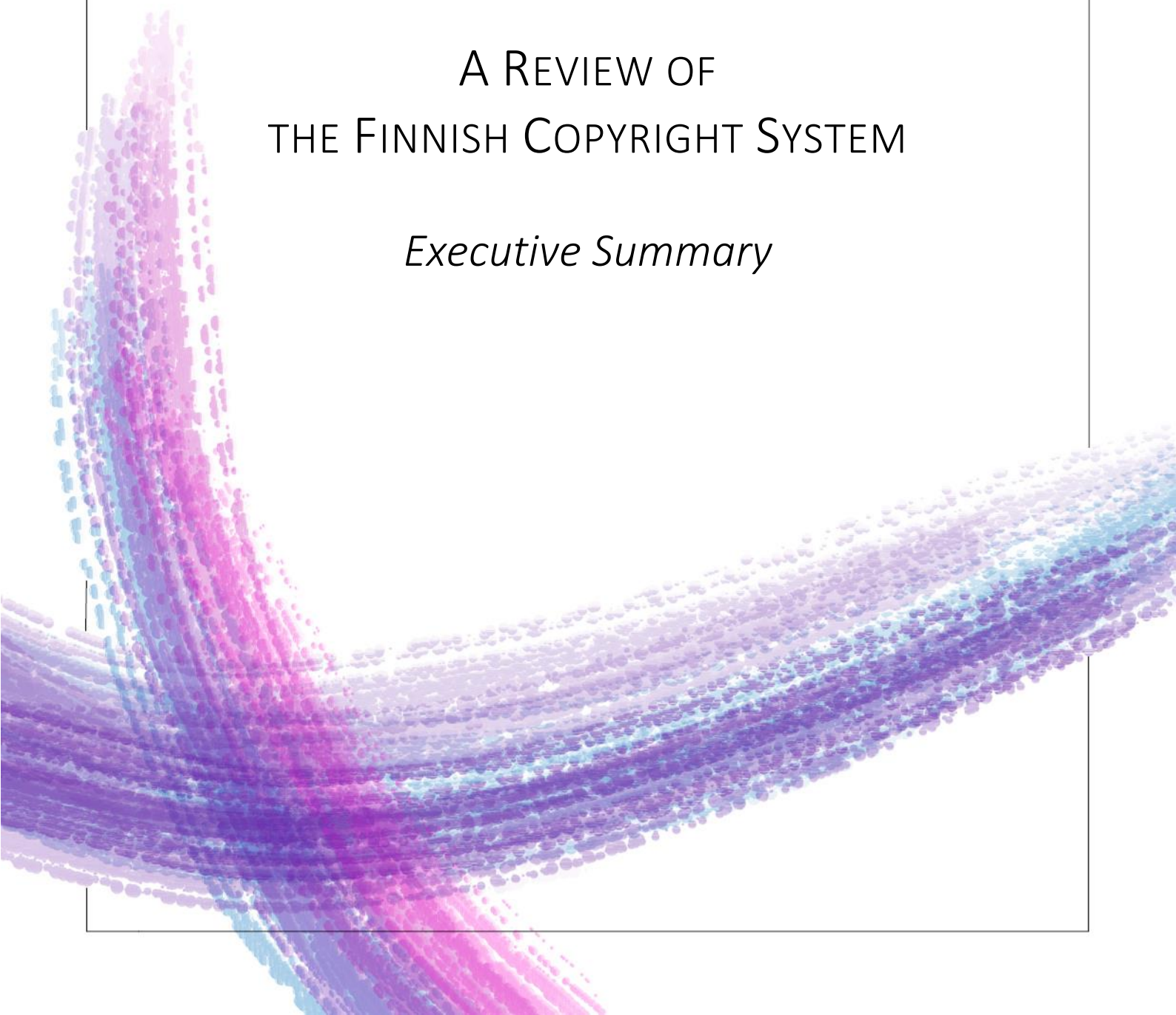


Evidence for the Future

A REVIEW OF
THE FINNISH COPYRIGHT SYSTEM

Executive Summary



The copyright system is a complex balance of sometimes opposed, sometimes converging interests, including many actors, policies, processes and rules; its success in achieving its goals will depend on its capacity to respond to various challenges and adapt to the evolution of cultural and societal processes. In order to meet these challenges, a methodology framework for a systematic assessment of national copyright and related rights systems was published in 2016. This document assembles and analyzes the results of the pilot studies conducted in 2013–2015 to implement the methodology in Finland, with the purpose of offering a general review of the Finnish copyright system’s operation and performance. Additionally, the same information is used to assess the governance of the Finnish copyright system by public authorities and to verify whether their organizational structure and actions comply with generally accepted principles of good governance.

The review starts with a section concerning the copyright environment, which briefly presents the society in which the Finnish copyright system is anchored, as well as the most important aspects of Finnish copyright industries and the Finnish markets for copyrighted products and services. The Finnish society has a high level of development of ICT, and culture is supported by public funding of more than 400 million euros per year. Core copyright industries constituted 4.14% of the Finnish GDP and 4.15% of total employment in 2015. Recent years have seen an increase in production in the industries of software, digital games and movies, and the whole sector is marked by a current shift from traditional publishing formats to digital distribution. .

The second section of the review of the system’s operation describes the constituting elements of the Finnish copyright system and assesses their functioning and performance. It first presents copyright-related laws, policies and strategies, the public bodies in charge of copyright policy and administration, as well as the evolution of Finnish copyright policy in the 2000s. Finnish copyright legislation has been highly influenced by international treaties and the directives of the European Union. Finnish copyright policy, primarily governed by the Ministry of Education and Culture, has been guided by the governments’ key projects, strategies and programs in the 2000s along two points of view: the vision of Finland as an information society, and the vision of creative industries as a significant source of economic value creation through intellectual property rights. The assessment also considers whether the processes of formulating copyright legislation involve and welcome the input of stakeholders; comments from stakeholder groups and experts are invited at both the legislative drafting and the parliamentary phase. Moreover, impact assessment studies are generally but not systematically performed.

Regarding the management of rights, the review describes the functioning of collective management in Finland and assesses the organizational aspects and efficiency of collective management organizations. Collective management of rights in Finland is organized for the purpose of simplifying the licensing of rights and includes extended collective licenses and special remuneration and compensation schemes; in this system, collective management organizations hold a prominent role and seem to be managed with reasonable financial efficiency.

Concerning copyright enforcement, the public actors as well as non-governmental organizations involved in the protection of the rights are presented, the civil and criminal enforcement of copyright as well as alternative dispute resolution mechanisms are analyzed, and the efficiency of enforcement of copyright in general is examined. Overall, the recourses available in Finland in case of copyright infringement are numerous, generally affordable and accessible, and there does not seem to be significant obstacles to the use of sanctions and remedies in cases of copyright infringement.

Finally, concerning the dissemination of knowledge on the copyright system, this review indicates that the amount of copyright-related information available to the public is comprehensive. Professionals in creative industries are provided with copyright education as part of their vocational studies and through advisory services. Research on copyright-related issues is currently conducted extensively.

The third section of the review of the copyright system’s operation focuses on the operational balance of the Finnish copyright system and aims to assess whether the system is fit for its purpose. First, the section

discusses the capacity of the copyright system to encourage creation. Copyright can be deemed as an important source of revenue in the Finnish creative industries. However, the significance of economic incentives created by copyright should be studied further.

Next, the capacity of the system to ensure access to copyrighted works by all members of society and for the purpose of follow-on creation is studied by outlining the different public measures facilitating the access to copyrighted works, the regulatory frameworks, and the functioning of licensing in key areas. The Finnish copyright system includes a wide spectrum of provisions and arrangements that aim at promoting access to copyrighted works by the public and special interest groups. However, access to copyrighted works through libraries, archives and museums, as well as in education or for follow-on creation each face challenges, in particular concerning new practices made possible by the development of digital technology and the online environment. In these areas the scope and rules of copyright protection should be clarified and licensing agreements should be updated.

The review also observes that, in the last decade, copyright infringement in physical form has been very limited, while copyright infringement in digital form has been generally widespread but decreasing. The legal markets are sufficiently developed to compete with unauthorized use, and enforcement activities by right holders have increased. The principle of copyright and its rules do not seem to be generally challenged, although more research is needed to better understand the opinions of citizens concerning copyright rules and copyright infringement.

Finally, a separate analysis focuses on the book publishing industry; it discusses the market and its actors, the significance of copyright to right holders, the exercise of rights and the licensing markets, and right holders' opinions on the copyright system. Even though the scale of publishing activities in Finland is relatively small, sales of Finnish books in foreign markets have increased significantly during the last years, and the Finnish book publishing industry is strongly organized. Right holders in the field consider the economic incentive provided by copyright important, deem current copyright policies coherent with the values and principles in the society, and estimate that the copyright system is working properly even though the operation of the markets could be improved.

The review of the system's operation concludes with a summary of the findings in the form of a compact diagnostic of the Finnish copyright system. Altogether, the review indicates that the Finnish copyright system is functioning adequately at the moment, even though some areas need adjustments and improvements. Based on the data, a set of fact-based and practical recommendations for improving the operation of the system is proposed.

Part II of this document discusses whether public actors in the field of copyright are organized and fulfill their duties in accordance with the good governance principles of transparency, participation, accountability, coherence and consistency, responsiveness, effectiveness and efficiency, equity and inclusiveness, and separation of powers. There is not at this stage sufficient information to make a thorough and complete assessment, but the review finds that the Finnish copyright system is rather transparent; information on copyright rules and the system is available, and laws and policies are prepared in a transparent manner. The system allows for participation of stakeholders in its development, depending partly on the stakeholders' capacity to organize into interests groups. It is responsive in the sense that public authorities regularly assess the need for changes to the copyright system, but whether administrative proceedings concerning copyright are conducted without unreasonable delay still needs to be assessed. It can be considered as inclusive since it contributes to the possibilities of all members of society to acquire a knowledge of copyright sufficient to participate in the system.