

Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases

CHAPTER III

***SUI GENERIS RIGHT***

*Article 7*

**Object of protection**

1 Member States shall provide for a right for the maker of a database which shows that there has been qualitatively and/or quantitatively a substantial investment in either the obtaining, verification or presentation of the contents to prevent extraction and/or re-utilization of the whole or of a substantial part, evaluated qualitatively and/or quantitatively, of the contents of that database.

2 For the purposes of this Chapter:

- a 'extraction' shall mean the permanent or temporary transfer of all or a substantial part of the contents of a database to another medium by any means or in any form;
- b 're-utilization' shall mean any form of making available to the public all or a substantial part of the contents of a database by the distribution of copies, by renting, by on-line or other forms of transmission. The first sale of a copy of a database within the Community by the rightholder or with his consent shall exhaust the right to control resale of that copy within the Community;

Public lending is not an act of extraction or re-utilization.

3 The right referred to in paragraph 1 may be transferred, assigned or granted under contractual licence.

4 The right provided for in paragraph 1 shall apply irrespective of the eligibility of that database for protection by copyright or by other rights. Moreover, it shall apply irrespective of eligibility of the contents of that database for protection by copyright or by other rights. Protection of databases under the right provided for in paragraph 1 shall be without prejudice to rights existing in respect of their contents.

5 The repeated and systematic extraction and/or re-utilization of insubstantial parts of the contents of the database implying acts which conflict with a normal exploitation of that database or which unreasonably prejudice the legitimate interests of the maker of the database shall not be permitted.

*Article 8*

**Rights and obligations of lawful users**

1 The maker of a database which is made available to the public in whatever manner may not prevent a lawful user of the database from extracting and/or re-utilizing insubstantial parts of its contents, evaluated qualitatively and/or quantitatively, for any purposes whatsoever. Where the lawful user is authorized to extract and/or re-utilize only part of the database, this paragraph shall apply only to that part.

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2 A lawful user of a database which is made available to the public in whatever manner may not perform acts which conflict with normal exploitation of the database or unreasonably prejudice the legitimate interests of the maker of the database.

3 A lawful user of a database which is made available to the public in any manner may not cause prejudice to the holder of a copyright or related right in respect of the works or subject matter contained in the database.

#### *Article 9*

### **Exceptions to the *sui generis* right**

Member States may stipulate that lawful users of a database which is made available to the public in whatever manner may, without the authorization of its maker, extract or re-utilize a substantial part of its contents:

- (a) in the case of extraction for private purposes of the contents of a non-electronic database;
- (b) in the case of extraction for the purposes of illustration for teaching or scientific research, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved;
- (c) in the case of extraction and/or re-utilization for the purposes of public security or an administrative or judicial procedure.

#### *Article 10*

### **Term of protection**

1 The right provided for in Article 7 shall run from the date of completion of the making of the database. It shall expire fifteen years from the first of January of the year following the date of completion.

2 In the case of a database which is made available to the public in whatever manner before expiry of the period provided for in paragraph 1, the term of protection by that right shall expire fifteen years from the first of January of the year following the date when the database was first made available to the public.

3 Any substantial change, evaluated qualitatively or quantitatively, to the contents of a database, including any substantial change resulting from the accumulation of successive additions, deletions or alterations, which would result in the database being considered to be a substantial new investment, evaluated qualitatively or quantitatively, shall qualify the database resulting from that investment for its own term of protection.

#### *Article 11*

### **Beneficiaries of protection under the *sui generis* right**

1 The right provided for in Article 7 shall apply to database whose makers or rightholders are nationals of a Member State or who have their habitual residence in the territory of the Community.

2 Paragraph 1 shall also apply to companies and firms formed in accordance with the law of a Member State and having their registered office, central administration or principal place of business within the Community; however, where such a company or firm has only its registered office in the territory of the Community, its operations must be genuinely linked on an ongoing basis with the economy of a Member State.

3 Agreements extending the right provided for in Article 7 to databases made in third countries and falling outside the provisions of paragraphs 1 and 2 shall be concluded by the Council acting on a proposal from the Commission. The term of any protection extended to databases by virtue of that procedure shall not exceed that available pursuant to Article 10.