

LERU Statement: The Right to Read is the Right to Mine

Today, during a breakfast briefing at the European Parliament hosted by MEP Julia Reda, the League of European Research Universities ([LERU](#)) presented what universities need from the upcoming EU copyright reform. A timely event, after the watered-down EP report¹ on the implementation of the “InfoSoc Directive” (Directive 2001/29/EC) that was adopted in June 2015 by the European Parliament. In view of the upcoming EU copyright reform, LERU calls upon policymakers to adopt a serious and ambitious position that strongly supports research and education. The current fragmented and obsolete EU copyright regime is clearly not a helpful tool for the realisation of the European Research Area.

LERU’s commitment to further advance knowledge and to strive for the adequate framework conditions to enable it, have also resulted in the recent signing of the ‘The Hague Declaration’ and the launch of the LERU statement “Moving Forwards on Open Access”.

EU copyright reform: what research universities need from it

As LERU has repeatedly stated, two changes to the present EU copyright regime are of utmost importance for universities:

- a mandatory exception for research and education purposes;
- a mandatory exception that will enable users to text and data mine all content to which they have legal access: the right to read is the right to mine.

The current “shopping list” of exceptions and limitations in the InfoSoc Directive, from which Member States can pick and choose which to apply, is not a serious approach for a Union that prides itself for having an internal market (now about to develop also a *Digital Single* one). Neither is it the right approach for the development of a real European Research Area. Further harmonisation is needed and, in areas such as education or research, the current uneven playing field amongst Member States is far too important to be ignored. Anything less than mandatory exceptions at the EU level will just preserve the current status quo of legal uncertainty and fragmentation.

The recent [Implementation Assessment on the Review of the EU copyright framework](#) adds to the list of evidence supporting LERU’s claims. The study refers to “a fragmented EU copyright regime” in which the failure to implement a consistent set of copyright exceptions and limitations “create inefficiencies, in particular, in the fields of education and research”, and “potentially impinge on the creation of a truly integrated European Research Area”. The study acknowledges that European researchers may be falling behind and that is at least partly the result of Europe’s laws. It also identifies the absence of legal certainty to support the development of text and data mining as “a key gap in urgent need for addressing.”

¹ See LERU [press release](#) on the adoption of the report (17 June 2015)

What else do EU policymakers need before they decide to act?

Knowledge discovery in the digital age: the ‘The Hague Declaration’

LERU’s commitment to future models on how research in European universities can be undertaken and how research findings can be disseminated is also evidenced in the signing of the ‘[The Hague Declaration](#)’. On 25 September 2015, LERU decided to sign this Declaration, aimed at fostering agreement about **how to best enable access to facts, data and ideas for knowledge discovery in the Digital Age**.

The Declaration addresses a number of challenges. In the area of facts, ideas and research data it acknowledges that copyright legislation was never intended to cover these areas or to construct a barrier between the user and the facts/data they wish to use. The grass is green, the sky is blue. These are statements of truth backed up by empirical data and observation. It is not possible to copyright the truth, nor is it acceptable that legal frameworks can unnecessarily restrict access to it. **The Declaration, therefore, underlines that facts and data should not fall under the remit of copyright legislation.**

An important point made by the Declaration is that where copyright regimes do unfairly restrict the ability of researchers to search and mine the plethora of information now available, **copyright exceptions should be introduced to allow researchers to undertake text and data mining activities**. The Declaration is an important component in the construction of new paradigms for conducting and disseminating research in the 21st century.

#Christmasisover

Despite the fact that Christmas is yet to arrive, LERU believes that Christmas is already over for the publishers, as recently announced in the LERU statement “[Moving Forwards on Open Access](#)”. As LERU has clearly stated, **research funding should go to research, not to publishers**. In the era of Open Science, open access to publications is one of the cornerstones of the new research paradigm and business models must support this transition. LERU calls upon the EC and forthcoming Dutch Presidency of the Council to work with all stakeholders and bodies involved and bring sensible solutions to the fore, in particular with regard to “double dipping” (paying twice for the same content) and the embargo periods in open access. Through this statement, LERU also shows its support to the Dutch², UK and other universities and their networks in working to change the Scholarly Communications landscape in Europe.

Setting the adequate framework conditions for the ERA

Many challenges still lie ahead for the realisation of the European Research Area. The right framework conditions to reduce fragmentation and disparity between EU Member States will be the building blocks to create it. Through concrete steps such as fighting for the mandatory exception for research and education and for text and data mining, LERU is committed to achieve the level playing field needed for the development of ERA. As stated by LERU Secretary-General, **Prof. Deketelaere: Speeding up the ERA through legislation is definitely needed: whether a new legal instrument for the ERA as such is to be adopted remains to be seen, but -at**

² For an update of the negotiations between Dutch universities and publishers see: <http://www.vsnu.nl/nieuws.html>

the very least- those legal instruments already in place/being reviewed or negotiated (e.g. copyright framework, Data Protection Regulation, ...) shouldn't be hampering it.

Obviously, **national governments remain key players in the realisation of the European Research Area**. In this respect, LERU's Chair, Prof. Alain Beretz, expresses deep concerns about certain proposals for the French Bill for a Digital Republic³ (such as 12 or 24 month embargo periods and the lack of a provision to authorise text and data mining). As Prof. Beretz states: these provisions will put French public research in a disadvantaged position compared to most of European public research, leading to a two-speed system within the European Union.

³ For more information about the concerns regarding the French draft digital Bill see: <http://www.cnrs.fr/dist/z-outils/documents/CNRS%20Scientific%20board%2020150925.pdf>