

Communication to the public

EU context

The Information Society Directive (2001/29) Article 3 provides for an exclusive right to communication to the public of works protected by copyright.

Three criteria have been identified as important through the developing Court of Justice case law:

The public: There should be a relatively large but indeterminate number of potential beneficiaries of the communication. Communicating a signal to hotel rooms (an indeterminate public) where there is a revolving public is sufficient but a dentist's waiting room is not (a small determinate group at any one time).

The new public: The communication must be directed at a public not taken into account by the copyright owner at the time of the initial communication ? a new public.

The profit making nature of the communication: Does the communication influence the behaviour and decisions of clients? Communication in an hotel is of a profit-making nature because it is an additional service that might attract additional guests. A dentist's waiting room is not a profit-making nature and would not have any impact on the number of clients.