

# FACTSHEET

# Copyright & consumers

## Copyright: inaccessible, complicated but highly relevant

Copyright law gives exclusive rights to creators of music, films, books and other works to exploit them economically. This means that if other people or companies want to use such works commercially, they have to pay a licence fee. This is only fair because creators deserve appropriate remuneration. But copyrighted works are all around us and consumers might not always know what rules apply.

## Outdated & inadequate

The problem is EU copyright laws are outdated. The current rules date from 2001. Consumer behaviour, with all sorts of new digital tools at their disposal, have changed their leisure and work activities tremendously since. It is very common nowadays to remix music, create videos with songs in the background and share all of this with friends on social media. Whenever consumers engage in such activities, however, they might unwillingly be breaking the law.

## Exceptions & limitations

Copyright law gives exclusive rights to creators and rights holders to exploit their works. There are some exceptions and limitations to these exclusive rights that enable consumers to use these works without obtaining prior authorisation from their authors. For instance, when people copy a CD from one device to the other for private use or when people use protected works for the purpose of caricature or parody.

Sadly, most of these exceptions and limitations are optional and Member States remain free to implement them or not into their national set of rules. This has led to a huge divergence of authorised uses of copyrighted content in the form of exceptions across the EU. While one action can be legal in Sweden (i.e., covered by an exception and thus permitted without the prior authorisation from the author), the exact same action can be illegal in France.

In 2015, BEUC and its members carried out a survey among copyright experts and practitioners. Among other questions, copyright experts from 10 different Member States were asked if it would be legal to use a song in a family home video and share it online. The responses were very diverse and the participants were not able to agree on a common answer.

**A survey carried out by BEUC members in 10 countries canvassed 5 types of copyright experts regarding the legality of ordinary consumer acts involving copyrighted content. The results of the survey showed a great divergence of views, showing the need to clarify the disparate national laws.**

John wants to use his favourite band's latest song on his family Christmas celebrations video and upload it to Youtube so his family and friends can enjoy it.



Of **29 survey** answers  
From across **10 countries**

- ⇒ **4** said this was "legal"
- ⇒ **18** said this was "illegal"
- ⇒ **7** said it was "unclear"



## Copyright levies

Copyright levies are a surcharge on top of the price of personal devices like a smart phone or a laptop and blank media like a CD or a USB-stick. Levies were designed to compensate (not remunerate) rights holders for the economic 'harm' they suffered with the private use of their work. However, when including a levy fee in the final price of a digital product, the 'actual use' of that device by the consumer for copying purposes is not taken into account. It is assumed that consumers will make private copies and cause 'harm' to the right holders regardless of their actual use of the product.

## EU copyright reform

In 2016, the European Commission published a proposal to modernise EU copyright law.<sup>1</sup> This proposal is unfortunately a missed opportunity from the consumer point of view. It focuses on the commercial battle between platforms like YouTube and the music industry. At the same time, it does nothing to fix the uncertainty consumers experience when they want to share content online, leaving consumers in a state of uncertainty about the content they share online.

## Five fixes to make copyright law fit consumers

1. Make exceptions & limitations coherent: 31 experts from 9 countries could not agree whether it was OK for a consumer to resell their legally acquired e-book on the internet.<sup>2</sup> Such differences should not exist. **Exceptions and limitations must be streamlined across the EU.**
2. Introduce a user-general content exception: It could be illegal to share a video on YouTube of your family's Christmas dinner with a popular carol as background music. This does not make sense. **The EU should introduce a user-generated content exception.** This exception would allow consumers to disseminate recreated copyright-protected material for non-commercial purposes.
3. Give consumers rights: When consumers see their home video removed from a social media platform or if music producers make it technically impossible to copy a DVD, it may be difficult to get a judge to order the company to change its practice. That is because copyright exceptions are no 'rights'. Legally this means that they cannot be so easily enforced. **A right of use would make exceptions and limitations directly enforceable.**
4. Right to judicial redress: Social media platforms may be asked by the right-holders to remove a song, video or animation uploaded by a private consumer containing copyrighted material. This may infringe people's fundamental right to free speech. Private business practice or algorithms should not decide if consumers wrongly shared copyright protected material. **Therefore, the EU should guarantee that consumers have access to the court to ask them to uphold their fundamental rights and right of use.**
5. Transparency and consistency in the copyright levies system: **levy fees should be spelled out on the price tag of a product** at every stage of the supply chain. Consumers have the right to know what they are paying for. And when assessing if a levy should apply, the 'actual use' of the product by the consumer for private copies should be taken into account.

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<sup>1</sup> Directive on Copyright in the Digital Single Market

<sup>2</sup> Consumer use of copyrighted material: [http://www.beuc.eu/publications/beuc-x-2015-063\\_consumer\\_use\\_of\\_copyrighted\\_material.pdf](http://www.beuc.eu/publications/beuc-x-2015-063_consumer_use_of_copyrighted_material.pdf)