive and should include the possibility to seek damages and/or injunctive relief and, where appropriate, to apply for seizure of infringing material;

(36bis) Whereas, in particular in the digital environment, the services of intermediaries may increasingly be used by third parties for infringing activities; whereas in many cases such intermediaries are best placed to bring an end to such infringing activities; whereas, therefore, without prejudice to any other sanctions and remedies available, [...] rightholders should have [...] the possibility of applying for an injunction against an intermediary who carries a third party's infringement of a protected work or other subject matter; whereas this possibility should be available even where the acts carried out by the intermediary are exempted under Article 5; whereas the conditions and modalities relating to such injunctions should be left to the national law of the Member States;

(36ter) Whereas the protection provided under this Directive should be without prejudice to national or Community legal provisions in other areas, such as industrial property, data protection, conditional access, and access to public documents, which may affect the protection of copyright or related rights;

(39) deleted.
B. Amended Articles

Article 5(2)

2. Member States may provide for exceptions to the exclusive right of reproduction provided for in Article 2 in the following cases:

Article 5(2)(b)

b) in respect of reproductions on any other [...] medium made by a natural person for private use and for non-commercial ends, on condition that the rightholders receive fair compensation;

Article 5(2)(d)

d) in respect of ephemeral recordings of works made by broadcasting organisations by means of their own facilities and for their own broadcasts; the preservation of these recordings in official archives may, on the ground of their exceptional documentary character, be permitted.

Article 5(3)

3. Member States may provide for exceptions to the rights referred to in Articles 2 and 3 in the following cases:

Article 5(3)(c)

c) use for informing purposes of published articles on current topics or of broadcast works or other subject matter of the same character, in cases where such use is not expressly reserved, and as long as the source, including the author's name, is indicated, or use in connection with the reporting of current events, to the extent justified by the informing purpose and as long as, whenever possible, the source, including the author's name, is indicated;
Article 5(3)(i)

i) use of works, such as works of architecture or sculpture, located permanently in public places [...] ;

Article 5(3)(k)

k) use in certain other cases of minor importance where exceptions already exist under national law, provided that they only concern analogue uses and do not affect the free circulation of goods and services within the Community, without prejudice to the other exceptions [...] contained in this Article.

Article 5(4)

4. The exceptions [...] provided for in paragraphs 1, 2, 3 and 3a shall only be applied to certain special cases and shall not be interpreted in such a way as to allow their application to be used in a manner which unreasonably prejudices the rightholders' legitimate interests or conflicts with the normal exploitation of their work or other subject matter.

Article 6(4)

4. The legal protection provided for in paragraph 1 shall not be applicable

a) to the extent that the circumvention of a technological measure enables a beneficiary of an exception [...] provided for in national law in accordance with Article 5 to benefit from that exception, and

b) where that beneficiary has legal access to [...] the protected work or other subject matter.

This paragraph shall not apply to digital private copying.
Article 11(4b) (replacing Recital 39)

4b) The tasks of the Committee shall be as follows:

- to facilitate the effective implementation of this Directive by organising consultations on all questions deriving from its application;

- to facilitate the exchange of information on relevant developments in legislation and case-law, as well as relevant economic, social, cultural and technological developments.