

**First Evaluation of Directive 96/9/EC  
on the Legal Protection of Databases:  
Response of Share The Vision**

1. Share The Vision [STV] wishes to submit a response to the Commission's Consultation on Directive 96/9/EC.

STV is a UK wide partnership of the main voluntary sector organisations which produce and lend alternative format reading materials for visually impaired people and the main bodies for publicly funded libraries. Hence, our membership comprises:

Calibre Cassette Library  
ClearVision Project  
National Library for the Blind  
RNIB  
Talking Newspapers  
Association UK

British Library  
Chartered Institute of Library  
and Information Professionals  
Library and Information  
Services Council: Northern  
Ireland  
Scottish Library and  
Information Council  
Society of Chief Librarians  
Society of College, National and  
University Libraries

The Museums, Libraries and Archives Council and its Welsh counterpart, CyMAL, have observer status. STV was founded in 1989 to enhance access to library and information services for visually impaired people via greater partnership working between and within the public and voluntary sectors.

2. We have studied your evaluation report with great interest and believe that you have done a good job in addressing these difficult issues in a logical, comprehensive, informative and clear manner which has helped our understanding.
3. STV is grateful to the Commission for its introduction of an exception for the benefit of disabled people in Directive 2001/29/ec, the Information Society Directive, which led to the Copyright [Visually Impaired Persons] Act 2002 in the UK. This has had a major impact in improving services for visually impaired people in the UK.

4. We are also grateful that the authors of this paper acknowledge the legitimate interests of libraries and disabled people and give a clear warning of the dangers that might arise if the whole Directive is repealed or the "*sui generis*" right is withdrawn.
5. However, we are puzzled that this paper makes no mention of the proposals contained in the Commission Staff Working Paper on the review of the EC Legal Framework in the field of copyright and related rights, SEC (2004) 995 published on 19.07.2004. That paper explained that the Database Directive does not contain an exception for the benefit of disabled people and the list of exceptions permitted under Article 6 of the Directive is exhaustive. Therefore, the Database Directive does not accord with the later provisions of Article 5(3) b of the Information Society Directive. As stated above, this Directive led to the Copyright (Visually Impaired Persons) Act 2002 in the UK but, of course, this does not permit an exception for databases. Hence, we were delighted that SEC (2004) 995 concluded that it was logical to harmonise criteria by "adding a new exception for the benefit of disabled persons for databases" and proposed pursuing "the necessary legislative proposals amending the existing Directives and harmonising the points of attachment in the course of 2005".
6. We supported this proposal in our response to that consultation and wish to reaffirm our support. We urge the EC to fulfil this promise and not to do anything in the meantime which would harm the legitimate interests of disabled people.
7. We respect the rights of rightsholders to make a fair return on their investment. However, we are concerned that they are not encouraged to apply technological protection measures. These TPM's render the assistive technology essential to enable disabled people to gain access to content either impossible or extremely difficult to use. As the Commission has made clear in numerous policy documents on the Information Society in recent years, e-Accessibility provides exciting opportunities for the inclusion of disabled people and to have access to content which was previously inaccessible to them.
8. Our primary concern is that the proposed exception to the Database Directive is legislated as promised. Bearing in mind the acknowledged risks that repeal of the whole Directive or withdrawal of the "*sui generis*" right would encourage database

producers to apply TPM's we would advocate maintenance of the status quo in terms of the options set out in this working paper.

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