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# Copyright (and) Culture: the governance of audiovisual archives

Katharine Sarikakis, Olga Kolokytha and Krisztina Rozgonyi

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## Abstract

**Purpose** – *This paper asks the following research question: What are the policy dynamics of copyright regulation for digital audiovisual (AV) archives in Europe and what is their potential impact? The paper aims to discuss the social relevance of archives, European cultural policies targeting operationalisation of these archives and underpinnings and sought implementation of copyright policies.*

**Design/methodology/approach** – *Drawing upon three European cultural policy approaches, namely, democratisation of culture, cultural democracy and governmentalisation of culture, the discussion aims to situate current legislative attempts within digital content governance and examine policy as to its proclaimed aims of broadening access. The authors deployed macro-level legal analyses of key legislative acts of the European Union (EU) with direct relevance to the availability of and accessibility to digital historical content by European citizens. The authors juxtapose relevant cultural policy interventions with the corresponding legal rules and norms in copyright legislation. The authors evaluate the ways in which normative arguments are reflected in these acts and propose reflections on documented and possible impact.*

**Findings** – *The authors argue that the EU's legal direction is characterised by uncertainty of conviction and internal tensions regarding the place of common cultural heritage in EU policy, and they present a restrictive acknowledgement of what culture and heritage policy entail and, by extension, how cultural matters should be governed. Cultural heritage AV archives are examples of digital content whose governance was almost "automatically" linked to copyright.*

**Originality/value** – *The paper links copyright and cultural policy and demonstrates that although the EU cultural policy is based on access, availability and usability, copyright is unnecessarily restraining them with the improper design and implementation of exceptions and limitations. This reflects EU's focus on the single market, which, in this case, is pursued at the expense of building of a European identity with shared memories.*

**Keywords** *Cultural policy, Audiovisual archives, Copyright governance, Cultural heritage online, Inclusiveness and equality*

**Paper type** *Research paper*

## Introduction

Debates on copyright regimes are becoming increasingly central in policy dynamics of cultural diversity (Sarikakis, 2015), of freedom of expression (Shaver and Sganga, 2010) or of gender and culture (Katyal, 2014). Copyright affects the conditions under which the public can use cultural content in terms of:

- *culture and culture-making* because copyright regulates access to and the production and circulation of views, meanings and ideas entailed in cultural goods made available to the public;
- *access* because it puts burdens on the practice of accessing and imparting information and to the right to culture (UNESCO, 1970); and

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- *dissemination* because it affects the way in which cultural goods are circulated in the era of sharing, remixing and nonprofessional production (Sarikakis and Rodriguez-Amat, 2014a).

These core elements of the operationalisation of the right to culture presuppose cultural autonomy and preservation of societies and individuals and are entangled between a delicate balancing of competing rights of private ownership versus public interest of collective use of protected intellectual property (Steiner, 1998). There are several dimensions in copyright regulation that impact on accessibility and use of cultural products, such as the length of copyright protection, 50 vs 70 years, limitations and exceptions to copyright protection or the regulation of exclusivity rights and dissemination. It is arguable that fundamental freedoms of European citizens to access their diverse cultural assets and to exercise their rights on free expression entail that copyright should be viewed as an critical instrument of cultural policy (Towse, 2011).

Among European citizens, there is an increased interest in cultural heritage content online as a primary source for learning about and confronting Europe's recent and distant past through viewing and utilising such material for new audiovisual (AV) content (Verbruggen *et al.*, 2014). Hence, archives are both distributors of historical content and sources for the creation of new content. Re-using AV archive materials as a "creative tool" is a growing trend that has become indispensable in television programme making (Goblot, 2015, p. 1). AV production and consumption, as an integral part of European content industries, are of key economic, social and cultural importance in Europe also in their contribution to the European Union (EU) gross domestic product (EC, 2016) and by catalysing spill-over effects on other economic and social contexts (EC 2010b, 2010c).

New technologies and digitisation have impacted on incentives to creativity. Although copyright policy has historically aimed at addressing incentives (Merrill and Raduchel, 2013), today digital content is being monetised on a basis that is fundamentally different (Sarikakis and Rodriguez-Amat, 2015b). This calls for more careful empirical research on the real effects of those changes to the fundamental claims of copyright protection (Towse, 2015).

Within this context, this paper's research question is what are the policy dynamics of copyright regulation for digital AV archives in Europe and what is their potential impact? It discusses the social relevance of archives, European cultural policies targeting operationalisation of these archives and underpinnings and sought implementation of copyright policies. We deployed macro-level legal analyses of key legislative acts of the EU with direct relevance to the availability of and accessibility to digital historical content by European citizens. We therefore juxtapose relevant cultural policy interventions with the corresponding legal rules and norms in copyright legislation. We aim to evaluate the ways in which normative arguments are reflected in these acts and propose reflections on documented and possible impact.

### The democratic case for broad access to archives

AV archives constitute the sources for the better understanding of and reflection upon histories and social change, not only in temporal and spatial dimensions amounting to the broadly defined "cultural heritage" of a nation and/or country but also in a more transnational view, the EU itself (Goblot, 2015; Hagedoorn, 2013; de Leeuw, 2012; Paalman, 2015).

The Council of Europe (CoE) laid down first the key elements on the protection of the European AV heritage in the European Convention for the protection of the audiovisual heritage (CoE, 2001). The Convention defines AV heritage "both as an art form and as a record of our past by means of its collection, its preservation and the availability of moving image material for cultural, scientific and research purposes in the public interest". It requires national governments to introduce, by legislative or other appropriate means, the

obligation to deposit moving image material part of their AV heritage and designate public institutions as archive bodies tasked to ensure “the preservation, documentation, restoration and availability for consultation of deposited moving image material” (CoE, 2001: Article 5 and 6). Only 19 Member States (MSs) signed the Convention – and even fewer have ratified it[1]. Meanwhile, the Convention has not touched upon copyright conditions for the use of AV works.

According to the 2015-2018 Work Plan for Culture (EC, 2014b), accessible and inclusive culture is a priority. There is an articulated need, identified by cultural organisations in the structural dialogue between the European Commission (EC) and the cultural sector (Saldanha *et al.*, 2015), to find a common language, to open up, collect and analyse data, as well as translate and share them.

The attention on cultural diversity itself, from a copyright perspective, has developed gradually. The INFOSOC Directive (EP and the Council, 2001) did not pay much attention to cultural diversity, whereas the Digital Agenda in 2010 (EC, 2010a) takes into consideration the need to access diverse content (Mazziotti, 2015). With the subsequent Orphan Works Directive (EP and the Council, 2012), a particular emphasis is placed on cultural heritage and digitisation.

Digitisation of archives serves three purposes: to preserve cultural heritage; to provide access to culture as part of institutions' fundamental role; and to engage audiences as part of an audience development strategy from cultural organisations (Saldanha *et al.*, 2015). These purposes are reflected within the three main approaches in European cultural policy that are of relevance to our analysis: democratisation of culture, cultural democracy and governmentalisation of culture, all of which contain a different amount and degrees of regulation, providing different qualities of access to culture.

Democratisation of culture has served as one of the core underpinnings of cultural policy in post-war Europe. Until the 1960s, this model was associated with a drive to provide public access to European cultural works, mainly of the so-called “High Arts”. The core role of the State in this model was to regulate access to culture and to extend it to socio-economic strata with limited resources that were excluded from entering the realm of the High Arts. This top-down approach had a further regulatory effect on culture because it determined which works were deemed important for the public (Evrard, 1997). The concept of cultural democracy emerged around the 1970s (Gattinger, 2012) and emphasised diversity in terms of access of a variety of cultural forms and expressions and inclusion and equality of opportunity in accessing culture. Within this approach, the State not only provided access to cultural works but also supported the production and distribution of culture, recognizing citizens as culture-makers. Its role remained regulatory but through minimum intervention in the governance of cultural institutions (Evrard, 1997). The most recent cultural policy model, governmentalisation of culture (Pyykkönen, 2012), is linked with the development of the creative industries and sees culture predominantly as an economic factor. Creativity in this model is understood as market function and within the framework of the creative industries (Pyykkönen, 2012). These models are inextricably linked with the fundamental democratic principles, of inclusiveness and equality connected to access to cultural heritage through the use of archives, especially in the era of digitalisation. Digital content, however, is regulated by copyright rather than a cultural policy framework. Because the polity moved into digitising archives, it is important to critically inquire the ways in which copyright and digitisation policies converge or collide.

The legal basis of cultural policy-making in Europe is complex, and the competencies of the EU in the field of culture are rather limited (Treaty on European Union and the Treaty on the Functioning of the European Union, 2012, Article 167[1], [4] and [5]), (Sarikakis, 2007; Irion and Valcke, 2015), although they are well grounded in the case of copyright. Also, legal instruments have secured a place for the EU in cultural policy-making to serve European integration, though left culture-making with the MSs (Treaty on European Union and the

Treaty on the Functioning of the European Union, 2012, Article 167(2), (Charter of Fundamental Rights of the European Union, 2000, Article 22) (Treaty of Lisbon, 2007).

Copyright policy-making prior to 2009 has also had stable basis rooted in competencies of the EU with regards to the internal market (Treaty on European Union and the Treaty on the Functioning of the European Union, 2012, Article 114), even though of some controversies in policy aims (Ramalho, 2016). Since the enactment of possible measures for the creation of an EU-wide copyright title to “provide uniform protection of intellectual property rights throughout the Union” (Treaty on European Union and the Treaty on the Functioning of the European Union, 2012, Article 118), it has gained new and strong support.

### Digitisation of cultural audiovisual heritage in Europe

The digitisation of archives derives from an understanding that it is important to enable accessible and usable historical material that is based on EU policy values of cultural democracy, operationalised in the eContent (2001-2004) and eContentplus (2005-2008) programmes. eContent focused on accessibility of digital content in Europe, whereas its successor – eContentplus – focused on content for services of public interest, particularly in education, culture and science (EC, 2007).

In 2006, the recommendation on the digitisation and online accessibility of cultural material and digital preservation aimed to establish a European Digital Library for cultural heritage online (EC, 2006). Europeana is the core initiative that provides a platform for access to archives from around 2000 cultural organisations across Europe. Europeana started as a political project to unite Europeans by enabling access to around 48 million digitised items (Europeana, 2014a). Although the principles of online accessibility of cultural material was on the agenda of the Commission as early as 2005 with the Digital Libraries Initiative (EC, 2005), connecting cultural heritage to the media industries, it was left to the MSs to decide on how to contribute to Europeana (EC, 2011a, pp. 5-6).

A combination of hurdles makes access to digitised cultural heritage materials challenging, such as sporadic digitisation efforts, lack of a pan-European aggregator for metadata and of interoperable protocols for cataloguing (Verbruggen *et al.*, 2014). Archive usability is also limited because of the lack of available user engagement services (Verbruggen *et al.*, 2014). Moreover, importantly, regulatory problems derive from determining copyright ownership of AV works preserved by European cultural heritage institutions (CHIs), rights clearance problems (Favale *et al.*, 2016), as well as the widely differing scope of copyright protection in regards to the type of works (Schroff, 2015). Digitisation is costly and mainly funded by subsidies and public money (Poll, 2010, p. 127). The estimated costs of digitizing the collections of European museums, archives and libraries is €100bn. Preserving this material and ensuring access to it is estimated in a range of €10-25bn for a period of 10 years. However, the contradiction between policy claims and policy effect is that although archival material is digitised to become widely accessible, it is effectively accessible only to a few.

### The copyright factor in online audiovisual cultural heritage

Copyright-related barriers are one of the most significant hurdles for CHIs before they can provide access to their collections (Kalshoven, 2014). AV availability online requires complex licensing, associated with a large number of copyright holders, who must be contacted for permissions, that might also trigger unexpected “transaction costs” for CHIs (Schroff, 2015; Guibault and Axhamn, 2011, p. 510).

Because of historical and jurisdictional reasons, the set of rights necessary to grant online use of AV products vary significantly across different European countries. Works are geo-locked (Kalshoven, 2014) and the implementation of a single European copyright title is still missing[2]. Therefore, the geographical scope of licences is limited to the territory of

the countries granting them, thus licensing and rights clearance is provided on a country-by-country basis.

Furthermore, “mass digitisation” efforts by public institutions (libraries, museums and archives) are limited to books and journals – though *not* applicable to AV materials – and by the terms and conditions of the *Key Principles of the Digitisation and Making Available of Out-Of-Commerce Works* (MoJ, 2011) agreed by key European cultural institutions and collecting societies. Also, the MoJ does not provide a solution “to the astronomical transaction costs related to the rights clearance for making these works available to the public” even in the print sector, therefore cannot serve for any best practice either (Guibault, 2015, p. 173).

Another area of concern for CHIs is the question of so-called “orphan works”. It refers to works still under copyright protection but whose authors or other rightholders are unknown, cannot be located or contacted to obtain copyright permissions. This phenomenon is typical for older elements of collections of CHIs. In copyright terms, digital preservation and online availability of cultural heritage requires new permissions from rightholders. If one or more right-owners remain unidentifiable or untraceable, works should be declared as “orphan”. However, without licences, CHIs risk infringing copyright. The Orphan Works Directive (EP and the Council, 2012) has only partly addressed licensing hurdles (Gompel, 2007), (EC, 2011b). Even after implementing the rules of the Directive, it is still unclear what constitutes diligent research to be undertaken by CHIs, notwithstanding the high costs associated with search requirements (Favale *et al.*, 2016). Also, the Directive is non-applicable to works that were not published first in the EU or to broadcasted materials produced before 2002 (Schroff, 2015).

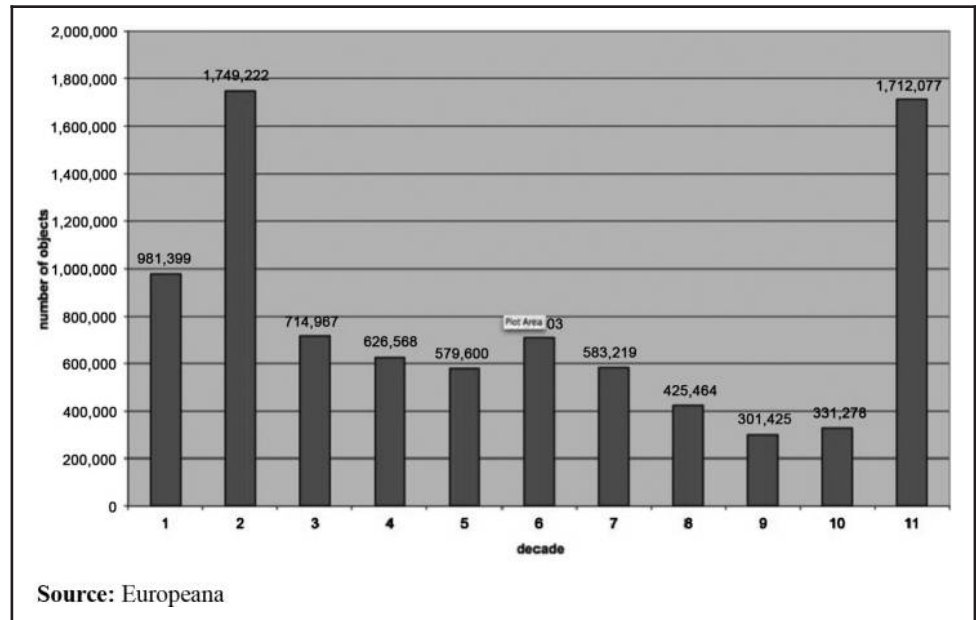
The length of copyright protection (CEC, 1993) is another problematic area: extension of copyright to 70 years (EP and the Council, 2011) blocks the opening up of European cultural heritage archives. A major part of the collections of European CHIs is still under copyright limitations but out-of-commerce. Rightholders may have no incentive – or no will – to digitize works that are out-of-commerce; therefore, CHIs are tasked with digitisation. This requires additional costs of rights clearance CHIs are usually unable to cover (Europeana, 2014). The result is the so-called “20th century black hole” as there are “significantly fewer works from the mid to late 20th century available on Europeana than works from the centuries before (many of which are clearly in the public domain) or from the 21st century (many of which are still available commercially)” (Europeana, 2014, p. 18). The figure below demonstrates this “black hole”, which is particularly visible for the 1980, 1990 and 2000 decades (Figure 1).

Complex and varying copyright frameworks, costly and burdensome licensing, uncertain implications of new licensing regimes on orphan works and an excessively long protection term is the legal and policy framework within which CHIs must fulfil their public mission. The EC’s aim to provide “Europe’s diverse and multilingual heritage a clear profile on the Internet” (EC, 2006. Recital 3) set an ambitious agenda for the digital future, but legislative changes and implementation have failed in achieving the expected results. We argue that the legislative introduction of “limitations and exceptions” to EU copyright law, as a solution to these gridlocks, represents a clear case where competing and vague policy fundamentals have resulted in highly controversial outcomes in terms of democratic access of EU citizens to their cultural heritage.

### Exceptions and limitations: copyright and accessibility of audiovisual cultural heritage

“Limitations and exceptions” to copyright and related rights are designed in EU copyright law on the basis of cultural, scientific and educational uses. One of their purpose is, arguably, to lighten CHIs of transactional costs and to provide access to works for a broader base of citizens. Article 5 of the INFOSOC Directive (EP and the Council, 2001) refers to exceptions and limitations to reproduction rights and to the rights to communicate



**Figure 1** Twentieth/twenty-first century over decades

to the public. They are categorised into two sets of legal provisions. Those provisions that were critical mainly for industry to eliminate legal risks while transmitting digital contents online and had a greater impact on the Internal Market, have been made obligatory (EC, 1997, p. 28). Meanwhile, those relevant to cultural policies, such as specific acts of reproduction – making of digital copies – and communication or making available accessibility via digital networks, have been adopted as *optional* exceptions, meaning MS were “free to choose to keep or introduce these exceptions at their national level” (EC, 1997, p. 28). They were meant to allow MSs to maintain their jurisdiction over culture but without guidance on their enforcement or supporting actions for the CHIs who should have benefitted from them. These policies of implementation have largely contributed for more than a decade to the problems CHIs have faced and are facing even today. In other words, while the EU was firm in enforcing its policies with regards to the single market, it has at the same time been vague and inconsistent with its declared cultural policy objectives when implementing the supporting copyright rules.

The implementation of the relevant provisions of Article 5 (2 [c] and 3 [n]) is uneven regarding the beneficiary CHIs, the types of works covered by the exception and the mode of digital archiving (EC, 2013, p. 19). The result is an “excessively divergent” harmonisation with “a negative impact on collaborative digitisation projects across countries” (EC, 2014a, p. 30) creating “an obstacle to cross-border cooperation between cultural heritage institutions and libraries” (EC, 2014a, p. 40). The exceptional rules also restrict such activities to dedicated (physical) premises of educational or research institutions in an extremely limited manner, not in line either with the technological possibilities or with the legitimate expectations of users (Europeana, 2014, Q32.).

The legal uncertainty regarding the manner in which digitised material may be used and reproduced, constitutes a major disincentive (Guibault, 2010, p. 60). Moreover, and at a macro-level, in some cases, it contradicts the EC’s own initiatives<sup>[3]</sup> and proclaimed policy aims. This failure also discriminates citizens in some MSs by means of enjoying a lower level of access to their cultural heritage collections or on grounds of their incapability to travel to the “physical premises” of institutions to access their archives (Europeana, 2014, Q21, Q22). This is a contradictory outcome as to the initial aim envisioned in those policies (EC, 2006) and arguably overall in the European integration project. Today significant

advocacy efforts[4] target the unnecessary copyright demands hindering the access to an open and equitable European cultural public sphere.

The vague and "optional character of the limitations" (Guibault, 2010, p. 13) in European copyright law and their "incomplete harmonization" (Schroff, 2015, p. 93) allows for at least two possible interpretations: the uncertainty of conviction and the inability to mitigate conflicting interests by European policymakers to clearly and effectively address major issues of the future availability of European cultural heritage and support the necessary political and policy actions to be taken.

This ambiguity, as incorporated in the INFOSOC Directive, is even more worrisome given that the potential consequences were already known by the EC as early as 1997. The Directive was adopted in 2001 and, by then, the EC was fully aware of the problems faced by European CHIs "with respect to exceptions set out for the benefit of institutions accessible to the public, such as libraries and archives, since the international conventions do not provide for minimum standards in this area" (EC, 1997, p. 12). Also, the representation of conflicting and competing interests in copyright protection on the internet had been studied at that time by scholars, pointing to the various technical, economic and social issues that need to be considered, the interests of the "public domain", "indirect revenue" and "direct revenue" constituencies and the policy options to be weighed (Mansell and Steinmueller, 1998). The vagueness and optionality of the limitations and exceptions was a clear sign of the representation of those conflicting interests (Dreier, 2010), whereas the resulting problems have contributed to European cultural policy failures.

Thus the burden of political decisions was left to the individual States and effectively to the regulating impact of the market. Thus the burden of political decisions was left to the individual States and effectively to the regulating impact of the market. Vague policies, missed opportunities and contradictory initiatives are the main output of Europe's copyright saga, exposing CHIs to "big [...] rights owners to determine the extent to which the dissemination of knowledge can take place exclusively through contractual arrangements" (Guibault, 2010, p. 64), thus hindering them to fulfil their public service mission.

### Reforming the legal barriers of audiovisual cultural heritage online

Following up these controversial antecedents (Grad-Gyenge, 2015) and ongoing attempts (EC, 2008, 2009, 2011c) – including engagement with industry-led solutions for "tangible results" where "rapid progress was deemed necessary and possible" (EC, 2012, p. 3) – the EC launched a major consultation on the future of the copyright with the overall aim to ensure that it "stays fit for purpose" in the digital environment (EC, 2013). Concerns regarding the competitiveness of the European AV sector – with regards to copyright enforcement and the impact of copyright infringement on the EU AV industry – called for fast action (Blázquez *et al.*, 2015). The consultation came to its final stage and the summary of the responses were published in July 2014 (EC, 2014a), whereas a draft White Paper on 'A copyright policy for creativity and innovation in the EU (EC, 2014c) was "leaked", discussing access to digital archives in a potential EU-level copyright reform. The White Paper was rejected. The European Parliament (EP) elections and the formation of the new Commission further disrupted the process.

The ten priorities of the newly appointed Commission included pledges on modernising copyright rules (Juncker, 2015, p. 5). "Modernization of copyright law" became a key element of the Digital Single Market Strategy (EC, 2015c). Meanwhile, the EP – based on the report prepared by MEP Julia Reda (Reda, 2015; MEP, 2015, p. 9) – adopted a resolution (EP, 2015a) determining the main purpose of exceptions, which is the provision of *equal rights on and offline* and recommending making exceptions mandatory to ensure the public benefits also in cross-border contexts (EP, 2015a, p. 39). The "political preview" on copyright reform (EC, 2015a) acknowledged problems generated by fragmentation of copyright rules in the EU, particularly visible in the area of exceptions, and in case of



restricted access to CHIs digitised collection being technologically outdated (EC, 2015b, p. 7), but it is still unclear in which ways and to what extent the wider context of availability of cultural heritage online and citizens engagement is envisioned. CHIs have also voice their recommendations on necessary policy change (Recommendations by European library and other cultural heritage organisations, 2016).

## Conclusions

European copyright legislation has systematically fallen short of enabling European citizens to fully participate in the digital public space and access, enjoy and explore a significant part of their cultural heritage. These structural failures to fulfil democratic imperatives and to provide comprehensive cultural policies were acknowledged by the EC itself (EC, 2013, p. 36) and contrast its own political and policy agenda when setting up Europeana as a digital-only pan-European archive. These shortcomings are even more worrisome when considering other failed attempts of the EC to enhance cultural diversity in the digital and online world (Chakravarty and Sarikakis, 2006; Sarikakis, 2015).

Since the 2008 launch of Europeana, a *single* European access-point was the only major idea pursued to serve the needs of European citizens. EC policy documents clearly omit other options of making available digitalised cultural heritage materials. Europeana's strategy claims no less than to "transform the world with culture" (Europeana, 2014, p. 7). However, it is an economic rather than social benefit projected, proposing uplifting tourism numbers to a culturally connected Europe (Europeana, 2014, p. 19).

The EU is leaning heavier towards the governmentalisation of culture approach and the *marketisation* in the new Creative Europe programme. In the new Creative Europe programme, funding is 9 per cent higher than the previous Culture and Media programmes with the Media strand, which is associated with the market, receiving 56 per cent of the total programme budget (EP, 2015b). The European Agenda for Culture (Council of the EU, 2007) reflects long-held tensions about culture and the role of the EU, in that it views culture as an economic factor and yet with the responsibility for social cohesion (Sarikakis, 2007). Cultural archives occupy a low position in the priority of policies on the one hand, yet their content is a core source for the digital market.

Copyright should reflect the needs of the digital age with regards to fostering the generation and dissemination of creativity (Ricolfi, 2012), providing access to cultural heritage to the citizens. Digitisation had substantive impact on the functioning of copyright, but the effects are not evident, nor straightforward today (Cammaerts *et al.*, 2013; Towse, 2015), leaving open the question whether inclusive and participatory copyright policies are actually discouraging or rather encouraging creativity. The wider social, cultural and political impacts of measures introduced to or enforced by copyright; therefore, the policy decisions about the governance of copyright in Europe, need careful research, impact assessment and open, democratic debate.

The role of copyright spreads beyond the role of the institutions that deal with archives and have the right and the resources to make them available to a broader public. It is equally important in terms of shaping and directing the future of culture-making and production of cultural work. Acknowledging "education" and "research" purposes in their broadest sense are minimal requirements towards a new copyright framework. Also, consideration should be given to the possible extension of those provisions to creative re-use of archived works for not-for-profit ends, assuming they meet the criteria of the three-step test, according to Article 9 (2) of the Berne Convention (UN United Nations, 1979) and to Article 5. para 5. of the INFOSOC Directive (EP and the Council, 2001). Strengthening and streamlining the collective management (CM) of rights in regards to works in AV archives by lessening of administrative burdens (e.g. by facilitating one-stop-shops among CM organisations) and by setting up Europe-wide reference databases on the rights and the right-holders of those works could contribute to better access and usability of archived content.

It is critically important to assess the needs for culture fit for the next decade, as well as thinking who is or should be in control of Europe's histories. It is imperative that the EU moves away from ringfencing of culture and towards an enabling copyright system that a. puts creators and the public in the first seat and b. allows for imaginative, future oriented monetisation possibilities with the aim to stimulate economies based not on exclusivity but on openness and innovation.

## Notes

1. Status as of 01/05/2016.
2. Although the adoption and implementation of the Directive on Collective Rights Management ([EP and of the Council, 2014](#)) has significant effects on multi-territorial licensing of musical works online, obtaining licences for all other rights require the same amount of rights clearance efforts.
3. The EUscreen portal was built by a consortium of European audiovisual archives, public broadcasters, academic and technical partners, funded by the EC. Its objective is to establish a pan-European aggregator for audiovisual heritage, making "audiovisual content and metadata from broadcasters and archives searchable, findable, and accessible across Europe" as "[. . .] an important step towards a truly European cultural knowledge arena and relates closely to developing European citizenship". However, controlling circulation and rights clearance was encountered as a major challenge to EUScreen's effort in establishing cross-border access to AV archives. ([Verbruggen et al., 2014](#)).
4. Kennisland, an 'enterprising think tank with a public mission' in the Netherlands, devotes a large share of its work to challenge and change copyright regimes on AV archives 'from within'. According to Kennisland's Copyright Manifesto, copyright is "out of touch with the realities of the digital environment", and the out-dated European copyright "unnecessarily restricts citizens from accessing, sharing and reusing cultural objects and knowledge", forcing "public cultural heritage institutions facing problems when attempting to make their collections available online", therefore "innovative online services are increasingly developed outside of Europe where copyright laws provide more flexibility" ([Kennisland, 2016](#)).

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