



## Collective Management of Rights in the European Union: Recent CJEU Case Law

Dr Eleonora Rosati | Kuala Lumpur, Malaysia | 18  
September 2019

eleonora@e-lawnora.com  
@eLAWnora

[www.ipkey.eu](http://www.ipkey.eu)



## Contents

- Relevant legislative framework
- Selected issues
  - What can be licensed?
  - Who can give permission and who should get the money?
  - Who can enforce?
  - Fee setting and competition law issues
- The future



# Relevant legislative framework



## The state of EU copyright harmonization

- How harmonization has progressed
- Relevant EU directives
- Myth and reality: the role of the Court of Justice of the European Union (CJEU)



## Impact on CRM

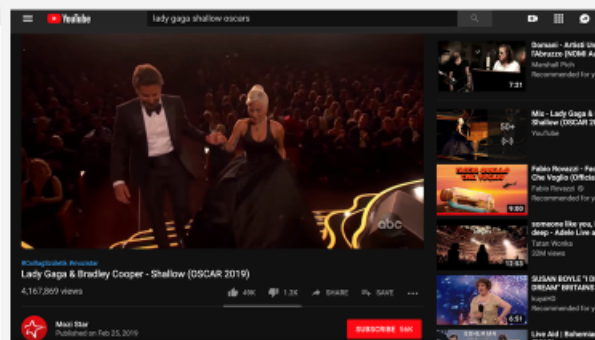
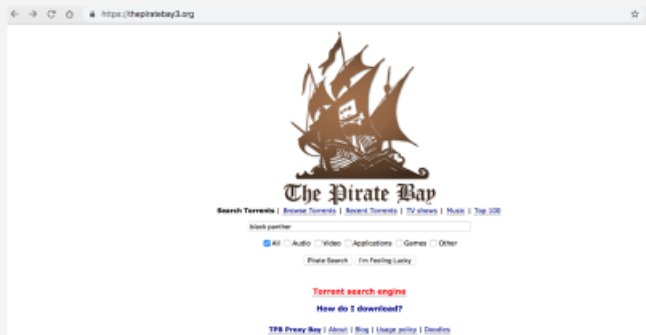


# Selected issues



## What can be licensed?

- Definition of the scope of exclusive rights (*Ziggo*, C-610/15; *YouTube*, C-682/18)





## What can be licensed?

- Definition of the scope of exceptions with a 'fair compensation' requirement
  - The case of the UK (short-lived) private copying exception
- Defining the scope of private copying (*ACI Adam*, C-435/10)





## Who can give permission and who should get the money?

- *Soulier and Dore, C-301/15*
  - Impact in France
  - Impact elsewhere: ECL models
- *Reprobel, C-572/13*

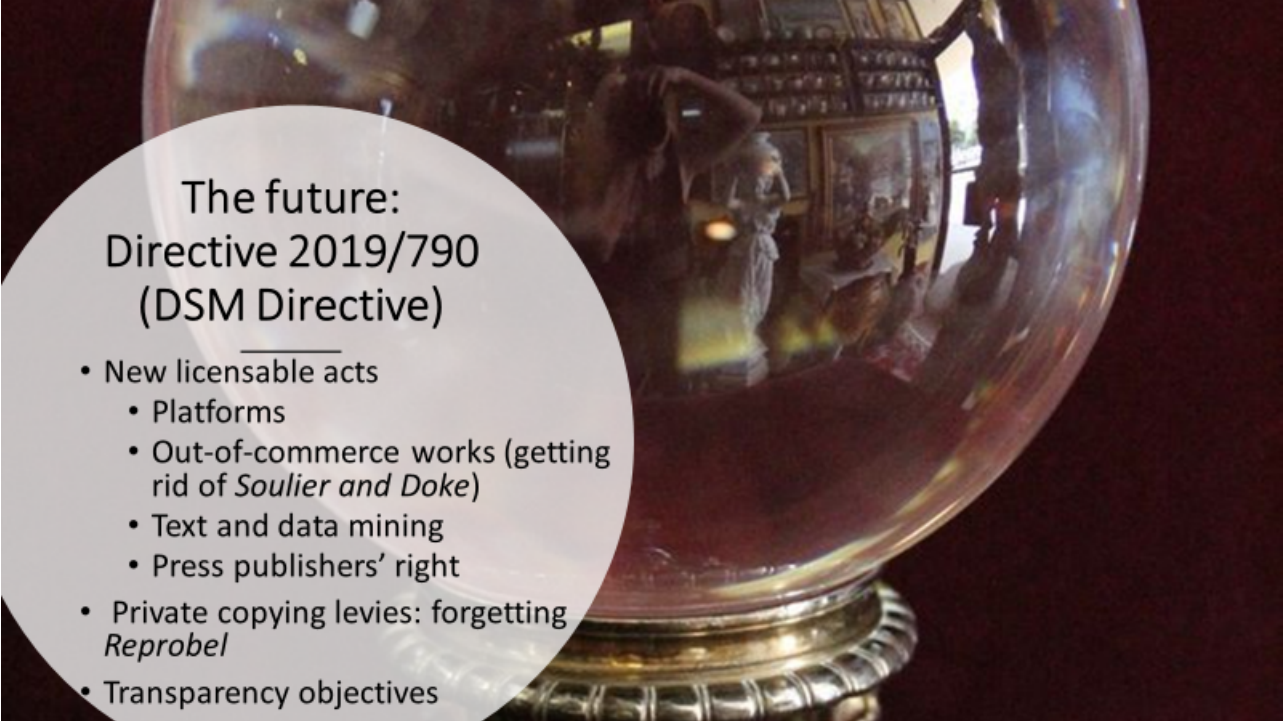




## Fee setting and competition law issues

- OSA, C-351/12
- *Soundreef*, C-781/18 (now withdrawn)





## The future: Directive 2019/790 (DSM Directive)

- New licensable acts
  - Platforms
  - Out-of-commerce works (getting rid of *Soulie and Doe*)
  - Text and data mining
  - Press publishers' right
- Private copying levies: forgetting *Reprobel*
- Transparency objectives



## In conclusion

- Changing landscape
- Greater uniformity
- Greater transparency





Thanks for your attention!



@IPKey\_EU

[eleonora@e-lawnora.com](mailto:eleonora@e-lawnora.com)  
[@eLAWnora](https://twitter.com/eLAWnora)



Funded by the European Union

EUROPEAN UNION  
INTELLECTUAL PROPERTY OFFICE