

Ms. Lydia Koniordou
Minister of Culture and Sports
Hellenic Ministry of Culture
Mpoumpoulinas 20 -22
Athens 106 82
Greece

By email: minoff@culture.gr

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Honourable Minister,

DRAFT CHANGES TO THE GREEK LEGISLATION ON EDUCATIONAL EXCEPTIONS AND PUBLIC LENDING RIGHT

We are writing to you in respect of the Bill that was submitted by the Ministry of Culture on Friday 7 July to implement the EU Collective Rights Management Directive. We are shocked and surprised to hear that the Bill proposes provisions that would, if adopted, be extremely detrimental to creativity, culture, and authors and publishers in Greece. We also understand that these proposals are made without consultation with authors and publishers.

The International Federation of Reproduction Rights Organisations is the international network of Collective Management Organisations called the Reproduction Rights Organisations (RROs) in the publishing sector, and authors' and publishers' associations in the text and image sector. IFRRO has 146 member organisations in 83 countries worldwide. Our RRO member organisation in Greece is OSDEL, which has been working to support and protect authors and publishers in Greece since 1997.

Education and Research

The first issue we have with the Bill is the proposal to extend the current limited exception for teaching purposes to scientific research and to digital uses without any remuneration to be paid to authors and publishers.

This proposal is all the more surprising given that the European Commission, Parliament and Council are currently working on a proposed Directive that includes an exception for illustration

for teaching covering digital uses, and is focused on harmonising cross border uses for illustration for teaching within Europe.

In the European Union and around the world the uses covered by the proposed exception are generally remunerated – either by a licence or a levy, managed by a RRO, in membership of IFRRO.

This is because governments around the world recognise that the best educational outcomes are delivered by the joint efforts of authors, publishers, librarian and educators working together to provide high quality education, based on high quality teaching and learning materials.

Locally produced educational materials underpin teaching and learning activities in schools and universities. Greek authors and publishers provide an important service to the education sector by producing affordable locally produced, culturally relevant books and other content for students, schools, universities and other educational colleges.

IFRRO notes that most uses permitted by the proposed exception either are or could easily be licensed by OSDEL. Because of the existence of an effective and efficient collective licensing regime through OSDEL, access by the education system to quality educational content at a reasonable price can be better facilitated through the government supporting licensing mechanisms rather than exceptions.

Access for education can be ensured through encouraging the development of flexible licensing solutions, and supporting collective management through mechanisms such as *license override* which provide that exceptions will only operate if no licensing solution is available. The effect is to encourage stakeholders to negotiate a flexible and adaptive solution that works for all parties concerned, rather than a set-in stone inflexible exception.

IFRRO urges the Greek government to reconsider this proposal, withdraw the exception and instead put in place a Copyright Act that encourages market based solutions, is flexible and responsive and ensures access to content on reasonable terms. Such an approach would be consistent with Greece's international obligations under the Berne Convention and consistent with the provisions in the proposed EU Directive on copyright in the Digital Single Market. IFRRO suggests it would indeed be preferable to wait for the proposed Directive to be adopted before introducing a new exception for teaching purposes.

Exception for public lending right

The second problematic provision is the proposal to create a new exception in relation to the public lending right with retroactive effect since 1993, and with no obligation to pay until a future presidential decree. We also understand that school and academic libraries will also be excluded from the obligation to pay remuneration.

We are of the view that this proposal is in breach of Greece's international obligations, and point to the decision of the CJEU, in the Belgian PLR case, Case C-271/10 (*VEWA v Belgische Staat*; 30 June 2011). In this case it was decided that the remuneration must enable authors to receive an adequate income, the amount cannot be purely symbolic. Exemption from the obligation to pay remuneration to rightholders for public lending should be confined to specific certain categories of public lending establishments. Details with respect to remuneration should be clearly stated.

In addition, we are concerned that authors and publishers would not receive any revenues during the period between the enactment of the law and the adoption of a presidential decree. This would have disastrous consequences, at a time when these revenues are critically important for them to support the Greek creative sector.

We therefore strongly urge the Greek Government to withdraw these provisions to ensure that adequate protection and compensation for Greek authors and publishers.

We thank you for taking IFRRO's comments into consideration in the further work on the changes to the Greek legislation.

Yours sincerely,



Caroline Morgan,
Chief Executive