



## SUBMISSION

To: European Commission  
From: International Federation of Reproduction Rights Organisations (IFRRO)  
Re: **New Digital Education Action Plan - Public Consultation**  
Date: 4 September 2020

IFRRO<sup>1</sup> is the international network for national reproduction rights organisations (RROs) - the collective management organisations in the publishing sector - and national and international associations of creators and publishers across the world, with 156 members in more than 85 countries. RROs act on behalf of authors and publishers whenever the individual exercise of their rights is impracticable by giving access to copyright-protected works and enabling the reproduction and certain digital uses of these works.

IFRRO's mission is to develop and support an efficient and effective network of collective management organisations around the world, including RROs, to ensure the copyrights of authors, visual artists and publishers are respected when their works are reproduced and used.

IFRRO welcomes the opportunity to respond to the Commission's consultation on the Digital Education Action Plan (DEAP) update.

As the Commission stated in its DEAP roadmap, as part of the Next Generation EU strategy, the updated DEAP "*is an important part of the recovery from the COVID-19 shock.*" The IFRRO community, like others, has been extremely impacted by the crisis and we can draw lessons from what has happened and how the sector has dealt with the challenges.

RROs, together with their author and publisher members, are key stakeholders when it comes to the implementation of a new DEAP. They have a crucial role to play, in particular in the delivery of the "trusted ecosystem of quality content, user-friendly and secure tools" that the Commission envisages in its DEAP roadmap.

We therefore ask for support at EU-level in **urging Member States to engage with the IFRRO community and to take on board the information and suggestions set out in this paper.**

IFRRO's response to the consultation focuses on

1. the role of collective licensing in the delivery of quality educational content
2. covid-19 crisis: how the sector has flexibly adapted to deliver content for education
3. risks facing the creative and educational eco-systems going forward
4. how can the EU add value?

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<sup>1</sup> International Federation of Reproduction Rights Organisations ([www.ifrro.org](http://www.ifrro.org)); Identification number in the EU Transparency Register: 860729437196-92

## 1. The role of collective licensing in the delivery of quality educational content

The Commission's DEAP roadmap rightly highlights the importance of quality content for education. Collective management organisations **support and complement the primary markets of authors and publishers.**

Licences have been developed in most EU Member States over the years, allowing pupils/students at different stages of education to have access to quality content, tailored to their needs.

Collective management systems - long-established in most EU Member States - have provided flexible licensing solutions (including cross-border) and legal certainty for users in adapting to new digital uses in education for over fifteen years.

Collective licensing has many advantages in an educational environment:

- **A variety of content is available under the licence**, as there is a one-stop shop for educational establishments to get authorisation to use a cross-section of quality content for their students for a relatively small fee per student (e.g., the price of a couple of cups of coffee).
- **It is adapted to teachers' and learners' needs**, allowing teachers to draw upon extracts of a variety of quality, reliable resources produced by authors and publishers, and to share them with their students, including digitally, in the knowledge that they are fully complying with the law.
- It also ensures that **authors of works used, and the publishers that invest in those works, are remunerated** for their work and continue providing quality, innovative content, to the benefit of students.

Collective licences are the outcome of negotiations, generally between the licensor (RRO) and organisations with significant bargaining power such as those representing the education sector, e.g., the Ministry of Education, or federation of universities or schools. Licensing conditions are therefore adapted to the specific needs of the sector and are usually adapted for the different levels of education (primary, secondary, or higher education), which have different teaching methods and content needs.

A licence usually defines and covers a wide range of uses, including distance learning, scanning, in classroom representation, whiteboard, posting on virtual learning environments, exams, cross border uses...). **Licences have been adapted over the years, evolving with technology and educational practices, so they continue to meet the needs of the users, including during the Covid-19 crisis.**

The website [www.contentforeducation.org](http://www.contentforeducation.org), which was developed by IFRRO and its members in the context of implementation of Article 5 of the Copyright in the Digital Single Market Directive, provides examples of how the collective licensing solutions provided by IFRRO's RRO members are benefiting educational establishments and their students / pupils, as well as authors and publishers in countries across Europe.

The website also includes, amongst other things, testimonials from across the EU - from authors (including writers, visual artists, journalists), publishers and teachers (some of whom are also authors) – that reinforce the importance of remuneration for the delivery of quality, innovative content for education.

## 2. Covid-19 crisis: how the sector has flexibly adapted to deliver content for education

IFRRO conducted its first survey among its members in March/April 2020 to benchmark, with a view to tracking over time, the impact of the pandemic on its RRO members and their rightholder communities. (A second survey is currently underway).

The survey [report](#), indicated how quickly the sector was able to respond to licensee demands for more flexible licence arrangements during the pandemic. Around 50% of those that responded, advised that they had already worked with authors and publishers, agreeing on and implementing temporary **extensions to existing licences, to enable remote learning and support home working**.

At the same time, a number of members also **developed entirely new licences**, such as for online book readings.

RROs have also experienced **pressure** from licensees and other users (either directly or indirectly), such as from copy shops, **to waive or reduce licence fees**.

The aforementioned initiatives (which are explained in more detail in our survey report) demonstrate the importance of the collective licensing sector in flexibly balancing the interests of rightsholders and users and are also provide an indication of the resourcefulness and ingenuity of the sector.

There was already a lot of discussion in the immediate aftermath of Covid-19 in March/April 2020 about the “new normal”, and an **expectation that the pandemic would lead to permanent changes in remote working and education** and that these systematic changes would in turn have an impact on expectations of the collective management sector, and the types of licences offered.

More recent feedback suggests that many members continue to believe that after the pandemic fades, businesses and educational institutions will continue to require licences that facilitate remote learning, home working and digital access, and they are indeed continuing to adapt.

We would recommend that Member States’ governments work to build capacity in their CMO sector to (further) enable the development of a trusted digital ecosystem of education content and tools.

## 3. Risks facing the creative and educational eco-systems going forward

Whatever the future of education looks like – whether it is delivered in the classroom, remotely or a combination of both, using physical and/or digital content and tools – authors, publishers and RROs in the text and image field in many Member States have shown that they are able to adapt in order to provide solutions for educational establishments and their pupils/students and this has been welcomed. However, the **situation is not the same in every Member State**.

As recognised by the European Commission, the creative sector has been badly hit by the Covid-19 crisis. Measures taken to combat the virus have resulted in cutting off many sources of revenue for authors, visual artists and publishers (see further details in our survey [report](#)). There have also been **calls from some activists that the use of content for education should not be paid for at all**. There are grave concerns about what the full impact will be.

While there have been moves to provide support to the sector (although, at the time of writing, the level of support at EU-level is inadequate), the sector’s recovery and the continued delivery of

quality content for education in the longer term depends also on other factors. These include, for example, Member States:

- supporting licensing solutions for educational uses (particularly in the context of the Copyright in the Digital Single Market Directive), and
- supporting measures to tackle the increased threat of online piracy and unauthorised use of content.

- **Implementation of the Copyright in the Digital Single Market Directive**

Member States are currently working on implementing the Copyright in the Digital Single Market Directive (2019/790) into national law. The Article 5 “illustration for teaching” exception allows them to decide if / when licensing can prevail over the exception (see [www.contentforeducation.org](http://www.contentforeducation.org) for further details).

At a time when many authors and publishers are feeling the impact of the Covid-19 crisis, they are also facing the possibility that national governments will implement the exception without any provision for remuneration when their works are copied or used in that context.

Secondary rights are necessary income for authors and publishers (especially small ones): e.g., a [PwC](#) study showed 25% of authors receive more than 60% of their income from secondary uses. Experience has shown that unremunerated exceptions have a devastating impact on authors and publishers – for example, revenues from collective licensing in education dropped by 80% between 2012 and 2017 in Canada, following a change in the law.

Less revenues going to authors and publishers will mean fewer works produced by authors, less money for publishers to invest in new content, and fewer jobs. This will result in less diverse, reliable and innovative quality content for students and lower educational outcomes. The decline in plurality of content and cultural diversity will also be detrimental to our democratic societies and the autonomy of Member States’ education systems.

It is crucial that national implementation of Article 5 is interpreted in line with the spirit of the text, which aims amongst other things to ensure a fairer environment for authors and publishers for uses of their works, and fully respects the “three step test”, as set out in EU and international law. It is important that the principle of remuneration is enshrined in national laws and that teachers and students understand that free education doesn’t mean free use of content (with licence fees paid by national ministries or establishments).

- **Increase in online piracy and unauthorised uses of content**

In recent months, with economies closing down and people staying at home, the publishing sector has seen an **increase in online piracy and unauthorised uses of content**, with millions of copies of books, along with newspapers and magazines, being traded or made available across the world illegally, including in the EU. For more details, see [here](#).

The pandemic has also highlighted the shortcomings of education institutions’ “secure networks”, with communications reportedly being increasingly carried out through **messaging services** and **education delivered through digital channels**. Entire books have reportedly been shared in closed groups on one messaging service. The extent of this problem is as yet unknown but study groups at university level appear to be particularly problematic. It has also been reported that teachers have unwittingly breached copyright by circulating content on social media sites.

**Government agencies have also reportedly encouraged teachers to upload content to open access educational platforms.** Such examples have raised concerns about compliance with licensing terms for the digital use of copyright content.

IFRRO members have taken action to try and counter the increase in illegal sharing of content as a result of the pandemic. For example:

- In **Spain**, CEDRO launched a social media campaign to encourage people to read legally which includes testimonials from authors, publishers and other stakeholders. CEDRO also successfully blocked over 100 social media channels which were sharing illegally copied books, newspapers and magazines.
- In **Greece**, in response to the increased illegal use of digital content during the lockdown, and as part of its wider campaign to inform the Greek public on copyright issues, OSDEL designed and implemented a campaign, online and offline, with the central motto "Books are not written by computers - Books are not written by photocopy machines".

#### **4. How can the EU add value?**

While we understand from the DEAP roadmap that the initiative will be "*a policy document that does not propose extension of EU regulatory power or binding commitments on Member States*". We believe the EU has the possibility to add value, as it suggests, by "*mobilis[ing] political engagement and support at national level to support education and training systems...*", promoting "*learning and knowledge exchange, drawing on the best European practices*."

While major decisions impacting the future of education will be taken at local level – with a rise in budgets for education, for example, being key in promoting high quality education in the digital age – we believe the EU could provide **support in raising awareness** about in particular the following:

- **The need for a balanced creative ecosystem**, under which authors and publishers are rewarded for their work and investment (in particular in light of Article 5, DSM Directive), in order to have successful educational system, underpinned by quality content.
- **The important and effective role of licensing** in enabling the delivery of quality, innovative content for digital learning in response to users' needs. Support for the sharing of best practices in the field of educational licensing, for example, would help in strengthening digital capacities, as foreseen in the DEAP. Licensing schemes for education also play a key role in the "trusted digital ecosystem of education content".
- **The importance of copyright and respect for copyright.** Supporting e.g., education for pupils / students and training for teachers, or campaigns to encourage legal use of content, would help in strengthening digital literacy and competences, as foreseen in the DEAP.

The Commission rightly recognises in its DEAP roadmap that stakeholder engagement should be an "*integral part of the continuous innovation in education through digital means*."

IFRRO and its large network of members across Europe have in-depth knowledge in this field and are well-positioned to provide expertise and assistance. We would therefore encourage the EU to reinforce vis-à-vis Member States the importance of (continued) **engagement with authors, publishers and RROs** when developing national education / digital education policies.

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