

Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (codified version)

CHAPTER I

RENTAL AND LENDING RIGHT

Article 1

Object of harmonisation

1 In accordance with the provisions of this Chapter, Member States shall provide, subject to Article 6, a right to authorise or prohibit the rental and lending of originals and copies of copyright works, and other subject matter as set out in Article 3(1).

2 The rights referred to in paragraph 1 shall not be exhausted by any sale or other act of distribution of originals and copies of copyright works and other subject matter as set out in Article 3(1).

Article 2

Definitions

1 For the purposes of this Directive the following definitions shall apply:

- a 'rental' means making available for use, for a limited period of time and for direct or indirect economic or commercial advantage;
- b 'lending' means making available for use, for a limited period of time and not for direct or indirect economic or commercial advantage, when it is made through establishments which are accessible to the public;
- c 'film' means a cinematographic or audiovisual work or moving images, whether or not accompanied by sound.

2 The principal director of a cinematographic or audiovisual work shall be considered as its author or one of its authors. Member States may provide for others to be considered as its co-authors.

Article 3

Rightholders and subject matter of rental and lending right

1 The exclusive right to authorise or prohibit rental and lending shall belong to the following:

- a the author in respect of the original and copies of his work;
- b the performer in respect of fixations of his performance;
- c the phonogram producer in respect of his phonograms;
- d the producer of the first fixation of a film in respect of the original and copies of his film.

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2 This Directive shall not cover rental and lending rights in relation to buildings and to works of applied art.

3 The rights referred to in paragraph 1 may be transferred, assigned or subject to the granting of contractual licences.

4 Without prejudice to paragraph 6, when a contract concerning film production is concluded, individually or collectively, by performers with a film producer, the performer covered by this contract shall be presumed, subject to contractual clauses to the contrary, to have transferred his rental right, subject to Article 5.

5 Member States may provide for a similar presumption as set out in paragraph 4 with respect to authors.

6 Member States may provide that the signing of a contract concluded between a performer and a film producer concerning the production of a film has the effect of authorising rental, provided that such contract provides for an equitable remuneration within the meaning of Article 5. Member States may also provide that this paragraph shall apply *mutatis mutandis* to the rights included in Chapter II.

Article 4

Rental of computer programs

This Directive shall be without prejudice to Article 4(c) of Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs⁽¹⁾.

Article 5

Unwaivable right to equitable remuneration

1 Where an author or performer has transferred or assigned his rental right concerning a phonogram or an original or copy of a film to a phonogram or film producer, that author or performer shall retain the right to obtain an equitable remuneration for the rental.

2 The right to obtain an equitable remuneration for rental cannot be waived by authors or performers.

3 The administration of this right to obtain an equitable remuneration may be entrusted to collecting societies representing authors or performers.

4 Member States may regulate whether and to what extent administration by collecting societies of the right to obtain an equitable remuneration may be imposed, as well as the question from whom this remuneration may be claimed or collected.

Article 6

Derogation from the exclusive public lending right

1 Member States may derogate from the exclusive right provided for in Article 1 in respect of public lending, provided that at least authors obtain a remuneration for such lending. Member States shall be free to determine this remuneration taking account of their cultural promotion objectives.

2 Where Member States do not apply the exclusive lending right provided for in Article 1 as regards phonograms, films and computer programs, they shall introduce, at least for authors, a remuneration.

3 Member States may exempt certain categories of establishments from the payment of the remuneration referred to in paragraphs 1 and 2.

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- (1) [OJ L 122, 17.5.1991, p. 42](#). Directive as amended by Directive 93/98/EEC ([OJ L 290, 24.11.1993, p. 9](#)).