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Indicators for a continuous monitoring of the operation of the Finnish copyright system

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Summary

The Center for Cultural Policy Research Cupore, in collaboration with the Ministry of Education and Culture, produced in autumn 2016 a list of indicators for a continuous monitoring of the operation of the Finnish copyright system. A set of altogether 11 indicators addresses the economic significance of copyright industries, the development of business models and the market, management of rights, copyright awareness, the incentive function of the copyright system, issues related to the availability and follow-on creation of works, as well as unauthorized use of works, and opinions on the operation of the copyright system. The indicators selected are based on the Methodology Framework for Assessing the Operation of Copyright and Related Rights Systems published by Cupore in June 2016.

The work focused on developing a reliable information base to support the identification and assessment of the need for development in the copyright system. Information is needed for both outlining the current situation and determining future guidelines. Continuous assessment enables grounding decisions on a strong and current basis of information. Collecting data can, indeed, be considered to be significant in terms of copyright policies and the related work on strategy and legislation. The objectivity of data collection supports the independence of decision-making. The information must also be easily accessed and utilized. Clearly presented and consistently collected data promotes the transparency of the copyright system.

The primary goals of the work process were

- outlining the key indicators in terms of the continuous monitoring of the operation of the Finnish copyright system to support decision-making on copyright policies and the development of the copyright system,
- determining the optimal frequency of data collection for each indicator, as well as
- determining the future goals for assessing the operation of the copyright system at Cupore, so that continuous research could be implemented at reasonable cost.

The set of indicators for a continuous monitoring of the operation of the copyright system was determined in September to December of 2016 together with copyright civil servants from the Ministry of Education and Culture. The process consisted of a series of group discussions and interviews, in which the participants gave assessments which were then used to form the set of indicators to be regularly monitored.

Based on the set of indicators, the operation of the copyright system can be discussed from various angles. The set of indicators strives to cover the views of the public, information collected from various industries, as well as the views of the different interest groups within the copyright system in a balanced way.

As part of the work, an initial research plan for the years 2017–2022, based on the indicators, was determined as a guideline for the research conducted at Cupore over the coming years.

Introduction

Objectives

The Center for Cultural Policy Research Cupore determined indicators for a continuous assessment of the operation of the Finnish copyright system in the autumn of 2016, in cooperation with the Ministry of Education and Culture.¹ The goal of the work was to outline the key indicators needed for the development of copyright policy and the copyright system, as well as determine the optimal frequency of data collection for each indicator.

The selected indicators are based on the assessment methodology published by Cupore in 2016, focusing on the operation of the copyright system.² The assessment methodology is intended for international use and contains guidelines for the assessment of the operation of national copyright systems from various points of view.

Need for continuous monitoring of the operation of the copyright system

Continuously assessing the operation of the copyright system makes it possible to create a reliable basis of information to support the identification and assessment of the needs for developing the system. There's a need to develop continuous assessment enabling time series information production for the needs of political decision-making and the promotion of public debate. Clearly presented and consistently collected information promotes the transparency of the copyright system. Continuous assessment, on the other hand, enables grounding decisions on a strong and up-to-date basis of information. The objectivity of information collection supports the independence of decision-making.

A strong information basis helps in observing problems and identifying alternative solutions. Monitoring data presented in time series, for example, illustrates the needs and the trends for development. The operation of the copyright system should be viewed from various angles: The views of the general public on the copyright system have not been researched to a great degree thus far. Information on market and business model developments collected systematically from various industries promotes the adaptability of the copyright system to the changes in its environment. The views of various actors on the significance and problem areas of the copyright system are also a testament to the operation of the system. The significance of collective management and issues related to the availability of works are also among the core themes for assessment.

Background: The methodology for assessing the operation of copyright and related rights systems

The project for assessing the operation of the copyright system conducted by Cupore in 2009–2016 resulted in a methodology framework for the assessment and development of national

¹ The work was part of the Cupore project *Tekijänoikeusjärjestelmän arviointi päätöksenteon tukena* (Assessment of the copyright system to support decision-making) that aims at developing the assessment of the copyright system to support political decision-making and strategic planning.

² Tiina Kautio, Nathalie Lefever and Milla Määttä 2016. *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*. Cupore online publications 37 and Cupore publications 26.

copyright systems. This methodology can be used to produce assessments that serve national governments in creating their copyright policy and strategy, as well as design the development of both legislation and the copyright system. The results yielded by the application of the methodology offer a basis for public discussion on the development of the copyright system.

The project yielded a set of methods for the systematic assessment of the copyright system. The assessment framework has been divided into three pillars that can be implemented one at a time, in consecutive phases or by only focusing on certain areas of interest: The first pillar can be used to form a description of the operating environment of the national copyright system. The second pillar contains methods for the description of the various parts of the copyright system and the assessment of their operation. The third pillar provides instructions on how to study the balanced operations of the copyright system.

The framework consists of altogether 37 indicators. These are further divided into 15 description sheets (*DS*) and 22 methodology cards (*MC*). The description sheets can be used for drafting a comprehensive description of the national copyright system and its operating environment. The methodology cards detail the specific data collection themes and methods, and the resulting data describes the operation of the copyright system.

The results of the project have been documented in the form of a methodology handbook, as well as a *Toolkit of Questionnaires* used as an accessory to the handbook. The handbooks and the pilot reports created in the pilot phase of the project in 2013–2015 (altogether 37 reports) were published in June 2016:

- Tiina Kautio, Nathalie Lefever and Milla Määttä 2016. *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*. Cupore online publications 37 and Cupore publications 26.
- Tiina Kautio, Nathalie Lefever and Milla Määttä 2016. *Assessing the Operation of Copyright and Related Rights Systems: Toolkit of Questionnaires for Interviews, Focus Group Studies and Surveys*. Cupore online publications 38 and Cupore publications 27.
- *Tekijänoikeusjärjestelmän toimivuuden arviointihanke: metodologiakehikon pilotointi Suomessa*. Cuporen online publications 39.

Work process

The set of indicators for a continuous monitoring of the operation of the copyright system was determined in September to December in 2016, in cooperation with copyright specialists from the Ministry of Education and Culture. The work process consisted of a series of group discussions and interviews.³

The first group discussion organized in September⁴ focused on reviewing the research questions and orientation for the interviews in October. The following questions used as a basis for the interviews were discussed:

- How can the assessment best support the copyright policy and system development work carried out in the Ministry of Education and Culture?

³ Copyright civil servants from the Ministry of Education and Culture participated in the group discussions and interviews.

⁴ The group discussion was organised on 8 September 2016.

- Which parts of the methodology framework would be best suited as a tool for continuous monitoring as part of the work conducted in the ministry?
- What information is needed for the continuous monitoring of the system's operation?
 - Which 3–5 themes are most important?
 - Which other themes are somewhat important or possibly important in the future?
 - What kind of research and/or indicators are needed?
- How frequently is this information needed?
- What are the key research needs over the coming years?

In October, separate interviews were conducted with each copyright expert from the Ministry of Education and Culture. Each expert chose three indicators they found most important in terms of the continuous monitoring of the copyright system out of the copyright system operation assessment framework. In addition, other, less central indicators and topics for measurement, or those believed to be important in the future, were discussed. This was used to draft a summary in which each indicator in the assessment framework was scored, based on the assessments given in the interviews. The scores are presented in Appendix 1 to this report.

A proposal for a set of regularly monitored indicators for the assessment of the operation of the copyright system was drafted, based on the scores and other information provided in the interviews. The proposals were processed in the group discussions organized in November and December⁵. Minor changes were made to the indicator set at this point. In addition, research methods and the urgency and frequency of information collection for each indicator were discussed.

As part of the work, an initial research plan for the years 2018–2022, based on the indicators, was determined. The plan specifies guidelines for the research conducted at Cupore over the coming years. The plan is presented in Appendix 2 to this report.

⁵ The group discussion was organised on 2 November 2016 and 14 December 2016.

The continuous monitoring of the copyright system's operation: indicators

It was found important during the indicator determination process to identify the research themes that best serve the work conducted in the ministry. The continuous monitoring of the copyright system should focus on a carefully selected set of indicators. It is also crucial to accumulate information in such a way that it is easy to utilize.

Continuous production of information plays an important role in copyright policy and the related work on strategy and legislation. This information base is required for outlining the current situation and supporting the determination of future guidelines. Anticipation is important, but often challenging. Without preparation, legislators will inevitably be left behind, in terms of the changes occurring in the operational environment of copyrights and the market.

The set of research should be determined so that the continuity of the production of information can be secured, while bearing costs in mind. Producing information on different themes in alternate years enables continuous research at reasonable cost.

Information on the operation of various areas of the copyright system is especially interesting when it indicates trends. The collection frequency of time series data was, indeed, one of the key issues in forming up the set of indicators. The group discussions aimed at determining suitable intervals of data collection to produce reliable time series data.

When collecting information on the operation of the copyright system, it is important to define which situations are a result of the copyright system and which of something else, such as the operation of the markets. It must also be observed that many developmental paths may occur and works may be produced completely independently of the copyright system.

The discussions and interviews highlighted many core research themes for the continuous monitoring of the copyright system. This set of research themes that were considered important is discussed by theme below. In order to enable continuous, cost-effective data collection, a smaller set of indicators was outlined from the key research themes for the continuous monitoring of the copyright system. These indicators that are connected to various themes are presented in boxes in the text.

The economic significance of copyright industries

The indicator MC1 – *Macroeconomic Importance of Copyright Industries*⁶ included in the methodology for assessing the operation of copyright and related rights systems is suited for the monitoring of the development of copyright industries. The indicator depicts the economic significance of the industries, and annual time series information on the themes covered by it is available, starting from 2003. The latest studies have been conducted at intervals of approximately three years.⁷

⁶ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 54.

⁷ The latest research has been published in the publishing series by Suomen Tekijänoikeudellinen Yhdistys / Tekijänoikeusinstituutti, see <http://www.copyrightsociety.fi/index.php?id=104> (referenced on 17 February 2017).

Indicator MC1 monitors the position of copyright industries⁸ as part of Finnish economy. The indicator parameters 1–3⁹ discuss added value in copyright industries, the number of employed people and the value of international trade. The added value of various branches is, however, affected by the general economic development, as well as many factors independent of the operation of the copyright system. The indicator does not, however, take into account the operations relevant in terms of copyright occurring in other copyright industries than those determined. Additionally, the industries included in the calculation may also have other operations than those relevant in terms of copyright. It can, indeed, be questioned how well the indicator depicts the operation of the copyright system. It may often be impossible to determine how the copyright system affects the changes perceived during the time series. In any case, the indicator reflects the greater developmental directions of the industries, such as changes in media, and provides information on the development of various copyright industries.

Indicator MC2 – *Volume of Domestic Production of Copyrighted Products and Services*¹⁰ offers information on production quantities in various industries, and it could act as a key measure of the volume of domestic production. The assessment is based on the amount, turnover, value of sales or other suitable parameters of products and services protected by copyright. The amount of production can be understood in various ways, and information collected from different sources may be based on different types of production unit definitions. This means that different operators may produce statistical or other information, based on different definitions. In addition, it may be difficult to determine in clear terms which productions are domestic. The indicator may also easily exclude independent productions. This raises the question of what production volumes truly say about the situation in various industries. Information on production volumes could, however, be interesting, in particular if it is compared to the scope of unauthorized use or the operation of collective management organizations. On the other hand, an even more central issue to monitor could be the number of users of the works¹¹. Indicator MC2 was not selected as one of the key indicators for a continuous assessment of the Finnish copyright system.

There is only insufficient data available on the international trade of copyright industries. Indicator MC3 – *Volume of Exported and Imported Copyrighted Products and Services*¹² deals with this theme, but it is not one of the key indicators. Even though collecting information on international trade was considered useful, it was not deemed to be a key issue to be monitored over the coming years.

**Indicators for a continuous monitoring of the operation of the Finnish copyright system:
MC1 – *Macroeconomic Importance of Copyright Industries***

⁸ The definition of copyright industries is based on the methodology developed by the World Intellectual Property Organization (WIPO). See *WIPO Guide on Surveying the Economic Contribution of the Copyright Industries, 2015 Revised Edition*, <http://www.wipo.int/copyright/en/performance/> (referenced on 17 February 2017).

⁹ Value added of copyright industries as a share of GDP; Number of employees in copyright industries as a share of the total employed labor force; and Value of exports and imports in copyright industries, as a percentage of total national foreign trade

¹⁰ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 58.

¹¹ The theme “The level of cultural participation and/or end-use of cultural products and services” is included in indicator DS4 – *Markets for Copyrighted Products and Services*.

¹² See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 60.

The development of business models and the market

When investigating the operations of the market, the central themes become the examination of business models and the development from analog to digital operations.

Based on indicator DS4 – *Markets for Copyrighted Products and Services*,¹³ it is possible to implement a description of the structure and organization of various industries, as well as the business, competition, internationalization and end use within the industry. The parameter “*Description of the most common business models used in each industry. If applicable, consider digital business models separately*” is included in the indicator, and it could be used to monitor the development of business models across industries. This could also contain an analysis of how comprehensive the range of various business models is. The research could also touch on how and at what speed various industries are making the transfer from analog to digital. More information is also needed on the development of service concepts in the digital market, for example. Data collection should not, however, be solely focused on the digital market. Information on whether entering the market is easy or challenging could also be interesting. Other important sections could include *Competition in the industry and the concentration of the markets*, *The level of internationalization of the markets* and *The level of cultural participation and/or end-use*.

Monitoring digital operation models and technological development is key. The share of works in the digital format of total sales could therefore be an interesting piece of information. Parameter 1 – *The market share of digital sales (as a % of all sales) in copyright industries*¹⁴ of indicator MC4 – *Development of Digital Business Models and Income Based on Digital Distribution*¹⁵ addresses this issue.

Business models in the media industry would be of particular interest over the coming years. The definition of business models and the description of their development should be performed carefully, and the descriptions should also take the operations of agents into consideration. Economic operations are generated in networks and cooperation across industries. This must be observed in studies focusing on individual industries.¹⁶

Indicators for a continuous monitoring of the operation of the Finnish copyright system:
DS4 – *Markets for Copyrighted Products and Services*
MC4 – *Development of Digital Business Models and Income Based on Digital Distribution*

¹³ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 56.

¹⁴ The indicator DS3 on technological development – *Technological Development* included in the assessment methodology of the operation of copyright systems was not selected as a key indicator (see the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 51)

¹⁵ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 62.

¹⁶ Value chain assessment is discussed in the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework* on page 38.

Quality of legislative initiatives

Legislation and case law are core elements of the copyright system. The assessment of the operation of legislation could focus on public hearings, consultation rounds and impact assessments in the legislative initiative phase, as well as investigations into how extensively research results are utilized in drafting legislative initiatives. These issues are addressed in indicators MC5 – *Public Consultation on Law Proposals*¹⁷ and MC6 – *Use of Impact Assessment and Research in Policy Development*¹⁸.

Since 2016, the Finnish Council of Regulatory Impact Analysis has implemented evaluation of impact analysis in Finland. The indicators part of this theme were not selected as part of the key indicators for a continuous assessment of the Finnish copyright system.

Enforcement of rights

A central indicator depicting the enforcement of rights could be MC7 – *Application of Sanctions and Remedies for Copyright Infringement*¹⁹. It is interesting, especially in terms of parameters 1, 3 and 4 (*Penalties for copyright infringement; Court cases, criminal procedure; Court cases, civil procedure*). This indicator could provide information on what penalties have been given in different cases. The information could also be compared internationally. It can be questioned, however, what information the number of court cases really gives us. Is continuously collected data useful enough here, compared to the cost of information collection?

Information on the use of alternative resolution mechanisms in relation to the number of court proceedings could be interesting. Indicator MC8 – *Use of Alternative Resolution Mechanisms for Solving Copyright Disputes*²⁰ focuses on alternative resolution mechanisms. However, access to data on the number of disputes can prove difficult.

The enforcement theme was deemed important in principle in the discussions, but collecting the right kind of information can be challenging. The indicators part of this theme were not selected as key indicators for a continuous assessment of the Finnish copyright system.

Management of rights

Management of rights both by individual copyright holders and collectively is included in the set of regularly monitored indicators.

Indicator DS11 – *Individual Exercise of Rights*²¹ discusses direct agreements and licensing, public and private operations to promote the operation of the market, as well as organizations and arrangements promoting the international distribution of works. Parameter 1 (*The most commonly used licensing models in different industries*) discusses the most common licensing models in various industries. The scope of digital rights management (DRM) has been discussed in parameter 2 (*The use of DRM technologies for managing the rights*). Research could, for example, focus on which rights are managed digitally and to what extent.

¹⁷ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 71.

¹⁸ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 73.

¹⁹ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 82.

²⁰ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 86.

²¹ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 90.

Indicator DS12 – *Collective Management of Rights*²² discusses the organization of the collective management of rights, as well as the representation, operating processes and the geographical reach of the operations of collective management organizations. Themes of data availability and transparency of collective management organizations, which are important to the copyright holders, are also included. The indicator must be taken into account in the continuous monitoring framework, where applicable.

The economic significance of collective management organizations and the efficiency of their operations are also core themes to be monitored. Indicator MC9 – *Efficiency of Collective Management Organizations*²³ discusses the amount of collected and paid royalties²⁴ and depicts whether the organizations operate efficiently. Time series data could be compared with data on collective management organizations in other countries, when possible. This may also indicate the impact of the changes occurring in these organizations. For example, the possible costs of the act on collective management of rights to various operators²⁵ could be observed from time series data in a few years, after the amendments to the law take effect. It is also possible to compare situations before and after the amendment to the law and collect data on how legislation impacts the operations of the organizations. The requirements on multi-territorial licensing of authors' rights in musical works for online use determined in the directive on collective management should also be studied.²⁶ Out of the total royalty cash flow, the amount of royalties going through collective management organizations is also an interesting piece of information.

Time series data could also be produced concerning compensations paid to authors for private copying. This information could be compared with data from other EU countries. One of the research questions related to the theme could be what the level of compensation is based on in cases of private copying.²⁷

One of the potential cooperation partners and sources of information for research on collective management will be the Advisory Board for the Development of Collective Management in the future.²⁸

²² See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 92-93.

²³ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 95.

²⁴ See indicator parameter 1 – *The amounts of remunerations and compensations a) administered and b) distributed by each CMO*

²⁵ Based on the so-called collective management directive (*Directive 2014/26/EU of the European parliament and of the council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market*, 2014/26/EU)

²⁶ Section III of the collective management directive (2014/26/EU) decrees prerequisites for collective management organisations to use licensing methods that are as effective as possible, as they increasingly operate across borders, and for how collective management organisations manage collective multi-territorial licensing of rights in musical works for online use.

²⁷ Private production and its prevalence are researched annually on the initiative of the Ministry of Education and Culture to determine the level of compensation. The advisory board for research into private copying acts as an advisory expert party in research on private copying.

²⁸ The Advisory Board for the Development of Collective Management, founded in connection to the National Board of Patents and Registration, provides recommendations on the application of law in terms of the procedures, practices followed and industry standards of collective management organisations. It organises collective management and national monitoring to support collective management, as well as promotes good practices

Indicators for a continuous monitoring of the operation of the Finnish copyright system:DS11 – *Individual Exercise of Rights*MC9 – *Efficiency of Collective Management Organizations*DS12 – *Collective Management of Rights***Copyright awareness**

The monitoring of the availability of information on the copyright system and works or on where licenses can be obtained, was deemed important in the discussions. Indicator MC10 – *Public Awareness of the Rights*²⁹ could be the key indicator in assessing the level of awareness of copyright. It measures the public awareness of copyright issues and indicates the general acceptability and intelligibility of the system.³⁰ A survey can be used to determine what the general public really knows about copyright issues. The information on the level of copyright awareness could be compared to information on opinions on the copyright system and unauthorized use.

The methodology framework area *Dissemination of Knowledge* sprouted several other topics for research. Indicator DS13 – *Copyright-related Information Activities*³¹ and indicator DS14 – *Copyright-related Education for the Public in General*³² were deemed somewhat important indicators. Indicators DS15 – *Research on Copyright-related Topics*³³ and MC12 – *Copyright-related Research and Study Programs in Universities and Research Institutes*³⁴ were described as interesting.

Research on copyright awareness could also cover investigations into how the content of the information is understood among the public. It is important to observe the respondents' subjective assessments of both the positive and negative aspects of the system.

Indicators for a continuous monitoring of the operation of the Finnish copyright system:MC10 – *Public Awareness of the Rights***Incentive function of the copyright system**

Indicator MC15 – *Stakeholders' Opinions Concerning the Incentive Function of the Copyright System*³⁵ on the incentive function of the copyright system was found central in the discussions, and it should be included in the entity of regularly monitored indicators. The research based on

²⁹ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 100.

³⁰ Questions related to the theme are presented in the *Toolkit of Questionnaires for Interviews, Focus Group Studies and Surveys* on pages 62–63.

³¹ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 98.

³² See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 99.

³³ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 103.

³⁴ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 105.

³⁵ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 116.

the indicator can offer detailed information on the incentive function of copyright.³⁶ The incentive function is assessed in the research by focusing on individual industries separately.

Indicator MC13 – *Direct Copyright Revenue Streams for Different Stakeholders*³⁷ was also deemed to be somewhat important. However, it was not selected as a key indicator for a continuous assessment of the Finnish copyright system. In addition, the profitability of investments into copyrighted products and services could be an interesting research theme in the future.³⁸

Indicators for a continuous monitoring of the operation of the Finnish copyright system:
MC15 – *Stakeholders' Opinions Concerning the Incentive Function of the Copyright System*

The availability and follow-on creation of works

Indicator MC16 – *Access to Copyrighted Works by the Public*³⁹ discusses the availability of copyrighted works to various audiences. It takes into consideration access through libraries, archives and museums, access through educational institutes, as well as access to special groups, such as the visually impaired.⁴⁰ The theme “*Level of development of the CMOs' services concerning the identification of copyright owners*” included in parameter 3 could be interesting to follow after the legislation on collective management of copyright takes effect. The indicator has many connections to the regulatory proposal on promoting a fair, efficient and competitive European copyright-based economy in the digital single market published by the European Commission on 14 September 2016.⁴¹

Indicator MC17 – *Access to Copyrighted Works for Follow-on Creation*⁴² is especially interesting because of parameter 2 (*Opinions on issues related to the access to copyrighted works for follow-on creation*). Based on this indicator, it can be determined to what extent works are left unused due to the exclusivity offered by the copyright system or uncertainty relating to the ownership of rights. The possibilities for creating new works must be observed from different perspectives. Enabling remix culture, for example, and creating works communally could prove interesting research topics.

³⁶ Questions related to the theme are presented in the *Toolkit of Questionnaires for Interviews, Focus Group Studies and Surveys* on pages 71–73 and 83–84.

³⁷ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 111.

³⁸ The issue is discussed in the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework* on pages 112–114.

³⁹ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 120–121.

⁴⁰ See parameters 1b, 1c and 2 of the Methodology Card.

⁴¹ Proposal for a Directive of the European Parliament and of the Council on copyright in the Digital Single Market (COM(2016) 593); Proposal for a Regulation of the European Parliament and of the Council laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes (COM(2016) 594); Proposal for a Regulation of the European Parliament and of the Council on the cross-border exchange between the Union and third countries of accessible format copies of certain works and other subject-matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print disabled (COM(2016) 595); and the Directive of the European Parliament and of the Council on certain permitted uses of works and other subject-matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society (COM(2016) 596).

⁴² See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 124.

Indicators for a continuous monitoring of the operation of the Finnish copyright system:MC16 – *Access to Copyrighted Works by the Public*MC17 – *Access to Copyrighted Works for Follow-on Creation*

Transfer and licensing of rights

The operation of the licensing markets could be investigated first and foremost from the point of view of obtaining licenses: Are different licensing solutions available and what are the challenges related to obtaining licenses? Are there any licensing solutions for so-called minor uses? Indicator MC18 – *Transaction Costs in Transfer and Licensing of Rights*⁴³ focuses on the costs to negotiation parties from transferring and licensing rights. When studying this theme, it should be ensured that the questions posed in survey studies, for example, are unambiguous.

Indicator MC19 – *Terms for Transfer and Licensing of Rights*⁴⁴ discusses the fairness of terms of contracts. It could be used to study whether industry practices have changed with the amendment to the copyright law concerning⁴⁵ the fairness of terms of contracts. It would also be interesting to determine whether there is a connection between the perceived fairness of contract terms and the number of employees and volume of production in different industries. It can be questioned, however, whether this information on the fairness of terms of contracts illustrates the practices of contract-making in general, rather than the operation of the copyright system. Subjective assessments on the theme may also easily be based on individual experiences, and it may be difficult to see the bigger picture.

The indicators in the theme were not selected as key indicators for a continuous assessment of the Finnish copyright system.

Unauthorized use of works

The unauthorized use of works could be monitored based on predetermined themes using indicator MC21 – *Unauthorized Use of Copyrighted Works in Digital Form*⁴⁶. The indicator instructs to examine the prevalence of unauthorized use and the related opinions.⁴⁷ The reasons for and the extent of unauthorized use are especially interesting in terms of monitoring. The time series data could be proportioned to data on the volume of authorized use of services and products.

Indicator MC20 – *Unauthorized Use of Copyrighted Works in Physical Form*⁴⁸ discusses the unauthorized use of works in physical form and illustrates pirated products found by customs, in particular. Finland is often only a transition country for pirated products, which means that indicator MC20 to a large degree depicts the efficiency of customs.

⁴³ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 128.

⁴⁴ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 130.

⁴⁵ The act on amending the copyright act (607/2015) took effect on 1 June 2015.

⁴⁶ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 136.

⁴⁷ Questions related to the theme are presented in the *Toolkit of Questionnaires for Interviews, Focus Group Studies and Surveys* on pages 65-68.

⁴⁸ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 133.

Indicators for a continuous monitoring of the operation of the Finnish copyright system:
MC21 – *Unauthorized Use of Copyrighted Works in Digital Form*

Opinions on the operation of the copyright system

Indicator MC22 – *Stakeholders' Opinions on the Copyright System*⁴⁹ gives instructions on collecting opinions on the operation of the copyright system. It can act as a basis for collecting information on the complexity, currency and need for change in the copyright system and on what is generally expected of the operation of the system from various actors in the field of copyright. It is important to study the views of various parties, including new types of actors. Various actors could be asked to provide insight on expectations related to the development of the copyright system and suggest clear development proposals.

Data collection requires the implementation of a survey targeted at different interest groups.⁵⁰ The questions included in the survey must be determined carefully.

Indicators for a continuous monitoring of the operation of the Finnish copyright system:
MC22 – *Stakeholders' Opinions on the Copyright System*

⁴⁹ See the methodology handbook *Assessing the Operation of Copyright and Related Rights Systems: Methodology Framework*, p. 138.

⁵⁰ Questions related to the theme are presented in the *Toolkit of Questionnaires for Interviews, Focus Group Studies and Surveys* on pages 67-68, 79-80 and 84-85.

Summary and conclusion

Altogether 11 indicators for the continuous monitoring of the operation of the Finnish copyright system were determined in the discussions. The indicators were classified into three entities, based on data collection methods and target groups:

- I. Survey on the general public,
- II. Industry-specific studies (focus on an individual industry) and
- III. Other research.

The entities are illustrated in Table 1.

The data collection frequency for time series data was determined individually for each research theme. Assessments drafted together with civil servants from the Ministry of Education and Culture are given in Table 1. Primarily, the data is suggested to be updated every three or five years.

The data collection for the first entity is implemented by conducting a survey on the general public. The sample study would cover the Finnish population between the ages of 15 and 79. The questions cover copyright awareness, availability and follow-on creation of works, unauthorized use of works, as well as opinions on the copyright system. In order to produce continuous time series data, the survey should be conducted roughly every three years.

The second entity focuses on individual industries. The entity comprises of indicators on the operation of the markets, digital business models, incentive function of the copyright system, follow-on creation of works and the opinions of various interest groups. Research methods are versatile; the study may be mainly based on data from industry associations and Statistics Finland⁵¹, on interviews, group discussions or a combination of these. The industries examined first could be industries that came up in the discussions, e.g. the audio-visual industry, the publishing industry and the music industry. Data is collected from different industries in alternate years, which is why the frequency of the study is not specified in Table 1.

The themes in the third entity are the economic significance of copyright industries, the operation of collective management organizations and the availability and the follow-on creation of works. Research on the macro-economic impact of copyright industries has been conducted in Finland for the past twenty years, and the frequency of these studies has been established at approximately three years.⁵² Research on the operation of collective management organizations could be topical a few years after the collective management directive has been implemented.⁵³ After this, the research could be implemented approximately every five years. The methods are desktop research and interviews. Possible points of view in the study concerning the availability of works could be those of libraries, archives, museums, education, scientific research and the print disabled. Data collection is implemented as desktop research and interviews, as well as surveys and/or using group discussion methods. Follow-on creation of works is examined from the point of view of scientific research. Here data collection is also implemented as a combination of desktop research, interviews, surveys and group discussions. The frequency of studies on both the availability and follow-on creation of works was determined at five years in the group discussions.

⁵¹ Currently, some industries only provide insufficient data.

⁵² The latest research has been published in the publishing series by Suomen Tekijänoikeudellinen Yhdistys / Tekijänoikeusinstituutti, see <http://www.copyrightsociety.fi/index.php?id=104> (referenced on 17 February 2017).

⁵³ The act on collective management of rights (1494/2016) based on the EU directive on collective management of copyright (2014/26/EU) took effect on 1 January 2017.

The continuity of data collection is crucial in assessing the development needs of the system. Both the research entity and the frequency of collecting time series data are determined, so as to enable continuous research at reasonable cost. Issues within the framework should be prioritized with a focus on the most current issues. The frequency of updating research data should be reconsidered if necessary, and the estimates presented in Table 1 should be viewed as guidelines. In the future, research and other cooperation with universities and other organizations that conduct research relevant to copyrights are emphasized.

The set of regularly monitored indicators of the operation of the copyright system strives for generating a reliable and up-to-date basis of information. Objective assessment and the transparent documentation of results promote the independence of decision-making. The operation of the copyright system can be examined from various angles, based on this entity. The set of indicators strives to cover the views of the public, information collected from various industries, as well as the views of the different interest groups within the copyright system, in a balanced way.

Indicator		How often should the data be collected? (Estimate) Research methods
I. Survey on the general public		
Methodology Card 10.	Public Awareness of the Rights	Every 3 years
Methodology Card 16.	Access to Copyrighted Works by the Public	<i>Survey (general public)</i>
Methodology Card 17.	Access to Copyrighted Works for Follow-on Creation	
Methodology Card 21.	Unauthorized Use of Copyrighted Works in Digital Form	
Methodology Card 22.	Stakeholders' Opinions on the Copyright System	
II. Industry-specific studies (focus on an individual industry)		
Description Sheet 4.	Markets for Copyrighted Products and Services	Examining different industries in alternate years
Methodology Card 4.	Development of Digital Business Models and Income Based on Digital Distribution	<i>Industry-specific examination; desktop study based on data from e.g. industry associations and Statistics Finland, interviews, the group discussion method</i>
Methodology Card 15.	Stakeholders' Opinions Concerning the Incentive Function of the Copyright System	
Methodology Card 17.	Access to Copyrighted Works for Follow-on Creation	
Methodology Card 22.	Stakeholders' Opinions on the Copyright System	
III. Other research		
Methodology Card 1.	Macroeconomic Importance of Copyright Industries	Presently implemented every 3 years <i>Desktop study based on existing data</i>
Methodology Card 9.	Efficiency of Collective Management Organizations	Every 5 years; at first, a suitable frequency after the implementation of the collective management directive
Description Sheet 12.	Collective Management of Rights	<i>Desktop study, interviews</i>
Methodology Card 16.	Access to Copyrighted Works by the Public	Every 5 years <i>Possible points of view: libraries, archives, museums, education, scientific research, the print disabled; Desktop study, interviews, survey and/or group discussion methods</i>
Methodology Card 17.	Access to Copyrighted Works for Follow-on Creation	Every 5 years <i>Point of view: using copyrighted material for scientific research; Desktop study, interviews, survey and/or group discussion methods</i>

Table 1. Indicators for a continuous monitoring of the operation of the copyright system (set of indicators formed based on group discussions)

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World Intellectual Property Organization. *Guide on Surveying the Economic Contribution of the Copyright Industries, 2015 Revised Edition*. WIPO Publication No. 893 E.

Directive 2014/26/EU of the European parliament and of the council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market, 2014/26/EU.

Proposal for a Directive of the European Parliament and of the Council on copyright in the Digital Single Market (COM(2016) 593).

Proposal for a Regulation of the European Parliament and of the Council laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes (COM(2016) 594).

Proposal for a Regulation of the European Parliament and of the Council on the cross-border exchange between the Union and third countries of accessible format copies of certain works and other subject-matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print disabled (COM(2016) 595).

Directive of the European Parliament and of the Council on certain permitted uses of works and other subject-matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society (COM(2016) 596).

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Interviews

Copyright civil servants from the Ministry of Education and Culture, September and October 2016.

Group discussions

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Copyright civil servants from the Ministry of Education and Culture, 2 November 2016.

Copyright civil servants from the Ministry of Education and Culture, 14 December 2016.

Appendices

Appendix 1. Indicator scoring

Appendix 2. Initial research plan for 2018–2022

Appendix 1. Indicator scoring

		Total score
Copyright Environment		
THE CONTEXT IN WHICH THE COPYRIGHT SYSTEM OPERATES		
Description Sheet 1.	National Context	-
Description Sheet 2.	International and Regional Context	-
Description Sheet 3.	Technological Development	2
Methodology Card 1.	Macroeconomic Importance of Copyright Industries*	7
VALUE CREATION AND THE MARKETS FOR COPYRIGHTED PRODUCTS AND SERVICES		
Description Sheet 4.	Markets for Copyrighted Products and Services*	9
Methodology Card 2.	Volume of Domestic Production of Copyrighted Products and Services	6
Methodology Card 3.	Volume of Exported and Imported Copyrighted Products and Services	-
Methodology Card 4.	Development of Digital Business Models and Income Based on Digital Distribution *	7
Functioning and Performance of the Elements of the Copyright System		
LAW, POLICY AND PUBLIC ADMINISTRATION		
Description Sheet 5.	Copyright Law	-
Description Sheet 6.	Copyright Policy	-
Methodology Card 5.	Public Consultation on Law Proposals	1
Methodology Card 6.	Use of Impact Assessment and Research in Policy Development	6
Description Sheet 7.	Public Administration of Copyright	-
ENFORCEMENT		
Description Sheet 8.	Enforcement by Public and Private Actors	-
Description Sheet 9.	Sanctions and Remedies for Copyright Infringement	-
Methodology Card 7.	Application of Sanctions and Remedies for Copyright Infringement	1
Description Sheet 10.	Availability of Alternative Dispute Resolution Mechanisms	-
Methodology Card 8.	Use of Alternative Resolution Mechanisms for Solving Copyright Disputes	2
MANAGEMENT OF RIGHTS		
Description Sheet 11.	Individual Exercise of Rights	4
Description Sheet 12.	Collective Management of Rights*	3
Methodology Card 9.	Efficiency of Collective Management Organizations*	6 ½
DISSEMINATION OF KNOWLEDGE		
Description Sheet 13.	Copyright-related Information Activities	1 ½
Description Sheet 14.	Copyright-related Education for the Public in General	1 ½
Methodology Card 10.	Public Awareness of the Rights*	6 ½
Methodology Card 11.	Copyright-related Education as Part of the Education of Professionals for Creative Industries	-
Description Sheet 15.	Research on Copyright-related Topics	2
Methodology Card 12.	Copyright-related Research and Study Programs in Universities and Research Institutes	2
Operational Balance of the Copyright System		
INCENTIVES		
Methodology Card 13.	Direct Copyright Revenue Streams for Different Stakeholders	3 ½
Methodology Card 14.	Return on Investment for Copyrighted Products and Services	-
Methodology Card 15.	Stakeholders' Opinions Concerning the Incentive Function of the Copyright System*	11
ACCESS		
Methodology Card 16.	Access to Copyrighted Works by the Public*	6
Methodology Card 17.	Access to Copyrighted Works for Follow-on Creation*	6
LICENSING MARKETS		
Methodology Card 18.	Transaction Costs in Transfer and Licensing of Rights	2
Methodology Card 19.	Terms for Transfer and Licensing of Rights	3
INFRINGEMENT, OPINIONS AND PUBLIC ACCEPTANCE		
Methodology Card 20.	Unauthorized Use of Copyrighted Works in Physical Form	-
Methodology Card 21.	Unauthorized Use of Copyrighted Works in Digital Form*	7
Methodology Card 22.	Stakeholders' Opinions on the Copyright System*	9

Table A1. Scores of the indicators from the project for assessing the operation of the copyright system mentioned during discussions⁵⁴

** Indicator included in the set of indicators for a continuous monitoring of the operation of the copyright system*

⁵⁴ Indicators included in the methodology for assessing the operation of the copyright system were scored, based on the assessments provided during interviews, so that only indicators that were deemed central were scored. The indicators with the best scores are marked in bold in the total score column.

Appendix 2. Initial research plan for 2018–2022

2018	
I. Survey on the general public	
Indicators	
Methodology Card 10.	Public Awareness of the Rights
Methodology Card 16.	Access to Copyrighted Works by the Public
Methodology Card 17.	Access to Copyrighted Works for Follow-on Creation
Methodology Card 21.	Unauthorized Use of Copyrighted Works in Digital Form
Methodology Card 22.	Stakeholders' Opinions on the Copyright System
II. Other research: focus on teaching	
Indicators	
Methodology Card 1.	Macroeconomic Importance of Copyright Industries ⁵⁵
Methodology Card 16.	Access to Copyrighted Works by the Public ⁵⁶
2019	
I. Industry-specific research: focus on a separately determined industry	
Indicators	
Description Sheet 4.	Markets for Copyrighted Products and Services
Methodology Card 4.	Development of Digital Business Models and Income Based on Digital Distribution
Methodology Card 15.	Stakeholders' Opinions Concerning the Incentive Function of the Copyright System
Methodology Card 17.	Access to Copyrighted Works for Follow-on Creation
Methodology Card 22.	Stakeholders' Opinions on the Copyright System
II. Other research: focus on collective management of rights	
Indicators	
Methodology Card 9.	Efficiency of Collective Management Organizations
Description Sheet 12.	Collective Management of Rights
2020	
I. Industry-specific research: focus on a separately determined industry	
Indicators	
Description Sheet 4.	Markets for Copyrighted Products and Services
Methodology Card 4.	Development of Digital Business Models and Income Based on Digital Distribution
Methodology Card 15.	Stakeholders' Opinions Concerning the Incentive Function of the Copyright System
Methodology Card 17.	Access to Copyrighted Works for Follow-on Creation
Methodology Card 22.	Stakeholders' Opinions on the Copyright System

⁵⁵ Summary of research conducted thus far; updated time series

⁵⁶ Research focusing on indicator parameters

1c – Experiences of educational organizations concerning the reproduction, distribution, communication to the public, and public performance of copyrighted works for educational purposes: consider issues such as the functioning of licensing, the amount of administrative work, access to digital material, and the effects of copyright on access and

3b – Experiences of educational organizations concerning difficulties in identifying copyright holders.

II. Other research: focus on scientific research	
Indicators	
Methodology Card 16.	Access to Copyrighted Works by the Public ⁵⁷
Methodology Card 17.	Access to Copyrighted Works for Follow-on Creation ⁵⁸
2021	
I. Survey on the general public	
Indicators	
Methodology Card 10.	Public Awareness of the Rights
Methodology Card 16.	Access to Copyrighted Works by the Public
Methodology Card 17.	Access to Copyrighted Works for Follow-on Creation
Methodology Card 21.	Unauthorized Use of Copyrighted Works in Digital Form
Methodology Card 22.	Stakeholders' Opinions on the Copyright System
II. Other research: focus on libraries, archives and museums	
Indicators	
Methodology Card 1.	Macroeconomic Importance of Copyright Industries ⁵⁹
Methodology Card 16.	Access to Copyrighted Works by the Public ⁶⁰
2022	
I. Industry-specific research: focus on a separately determined industry	
Indicators	
Description Sheet 4.	Markets for Copyrighted Products and Services
Methodology Card 4.	Development of Digital Business Models and Income Based on Digital Distribution
Methodology Card 15.	Stakeholders' Opinions Concerning the Incentive Function of the Copyright System
Methodology Card 17.	Access to Copyrighted Works for Follow-on Creation
Methodology Card 22.	Stakeholders' Opinions on the Copyright System
III. Other research: focus on collective management of rights	
Indicators	
Methodology Card 9.	Efficiency of Collective Management Organizations
Description Sheet 12.	Collective Management of Rights

Table A2. Research plan for 2018–2022

⁵⁷ Research focusing on indicator parameter 3b – *Experiences of research organizations concerning difficulties in identifying copyright holders.*

⁵⁸ Research focusing on indicator parameter 2 – *Difficulties faced by researchers when using copyrighted material as part of their scientific research.*

⁵⁹ Summary of research conducted thus far; updated time series

⁶⁰ Research focusing on indicator parameters

1b – *Experiences of libraries (public libraries as well as scientific and special libraries), museums and exhibition organizers, and archives: consider issues such as the functioning of licensing, the amount of administrative work, access to digital material, and the effects of copyright on the extent of services and*

3b – *Experiences of libraries, archives, museums, or other user organizations concerning difficulties in identifying copyright holders.*

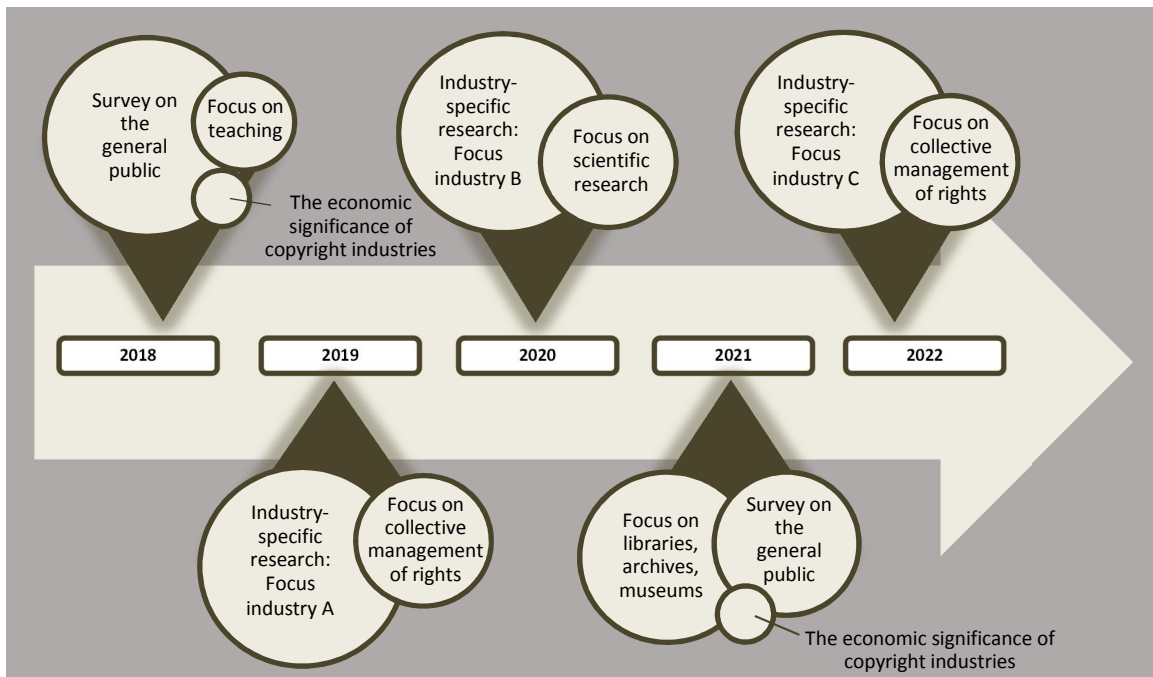


Figure A1. Initial research plan for 2018–2022