

COMMENTS ON THE GREEN PAPER “COPYRIGHT IN THE KNOWLEDGE ECONOMY” FROM THE JOINT INFORMATION SYSTEMS COMMITTEE (JISC)

Context

“We need further efforts to promote free movement of knowledge and innovation as a “fifth freedom” in the Single Market.”¹ Commissioner Charlie McCreevy

“Laws regulating intellectual property must serve as means of achieving creative, social and economic ends and not as ends in themselves. These laws and regulations must serve, and never overturn, the basic human rights to health, education, employment and cultural life.”²

“A successful HE sector at the forefront of research and learning and teaching needs to enjoy and exploit world class ICT infrastructure tailored for the needs of Higher Education Institutions (HEIs) which can be personalised for students, lecturers, researchers and administrative staff”.³

1. The Joint Information Systems Committee (JISC)⁴ supports UK higher and further education by providing strategic guidance, advice and opportunities to use information and communication technologies to support teaching, learning, research and administration. The JISC is funded by the UK Higher and Further Education funding bodies.
2. JISC is committed to ensuring that access to JISC-funded resources and projects is free to the community and in accordance with internationally recognised open standards. To this end, it encourages the use of Open Access models and, where appropriate, Open Source solutions.
3. JISC is ultimately responsible for funding projects across the UK, which themselves make massive contributions to the UK’s, EU’s and International Knowledge Economy, as well as others which provide the systems, software and services to enable others to contribute extensively to the Knowledge Economy.
4. As well as working collaboratively with international funding bodies, such as the Surf Foundation⁵ across the range of its activities, JISC also currently leads two international, corporate initiatives in support of JISC’s strategic priorities:
 - i. The e-Framework⁶ is a joint initiative across JISC, Department for Education Science and Training (DEST) Australia, Ministry of Education, New Zealand

¹ EC Commissioner Charlie McCreevy: Speech at Internal Market – Achievements and Challenges International Scientific Conference co-organised by the Commission Representation and the Faculty of International Affairs of the University of Economics, Bratislava, 29 November 2007
<http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/07/775&format=HTML&aged=0&language=EN&guiLanguage=en>

² <http://www.ipcharter.org/>

³ From “*ICT in Higher Education*”, a paper prepared by Professor Sir Ron Cooke, Chair of JISC Board, for John Denham, MP, Secretary of State, Innovation, Universities and Skills

⁴ Further information about the JISC can be found at <http://www.jisc.ac.uk>

⁵ <http://www.surf.nl/en/Pages/home.aspx>

and SURF Foundation, Netherlands. Focussing on service oriented approaches the initiative seeks to facilitate technical interoperability across education and research, through improved strategic planning and implementation processes.

- ii. The Knowledge Exchange⁷ is a European initiative seeking to promote an 'open layer of scholarly and scientific content, to be freely available on the Internet'. Current membership of the Knowledge Exchange is Danish Electronic Research Library (DEFF), German Research Foundation (DFG) and SURF Foundation, Netherlands.
5. Currently, HEFCE (the UK's Higher Education Funding Council), through JISC and the HE Academy, is proposing to invest 45 Million Pounds Sterling over the next 5 years in its open educational agenda to ensure that the UK can generate and make available high quality modern learning and teaching resources.
6. Future success for the EU will depend on the ready accessibility of scientific data, scholarly research results, accurate and up to date business information, sound recordings, multimedia files and literature. The full benefits of the digital society have not yet been realised in Europe. However, the full potential of developments in ICT to support teaching, learning, research and administration resulting from core Government and European investment is severely hindered by an archaic and out-of-step copyright system which lacks harmonization across Europe. It fails to address the dramatic change in ICT over the last twenty-five years and presents an unequal balance between users' interests and those of rights holders. Community copyright law has been drafted to protect the Union's traditional commercial copyright interests from the perceived threats of the digital format. This concern, whilst reasonable, has, however, restricted the ability of teachers, students and researchers to make effective use of the wealth of information that is potentially available to them. The inconsistency of the law, together with the highly protective tenor of the law, restricts bona fide research and teaching in the higher and further education sectors, and ultimately stems the flow of knowledge across the Single Market.
7. The real impact on colleges, universities and their funding bodies of the current legislative framework includes:
 - i. Substantially increasing the administrative burden in certain situations of rights administration and clearance as the impact and speed of ICT use and adoption in providing access increases
 - ii. Exposing the HE and FE sectors and their funding bodies to increased levels of risk and legal uncertainty
 - iii. Presenting unnecessary barriers in long term core funding investments, such as proposed open educational content activities, and investment in elearning, escience and research.
8. JISC welcomes the publication of the EC Green Paper, which addresses some of the concerns that the FE and HE sector has. In this response, we answer the key questions raised in the Green Paper, as well as raising the following comments on issues which are addressed or touched upon, as invited by the Green Paper
9. In particular:

⁶ <http://www.jisc.ac.uk/whatwedo/programmes/eframework.aspx>

⁷ <http://www.jisc.ac.uk/aboutus/partnerships/knowledgeexchange.aspx>

- i. Copyright exceptions must support the EC agenda to “*promote free movement of knowledge and innovation as a "fifth freedom" in the Single Market.*”⁸ Therefore they need to be harmonized to the very minimum that the EC states have already implemented; media and technology neutral
- ii. Contract law and technical protection measures (TPMs) must never over-ride the exceptions. Without this, the power in contractual relationships that vests with the Licensor (i.e. the rights holders, such as Publishers) will ALWAYS mean that they retain the upper hand and can negate any exceptions
- iii. Copyright exceptions must support the WIPO Copyright Treaty copyright in “*Recognizing the need to maintain a balance between the rights of authors and the larger public interest, particularly education, research and access to information, as reflected in the Berne Convention*”⁹. This balance can more easily be achieved if the exceptions are relevant for the 21st Century, fit for purpose and easy to understand.

Specific Questions

1) *Should there be encouragement or guidelines for contractual arrangements between right holders and users for implementation of copyright exceptions?*

No. This would be an undesirable development. Copyright exceptions are designed to assist users make *bona fide* use of materials in a way that is helpful to society at large. Any attempt to impose by contract limits (e.g., numbers of copies, extent of copying) on this freedom should be resisted. The exceptions are designed to be flexible within the Berne three-step test to allow for the many ways people might make use of them, and to cater for unforeseen technical or social developments. JISC is very concerned that at present, UK law does not prevent a contract over-riding an exception to copyright. The Irish Copyright Act 2000 has a Clause 2(10) which ensures that no contract can over-ride an exception to copyright. Unless all Member States adopt a similar piece of legislation, there is a real risk that any substantive benefits resulting from the adoption of any measures to try and harmonise the copyright exceptions across the European member states will be negligible. This is particularly pertinent especially in view of the fact that frequently the organisation requesting a licence from a rights owner is in a weak position compared to the rights owner, who can adopt a “take it or leave it” approach to the licence it offers. Indeed, a recent survey¹⁰ carried out by the UK’s British Library of 100 contracts comprising a randomly selected collection of agreements offered to the British Library revealed that over 90% undermined copyright law. This means that the British Library is not alone in paying more for rights it entitled to under the law, as well as resulting in unnecessary restrictions on researchers, students, lifelong learners and the public at large.

It should not be left to the interested parties, e.g., higher education libraries, to negotiate the ambit of exceptions to copyright, as the strength of the two parties is too unequal. In order to prevent rights owners from taking undue advantage of their monopoly, there should be a general provision in all Member States’ legislation that

⁸ EC Commissioner Charlie McCreevy: Speech at Internal Market – Achievements and Challenges International Scientific Conference co-organised by the Commission Representation and the Faculty of International Affairs of the University of Economics, Bratislava, 29 November 2007

⁹ http://www.wipo.int/treaties/en/ip/wct/trtdocs_wo033.html#P45_2379

¹⁰ <http://www.bl.uk/ip/pdf/ipmatrix.pdf>

any term in a licence agreement that purports to reduce or remove exceptions to copyright shall be null and void.

2. *Should there be encouragement, guidelines or model licences for contractual arrangements between right holders and users on other aspects not covered by copyright exceptions?*

No. Model licences cannot be imposed on parties, but merely be provided as exemplars of good practice. In many cases, they are ineffectual and/or not necessarily fit for purpose. The Out of Print Model Works Licence, arising from the i2010 Digital Libraries is a good example. It is important that the ability to negotiate freely by the parties remains unchanged, so that the weaker party is protected as necessary by legislation or an appeal mechanism, such as that provided by the UK Copyright Tribunal.

3. *Is an approach based on a list of non-mandatory exceptions adequate in the light of evolving Internet technologies and prevalent economic and social expectations?*

Ideally, to ensure harmonisation, the exceptions listed should be made mandatory on all Member States. The current approach is clumsy and also fails to take into account adequately changes in the light of technical and social developments. There should be a simple mechanism to alter or add to the list of mandatory exceptions once there is a proven need for a change. Whilst the Directive has clearly harmonised the rights of owners, it has failed to harmonise exceptions. This is further evidenced by the proposals to extend measures across Europe to harmonise criminal sanctions to enforce Intellectual Property Rights¹¹

As a result, this creates an unfair in-balance in contravention of the WIPO Copyright Treaty, whereby rights holders benefit from harmonised enforcement measures whilst transnational licensing and the ability to benefit from the exceptions is complex and unequal. This creates immense difficulties for research and teaching institutions operating under different conditions in different Member States, particularly those in which staff are working collaboratively.

It is also unfortunately that the current list of non-mandatory exceptions is exclusive, in that no new exceptions can be added; however, there is no reason why new exceptions, as long as they comply with the Berne three-step test, should not be introduced.

4. *Should certain categories of exceptions be made mandatory to ensure more legal certainty and better protection of beneficiaries of exceptions?*

Yes. The current situation leads to confusion and in particular damages attempts to harmonise standards of further and higher education amongst Member States. It would also be desirable if the list of mandatory exceptions was reviewed every few years to take into account changing technologies, and social trends, and in any case, Member States should be entitled to add new exceptions as they see fit, so long as they comply with the three-step test.

¹¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0168:FIN:EN:HTML>

One of the key aims of the “The Knowledge Exchange”¹², which is a pan-European initiative, which aims to foster co-operation and collaboration between the four partner organisations (JISC, Danmark's Elektroniske Fag-og Forskningsbibliotek (DEF), Deutsche Forschungsgemeinschaft (DFG, Germany) and SURF Foundation (The Netherlands), is to enhance shared knowledge and collaboration possibilities. The benefits stemming from this objective are increasingly under threat whilst the copyright legislation remains fragmented, unequal, complex and unrealistic across Europe.

Without such mandatory and harmonised exceptions, it will be impossible to ensure that we achieve:

“European Research Area as a beacon of excellent, world-class research. The free movement of knowledge, the ‘fifth freedom’, with excellent training and attractive career prospects for researchers moving and interacting freely across Europe”¹³;

5. If so, which ones?

All of the current list should be made mandatory. Such a change would mean that research, teaching and learning would benefit from a clearer and more consistent environment to work in. The ones of most importance are probably 2(b), 2(c), 3(b), 3(d), 3(j), 3(k), 3(n), 5(2a), 5(2b), 5(2c), 5(2d), 5(3a), 5(3b), 5(3c), 5(3d), 5(3e), 5(3i), 5(3j), 5(3m) and 5(3n).

6. Should the exception for libraries and archives remain unchanged because publishers themselves will develop online access to their catalogues?

The use of the term “catalogues” is confusing, as these are traditionally listings of a library’s holdings, not a publisher’s.

If the intention of the question was “because publishers will develop online access to the full text of their publications” then the answer is “no”. This is because whilst publishers will charge for online access to electronic journals, it is often the libraries which will take responsibility for and cover the costs of the digitisation of back catalogues of print journals. Often publishers will contact libraries for digital copies of their own back catalogues, the print versions of which, they have longed ceased to stock.

JISC has invested substantial amounts of funding in its Digitization Programme which includes the digitization of back catalogues of journals. These projects, which promote the free movement of knowledge to the benefit of education and research include:

- i. Digitization of Medical Journals¹⁴, in association with the Wellcome Trust and the National Library of Medicine (NLM in the USA. The Medical journal backfiles project will deliver around 2 million pages of text, derived by digitising the complete back files from a number of historically significant medical journals. This project will deliver around 2 million pages of text,

¹² <http://www.jisc.ac.uk/aboutus/partnerships/knowledgeexchange.aspx>

¹³ EC Commissioner Potočník - Meeting of industrial leaders of European Technology Platforms, Brussels,

30 September 2008 http://ec.europa.eu/commission_barroso/potocnik/news/docs/20080930_speech_etp_en.pdf

¹⁴ <http://www.jisc.ac.uk/whatwedo/programmes/digitisation/medicaljournals.aspx>

derived by digitising the complete back-files from a number of historically significant medical journals.

- ii. Welsh Journals Online¹⁵. The intention of this project is to provide students, teachers and researchers with free online, searchable, access to a selection of 20th and 21st century Welsh and Wales-related journals held at the National Library of Wales and partner institutions. These materials, estimated to contain 400,000 pages of text in both Welsh and English, cover a very wide range of subject areas, including humanities, social sciences, science and technology.

To help this, we believe that copyright exceptions relating to these issues should be made mandatory as libraries are better placed to perform the essential function of guaranteeing long-term access to their materials.

7. *Should publicly accessible libraries, educational establishments, museums and archives enter into licensing schemes with publishers? Are there examples of successful licensing schemes for online access to library collections?*

The second question betrays a misunderstanding. Educational establishments and libraries take out licences with particular publishers to access materials owned by those publishers. There is not, and can never be, a publisher that owns the rights to ALL items a library may wish to stock or make accessible to its users. For example, in the UK, the copyright duration of unpublished literary works lasts, in some cases, until 31st December 2039 and in these cases there is no collecting society to administer such a scheme. Therefore educational establishments and libraries will take out licences with rights holders directly. In many cases, rights holders for this type of content will be unknown or cannot be traced, therefore in the case of so called “orphan works” it is essential that public sector bodies are provided with legal certainty embedded within copyright exceptions when providing online access to such works.

8. *Should the scope of the exception for publicly accessible libraries, educational establishments, museums and archives be clarified with respect to format shifting, numbers of copies that can be made under the exception and the scanning of entire collections by libraries?*

No. As far as the UK is concerned a) and b) is currently being clarified. The ability to format shift, and make reasonable preservation copies (as opposed to access copies) does need to be made explicit to maximise the success of digital preservation activities taking place across the European Union. Whether this is required in European statute or guidance to member states who then clarify in national legislation is a matter for the European Union’s own legislature to decide.

What is equally important is the right for preservation purposes to circumvent a technical protection measure, as this is a constant and complex brake upon the ability to preserve material digitally.¹⁶

As to question c) it is not clear how it is to be understood. The Infosoc Directive does not give the institutions *carte blanche* for any kind of reproduction, but there is nothing in art 5(2)(c) to prevent a library from scanning (digitising) a collection, e.g. (a collection of newspapers), for preservation purposes. The limitation is in making the

¹⁵ <http://www.jisc.ac.uk/whatwedo/programmes/digitisation/welshjournals.aspx>

¹⁶ Gowers submission evidence.

digitised collections available to the public. This is as it should be. There must be no restrictions in preserving the cultural heritage by whatever means are the most suitable for this purpose. The restrictions should concern the communication to the public and the creation of more copies than originally sat within the collection.

There are already inconsistencies between various Member States' laws in this area. There is need for clarification; for example, it should be made clear that the number of copies made for the purpose of format shifting should be left to the professional judgement of the librarians concerned; it is also important that this exception be made mandatory rather than optional as at present.

The preservation of Europe's cultural heritage in line with EC initiatives, and with the use of UK tax payers money, for example under JISC's digitisation programme, can only become a certainty if exceptions which facilitate this, are enshrined in law and not undermined by either contract law or technical protection measures. Indeed, a recent survey¹⁷ carried out by the UK's British Library of 100 contracts comprising a randomly selected collection of agreements offered to the British Library revealed that over 90% undermined copyright law. This means that the British Library is not alone in paying more for rights it entitled to under the law, as well as the effective lock down of content which is of potential benefit to researchers, students, lifelong learners and the public at large.

*In the future, the digital culture will be even more at the core of our lives and our **knowledge**, and it is therefore vital that we make it accessible in every sense of the word. With the **digital libraries initiative**, we are working to improve the basic conditions for the digitisation, online accessibility and digital preservation of Europe's cultural and scientific heritage. This initiative stimulates and coordinates work towards the creation of a common access point to Europe's cultural heritage.*¹⁸

9. Should the law be clarified with respect to whether the scanning of works held by libraries for the purpose of making their content searchable on the Internet goes beyond the scope of the current exception?

Yes. Making such content searchable online would infringe the communication to the public right, so if this was to occur, a change would have to be made to Article 5(3). Whilst we believe it would be highly desirable for libraries to have the freedom to do this, and also believe that such freedom would not damage sales for publishers but rather would act as a marketing tool for such publishers, we recognise that such a change would be highly controversial with some publishers.

10. Is a further Community statutory instrument required to deal with the problem of orphan works?

Yes. There is a clear need to address the problem of orphan works. Legal uncertainty is hampering the ability of recipients of JISC funding and other organisations across the public sector from making Europe's extensive cultural and scholarly heritage available to their patrons.

¹⁷ <http://www.bl.uk/ip/pdf/ipmatrix.pdf>

¹⁸ EC Commissioner Reding, Innovating towards the digital future: Lifestyles, society and culture. Microsoft Innovation Day Brussels, 4 December, 2007 http://ec.europa.eu/commission_barroso/reding/docs/speeches/brussels_20071204.pdf

Pressure to extend the lifetime of certain classes of works, such as the proposals to extend the duration of term in sound recordings and performers' as proposed by EC Commissioner Charlie McCreevy, will only exacerbate the problem. The Green Paper states that "Detailed solutions have to be developed at a national level", but this cannot be achieved unless there is a clear legal regime to work within. One possible solution is to adopt extended collective licensing, such as already occurs in Nordic countries. This, however, does not take into account the vast swathes of work for which, by their very nature, there may not be a licensing body, such as unpublished literary works nor fully provides any kind of legal certainty if rights holders were to come forward. In any case, some Member States have already rejected this idea. Whilst the idea has many attractions, these factors make the concept problematic. We therefore prefer that a new exception be introduced to permit educational establishments and other authorised bodies to copy orphan works, so long as they have carried out (and can demonstrate they have carried out) reasonable efforts to identify the relevant rights owners. The exception would also permit these bodies to make the digitised materials so created available to their patrons. The exception should be mandatory, but limited to public sector funded bodies such as educational establishments, museums, libraries and archives.

11. If so, should this be done by amending the 2001 Directive on Copyright?

Yes. This seems an appropriate way to achieve the aim.

12. How should the cross-border aspects of the orphan works issue be tackled to ensure EU-wide recognition of the solutions adopted in different Member States?

It is vital that any solution offered to deal with the issue of orphan works is made mandatory. It would, also be vital that all exceptions become mandatory across Europe so that Member States are obliged to recognise the legitimacy of any action taken in compliance with the legislation of one Member State, so long as that legislation is itself compliant with the Directive.

13. Should people with a disability enter into licensing schemes with publishers in order to increase their access to works? If so, what types of licensing? Are there already licensing schemes in place?

No. The exceptions should be made mandatory instead and reflect basic human rights principles. Forcing people with a disability to negotiate licensing schemes is discriminatory and puts them at a disadvantage compared to other users of materials. This provision is absolutely necessary to comply with the core principles outlined within the WIPO Copyright Treaty:

"Laws regulating intellectual property must serve as means of achieving creative, social and economic ends and not as ends in themselves. These laws and regulations must serve, and never overturn, the basic human rights to health, education, employment and cultural life."¹⁹

JISC funds TechDis²⁰ whose aim is to "...support the education sector in achieving greater accessibility and inclusion by stimulating innovation and providing expert advice and guidance on disability and technology to ensure that the full potential of

¹⁹ <http://www.ipcharter.org/>

²⁰ <http://www.techdis.ac.uk/index.php?p=1>

students with disabilities can be discovered. Such mandatory provisions will therefore be essential to ensure that this objective can be achieved.

14. *Should there be mandatory provisions that works are made available to people with a disability in a particular format?*

Yes, only as long as the chosen format fulfils the particular need.

15. *Should there be clarification that the current exception benefiting people with a disability applies to disabilities other than visual and hearing?*

Yes. It is important that any disability which requires copies to be made of works in copyright, is reflected in law as a mandatory requirement across the EU Member States. The lack of such measures, which must not be over-ridden by either Contract Law or technical protection measures, would be discriminatory of people with a disability.

16. *If so, which other disabilities should be included?*

All disabilities that prevent or inhibit access to information are potentially relevant, but obvious examples include people who have difficulties moving their limbs, or are limbless and people with dyslexia. The rule would be that a certified medical practitioner confirms that the disability has a significant effect on the individual's ability to access information.

17. *Should national laws clarify that beneficiaries of the exception for people with a disability should not be required to pay remuneration for using a work in order to convert it into an accessible format?*

Yes. Access to these works must be free and apply to people with a disability regardless of European Nationality.

18. *Should Directive 96/9/EC on the legal protection of databases have a specific exception in favour of people with a disability?*

Yes

19. *Should the scientific and research community enter into licensing schemes with publishers in order to increase access to works for teaching or research purposes?*

No. If the EU is to realise the full benefits of the wealth of knowledge and innovation which stems from our educational establishments, such provisions must be enshrined within mandatory copyright exceptions that cannot be over-ridden by Contract Law or technical protection measures.

20. *Should the teaching and research exception be clarified so as to accommodate modern forms of distance learning?*

Yes. The question relates just to teaching, and not to research exception. It should be so clarified, if only to ensure that all Member States' laws are harmonised with each other and to ensure that in line with the extensive use of ICT across educational establishments, and to maximise large amounts of Government investment, the exceptions are both media and technology neutral.

- 21. *Should there be clarification that the teaching and research exception covers not only material used in classrooms or educational facilities, but also use of works at home for study?***

Yes. EU legislation should adopt the sensible principle set out in the UK Gowers Report that the exception should be defined by use or activity, not by medium or location. This would also recognise that much learning and research takes place informally, such as life-long learning and personal research, and the value of this contribution to the Knowledge Economy.

- 22. *Should there be mandatory minimum rules as to the length of excerpts from works that can be reproduced or made available for teaching or research purposes?***

Because in the UK infringement can only occur when a “substantial part” of a work has been copied, etc., and “substantial” depends on the particular circumstances of a case, and could be a very small, or a very large part of a work, there is no point in attempting to set a rule regarding length. In any case, with the complexity of multimedia products and artistic works, and the circumstances of possible use are so varied, it would be impossible to provide an appropriate calculation.

- 23. *Should there be a mandatory minimum requirement that the exception covers both teaching and research?***

Yes. Particularly as there is a significant overlap between the two activities in higher and further education.

- 24. *Should there be more precise rules regarding what acts end users can and cannot do when making use of materials protected by copyright?***

No. It is impossible to legislate for all current or future circumstances. The law should be sufficiently general to cover new types of materials and new uses of said materials. It is then for rights owners and users themselves to decide how to apply those laws.

- 25. *Should an exception for user-generated content be introduced into the Directive?***

Yes. It is vital that we consider the benefits to the Knowledge Economy that can be harnessed from the proliferation of services and technology which facilitate the ability of users to contribute content. Of particular relevance is the need to find mandatory exceptions which try and address the need for the implementation of basic standards which attempt to curb the amount of user-generated content which is (or could become) orphaned.

Other Comments about Extension of Term

10. JISC supports findings within “The Recasting of Copyright & Related Rights for the Knowledge Economy”²¹ carried out on behalf of the EC’s DG Internal Market and Services by The Institute for Information Law (IViR) of the University of Amsterdam, in which the authors note: *“The term of related rights must reflect a balance between incentive and market freedom. This balance will be upset when terms are extended for the mere reason that content subject to expiration still has market value. The public domain is not merely a graveyard of recordings that have lost all value in the market place. It is also an essential source of inspiration to subsequent creators, innovators and distributors. Without content that still triggers the public imagination a robust public domain cannot exist.”*
11. JISC is concerned that any extension to term for sound recordings and performers’ rights will have a substantially detrimental effect on its digitisation programme and greatly reduce the contribution of sound archives to the Knowledge Economy and harm the public interest. Whilst we recognise that the proposal includes measures to deal with the creation of new “orphan works” and other limited measures, we believe that these are piece-meal and will have little long term impact upon the increased resource burden on the digitisation and other e-content activities that we are funding. Specific issues which are likely to arise for JISC funded projects include:
 - i. For current and future digitisation projects, it would greatly increase the costs of *tracing* copyright holders, already a hugely time consuming business for post-1958 recordings.
 - ii. For current and future digitisation projects, it would also increase the costs of *clearing* rights, as performers will be able to continue claiming rights in works beyond 50 years after creation
 - iii. The excessive costs involved in IPR clearance might prevent digitisation taking place, and lead to the loss of material held on fragile media, thereby destroying our cultural and scholarly heritage.
 - iv. More broadly, despite claims to the contrary in the proposal, these issues would restrict access to content of cultural and scholarly worth, thereby damaging the possibilities for research, teaching, learning, creative re-use and general enjoyment and understanding.
12. While these issues will impact on JISC funded projects they will also be problematic for learning, teaching and research more broadly. We therefore urge the EC to reconsider its proposal in light of the potential damage to the Knowledge Economy that such measures will inevitably exacerbate.

JISC
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²¹ http://www.ivir.nl/publications/other/IViR_Recast_Final_Report_2006.pdf

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