

**Adopted Policy Paper**

MADRID | SPAIN | MAY 10-12 | 2013

GREEN VIEWS ON DIGITAL RIGHTS AND DIGITAL COMMONS

Introduction

As information, digital technologies and the internet play an increasingly important role in today's society, new forms of cooperation and work can emerge, as well as alternative economic models and new possibilities for involving citizens in society and political participation. Meanwhile, a whole array of new laws since the end of the 90s – from “intellectual property” to security – keep raising deep concerns. We Greens are taking a stand to defend individual rights and serve public interests.

The European Greens want to take a leading role in building and strengthening digital commons and enabling all people to take part in digital society.

As Greens we like to see the internet, the worldwide digital infrastructure as digital commons¹. That means a free and open common ground for all citizens to communicate, share and profit from available resources. However, we know that in reality the internet is far from being free, open and for the benefit of all citizens. We also recognise the limits of governmental intervention in a global infrastructure and the dangers of state interference in the free flow of information. But to safeguard digital rights we need the intervention by national states, the European Union and the entire global community. We Greens want to achieve an internet and digital society where civil rights are respected and all citizens can profit equally from the rich amounts of information and culture that are now accessible while acknowledging author rights. In view of rapid technological developments these goals must also be applicable to devices and tools outside the internet where the right to privacy is at stake. In general, they must apply to all systems used to store and communicate personal information such as security systems, Passenger Name Records systems, banking transfer systems.

Today's internet is just the beginning. In the near future we will be able to provide internet access to every human on the planet. Soon, there won't be a technical reason for the information gap between the rich and the developing world.

Compared to the industrial era, digital commons, such as Wikipedia or Linux, resting on open and collaborative models, enable radically different forms of organisation, production and work. However, whenever there is a digital common is someone with a fence ready to enclose and privatise it. Some see the internet as an opportunity to create monopolies for selling to billions of passive consumers.

As part of an emerging European digital rights movement we have already had some important successes, such as repealing European software patents and derailing the ACTA treaty. We have also

¹ See the definition of digital commons [here](#)

suffered setbacks such as the Intellectual Property Rights Enforcement Directive (IPRED) and the data retention directive. Digital rights will be one of the important political struggles of the 21st century.

By revolutionising the speed at which people can communicate, interact, learn and work, the internet has completely changed the public sphere. It has become the engine for social movements and helped overthrow entrenched dictators. However, a free internet is under threat even in democratic countries. Some think that the internet must be controlled to prevent copyright violations. Others see it as an opportunity for social control via mass surveillance. We recognise that there is a “digital internal market”. But as Greens, we stress that free trade in this market must respect consumer rights and civil rights.

Creators, authors and artists are the prime movers of cultural works in our society. The commercial exploitation of their works is a way for them to make a living. At present, these systems, whether digital or analog, are for the most part still being operated by those who have traditionally exploited creative works, for example publishing houses or broadcasters. The antagonism between capital and labour accordingly still applies in the cultural and media industries.

We believe that Europe must stand firm for an open and free internet. We must always be a beacon for oppressed people, and never provide a blueprint for oppressors. We can manage the changes to our societies brought by the internet, without stopping free and open communication.

To achieve this, our policy on digital rights for all citizens will be based on key values such as autonomy and responsibility, solidarity, cooperation and exchange, the respect of citizens’ rights, the reduction of inequalities, the free circulation of knowledge and culture, and equal access to these resources.

Our main goals and principles with this policy are:

1. We aim to protect this common body of knowledge, information and culture and make it thrive, so that it can be shared, used and enjoyed by all and remain protected from private/corporate interests.
2. We stand for the internet as a neutral public infrastructure where everybody has the same rights. We support a pluralist democratic economy based on the recognition of several legal forms of property (private, public and collective) as well as on various spheres of regulated exchange (markets, gift and bartering, public or universal service).
3. We defend the right to self-determination, privacy and security of the people in the digital world, through anonymity and encryption for example. We fight for new, enhanced and enforceable data protection rights and against mass surveillance of the people in Europe.
4. We aim at reforming outdated intellectual property rights to ensure a creative digital environment. We encourage collaborative creativity and support technology that enables people to cooperate.
5. We encourage democratic participation and transparent governance: we acknowledge the opportunities offered by digital technologies and the internet in that area, and intend to promote them.
6. We support a public policy of education through these technologies.
7. We recognise the role of freedom of speech in powering the engine of social change and therefore protect and support civil rights activism and independent journalism globally.

In short, we Greens aim to defend the rights, responsibilities and principles focused on protecting the commons of knowledge from the primacy of corporate interests; to guarantee access for all to information, knowledge and culture; to reduce inequalities and the information gap; to promote cooperation rather than competition; to foster innovation and creation rather than stifle them; to facilitate research that tackles the needs of society rather than that which is profit driven; to allow a mutual cross-pollination between the scientific world, organised civil society and the citizens; to promote a sustainable economy; and to revitalize the democratic process.

I. Internet as a public infrastructure (free, open and accessible to all)

In our Green view the internet, even if it's partly facilitated by private companies, should be viewed as a public utility with public services similar to electricity, water or public transport. Free and open access for all must be guaranteed by the public authorities and based on public law, transparent and accountable to our democratic institutions. Furthermore, according to the principle of Net neutrality everyone has the right to an internet connection that is free of discrimination, be it through blocking, limiting or prioritising, with regard to content, service, application, sender or receiver address.

“Free Access for All

Freedom of access to information should be seen as a counterpart to freedom of speech. The Universal Declaration of Human Rights reads “[everybody has the right] to seek, receive and impart information and ideas through any media and regardless of frontiers.” Therefore, the building of censorship infrastructures through the back door, ill-informed policy demands based on defending copyright, protecting children or fighting terrorism is unacceptable. We reject all efforts of authoritarian regimes to impose their restrictions on free communication to international agreements. Additionally, all democratic states should encourage and enforce the development of international standards for the digital community that are based on human rights, not economic gains.

As a civil rights party, the Greens stand for the strengthening of our civil rights, rather than their dismantlement, and want useless laws that destroy our freedom to be abolished. Filtering the internet is the norm in authoritarian countries and dictatorships. Any filtering done by democracies is taken as a confirmation that the internet must be controlled. We believe it is important for Europe to be an example that shows that a free and open internet is possible. We therefore reject any government filtering of the internet. Serious crimes should be prosecuted, rather than hidden from view.

The methods of blocking, filtering or blacklisting of users adopted in France, the United Kingdom and Finland encroach massively on an individual's fundamental rights. They encourage the creation of corresponding forms of content blocking and censorship infrastructures. Once these infrastructures are in place, they will and have been used for political censorship, suppression of fair use file-sharing, etc. We reject blocking and filtering by authorities or service providers because we believe people have the right to choose the content they find useful to inform themselves. Private citizens, schools, companies or other organisations may choose to use filters against inappropriate material. Any such filters have to under full control of the end-users and must not be installed by the service providers or in the structure of the internet..

Control, if necessary, should not be left to private shareholders, and never take the form of preventive measures, such as filtering. Unlawful content can only be removed by legal procedures guaranteed by the safeguard of the Rule of Law. Crime must be prevented by criminal investigations

that lead to prosecutions. Filtering is not an effective tool to fight crime. Law enforcement should be reserved for public authorities. No 'policing' by Internet Service Providers (or anyone else), e.g. through 'deep packet inspection' (DPI), should be allowed.

Several technical features of access to the internet are key to democracy and transparency in the digital world. To be fully active in a participative internet, each user needs to be able to simultaneously send and receive. In many situations this requires an increase in the upload rate. Access to broadband should be considered a part of essential governmental provision by making it a mandatory, universal service. Equal and affordable connectivity should be guaranteed everywhere in Europe; this can be achieved through the use of EU structural funds and the adoption of regulations to encourage providers to share infrastructure in remote and rural areas. We also want to make Free Public WiFi available in as many public places as possible (provided that the exposure to electromagnetic waves does not exceed 0.6 volts/meter, as recommended by the Resolution 1815 (2011) of the Parliamentary Assembly of the Council of Europe) through encouraging and enabling people and organizations to share their WiFi with others.

Roaming is a feature available as a part of the GSM, and now 3G, mobile standard. It refers to the extension of connectivity in a location that is different from the home location where the service was registered; it ensures that the wireless device is kept connected to the network without losing the connection, i.e. allowing phones to work during travel. However, the cost of roaming data is out of control. The cost for mobile data needs to be regulated. Roaming agreements between companies must be subject to public law. We ask more action from the EU for the protection of consumer rights regarding tariffs. The cost should be the same for roaming users as it is for domestic users.

Digital Neutrality

To ensure that users have the opportunity to change devices, we believe the EU should work at guaranteeing platform neutrality. This implies that everyone who buys a computer should be able to install any other operating system and that hardware producers should facilitate this; and that applications can be transferred to alternative devices. The fact that companies can impose the applications working on their products and prevent others from being used is an unacceptable limit to consumers' rights. Furthermore, technical limitation to internet access in devices and the blocking of communication software should be prohibited. We encourage providers to let users know which software they can use to circumvent any filtering of the internet.

We reject Digital Rights Management (DRM) that prohibits consumers to use their devices or digital materials as they wish. When buying digital devices or materials, consumers have, in principle, the same consumer rights as in the case of physical objects. Any limitation of use imposed technologically or through licenses should appear clearly on the packaging/notice of all devices or digital goods to fully inform consumers at the time of purchase.

Additionally, the neutrality of the internet should be set in law and respected by public authorities and service providers in all circumstances, except to protect the technical security of networks. We demand more determined actions by national governments and the broader EU on this issue. Regardless of access from a broadband connection or a mobile phone, the further development and expansion of the internet must not result in less freedom for those who use it. We want to ensure there is a level playing field for freedom of opinion on the internet.

We as greens consider that an ideal search engine should be:

- Neutral without exclusion of any information except when decided by a court with due respect to human rights.
- Transparent by informing the citizens about the ways used to select and classify the information. It means to inform about which criteria make the information more or less relevant: number of occurrences number of consultations, number of links... Multiple by allowing users to choose to benefit or not from technological progressions.

Green IT

We realise that this massive expansion in connectivity for European citizens costs energy and tools that require precious raw materials. Therefore, this requires putting measures in place to make the tools more economical as well as stimulate the reuse of components. We Greens emphasize the growth of digital infrastructure should not be made at the expense of others.

Therefore, we as Greens are aiming for:

1. The abrogation of law allowing the blocking, filtering or blacklisting of users.
2. Equal and affordable connectivity everywhere in Europe.
3. Same costs for the access to internet in rural and urban areas.
4. Broadband access for all before the end of 2020.
5. Free Public WiFi in more public places, provided that the exposure to electromagnetic waves does not exceed 0.6 volts/meter
6. Roaming costs should be at the same level as domestic costs.
7. Guaranteeing platform neutrality of technical devices and banning of DRMs.”
8. The introduction of a guarantee for internet neutrality in EU and national laws.
9. Efficient use of energy and reuse of components to ensure sustainability in the expansion of the digital world.”

2. Rights to guarantee self-determination, privacy, data protection and security on the internet

With increasing digitalization, the integration and evaluation of databases are becoming ever easier and prompting various forms of data grabbing by both private and state actors. This is why we Greens promote binding standards for data protection and privacy rights on the European and international level in order to combat the infringements of online freedoms. We see digital rights like data protection not in contradiction to a digital market. But as personal data becomes the new oil and damages to individuals and their environment should be reduced we want to incentivize new technologies which are privacy-friendly. Many services from social networks to big data can be done anonymous. First and foremost we as greens advocate the reduction of the amount of personal data required and stored by government agencies and companies as well as the duration of the storage.

Self-determination

We believe there is a need for more consumer protection in the realm of the internet. The basis for self-determination, and to be able to use one's right to privacy and security is education and training at all ages, and laws that are binding and enforceable.

Users must be in a position to control their private information and their own data. We are concerned about privacy settings that can be changed at any moment. Privacy and license agreements of services are often too long and too complex to read and understand. It's not fair that they grant companies the rights to use user content as they like it, especially since users often don't have the choice when they want to use a certain service, and believe they have far more control over their content than what the license and privacy agreements say.

The free movement of users on the internet requires that they are fully aware of what the consequences of their actions are. But one should not have to become a lawyer to safely use the internet. Transparency of all terms of services must therefore be guaranteed by the providers, and they must be presented in a short, visual and comprehensible way.

Protection of privacy

Our private property, conversations and correspondence must have the same protection, whether they are in digital or physical form. It must not be easier for law enforcement to conduct digital search and seizures. In a democracy we have the right to be left alone, unless we are subject to a criminal investigation under the rule of law.

We categorically oppose any mass surveillance of the people, be it through data retention, internet surveillance or video surveillance. EU and EU member countries should help protect citizens against mass surveillance, not perpetrate it. More transparency and accountability of the surveillance industry is needed. We should have agencies that help us use cryptography, not agencies that try to break the cryptography or private communication.

Monitoring every single citizen because a few of them may become criminals is a vastly disproportionate infringement of our fundamental rights. In concrete terms, this means we should reject the blanket storage of information irrespective of whether there is any suspicion of crime, as is intended to be the case when telecommunications data or travel data are retained for possible future use. The EU data retention directive must be repealed, and data retention must be banned across Europe. Experience, from implementation in different EU member states and from those where courts have repealed *data retention* laws, shows that data retention does not have an impact on crime clearance rates or crime levels. Across Europe, we Greens have called for the rapid ending of the monitoring and collection of data by the state, and instead call for solutions that respect civil rights and are triggered by the launch of criminal prosecutions.

We oppose the effectively uncontrolled exchange of data with the USA authorities, e.g. of Passenger Name Records (PNRs) or financial transactions data (SWIFT). The relevant agreements deserve to be cancelled or require massive renegotiation. We support the fundamental rights to challenge the uncontrolled exchange of data in front of the European Court of Justice, and we actively participate in civil society efforts to start a European Citizens' Initiative in this regard.

More and more personal data is processed and stored in the "cloud" by companies outside the jurisdiction of European law. This means that lawsuits by citizens in cases of violated rights are almost

impossible. Therefore we think that a “European cloud” with a good protection of privacy is necessary.

Information stored in the cloud by users should be accessible to them at all times. The fight against illegal content may never come at the expense of legal content.

Right to data protection

Data linked to a person must be protected. No information shall be accessed, retrieved from or stored in an information technology system without the explicit consent of the user, having been provided with clear and comprehensive information about the purposes of the processing. Privacy infringement should be mandated by law. We oppose the privatization of law enforcement without orderly, rule-of-law procedures. Allowing the storage of personal data can no longer be a condition for users to obtain access to a service. Service providers should, in that context, offer the possibility to use the service after agreeing with the terms and conditions, while offering personal data storage as an option rather than a precondition for use.

We reject secret spying on computers, and want to ensure that the confidentiality and integrity of information technology systems are guaranteed as fundamental right. We therefore emphasize the use of the concepts of ‘privacy by design’ and ‘privacy by default’ in the development of information technology.

Public authorities shall minimise the personal data they collect and store. They shall only use this data for the purpose for which it was collected. There is still too much so called ‘function creep’, the use of data for purposes other than those for which they were collected. We reject the disclosure of user account information to private parties, as stipulated by the Intellectual Property Rights Enforcement Directive (IPRED). We think that such disclosures should be limited to law enforcement in criminal investigations. Infringement of privacy rules should only be allowed in cases of statutory foundation for this action and if it is taken on the basis of court decisions. Only public authorities should be allowed to perform it.

Individuals should have the right to demand deletion of personal information in a corporate or state database if the storage of this information is no longer necessary. Everyone has the right to be notified without delay of security failures in private or public databases which could result in his or her personal data being compromised.

The foreseen EU general data protection regulation is an important step to reach better protection of personal data in Europe and give citizens and customers a better position in enforcing their rights. In the course of this reform it will be key to strengthen individual rights and transparency. It should be clear that for every processing of personal data there needs to be a justification. In the private sector this should be generally with the consent of the customer. Everybody should be asked to explicitly opt-in to the processing of his or her personal data. The free internet brings about the desire of private companies to let the users pay with profiling personal data, preferences as consumers and in retrieving information. We oppose any “legitimate interest” of companies to gather personal data without the consent of the users of their services. Users must have the choice to accept or deny different kinds of “cookies”. Some are merely functional and cannot be missed in the processing of purchases or payments. But other cookies are aimed at profiling users and lead to massive storage of personal data for commercial use. Users must be clearly informed about the consequences of their choice. Do-not-track facilities must be easily available. Public and publicly

funded institutions and the media should not block access to their sites of users who refuse third-party “cookies”.

Right to be anonymous

As in the physical world we think anonymity should be guaranteed on the internet: it is essential that people have the opportunity to participate anonymously on the internet. For many of them it is a necessary prerequisite to be able to discuss deep personal issues. There are many support groups that have used anonymous bulletin boards to get people to open up about issues they were too afraid or ashamed to discuss with their family. It must therefore be legal to use systems that guarantee anonymous internet access and encrypted communication. Furthermore, it must also be legal to operate TOR nodes, or open WiFi-networks, without being held liable for the anonymous traffic.

We acknowledge the problems of online-bullying or stalking. We encourage measures against these threats, like awareness raising, having safe spaces and support, anonymous and pseudonymous use of social networks and other services by potential victims, as well as criminal prosecution of offenders.

It is important that citizens are allowed to make anonymous contact with government agencies. Additionally, governments should use the best technical means to guarantee that such contact truly is anonymous, for example providing services through anonymization networks. There is also a need to protect 'whistleblowers' by law.

One of the consequences of moving into the digital realm is that computers remember. Online shopping means that each store will remember each purchase. For some users this is a good thing – the store has a copy of the receipt you lost. For others it is a deal breaker – a store should not know so much about your taste and shopping habits. Therefore, we think it is essential that users have the possibility to be an anonymous customer online, and be assured that the store, bank and shipping company removes all information that can identify a transaction after it is no longer needed.

We also strongly support creating online payment systems that do not provide any information about the sender to the recipient.

Security

Protection against criminals is a basic function of the state. They fall short in this function in the face of newly developing cybercrimes. Member states must collaborate in fighting cybercrimes. This demands an investment in professional training for both the police and prosecutors.

But we reject unconditioned powers of the police to break into computers, install spyware, search computers and destroy data. ‘Cybersecurity’ must not be used as a cloak for the dismantling of a free, open internet. When it comes to criminal investigations and sanctions such as the EUs Cybercrime Directive, we need a clear understanding about what Cybercrime actually means and which legal provisions already exist to protect citizens from these crimes. When dealing with the digital environment we should focus on the security of information systems, rather than calling for stricter controls as in the offline world.

Building secure and resilient IT systems

The construction of a secure and resilient IT-system is a difficult task and usually not a priority for commercial companies. This can be the case especially as the customer, rather than the supplier, is liable for the cost of an insecure system. As a result, customers are exposed to far more risks than necessary. To add insult to injury, we are often forced to buy pseudo-protection in the form of virus scanners or other security products that only attempt to fight the problem. Just as government agencies ensure our cars or trains are safe, we need agencies such as European Network and Information Security Agency to ensure our computers, software and services are as safe. These agencies should work together with academia in order to ensure that the best practices are adopted. Also they should directly work with open source, rather than proprietary, software projects to increase both participation and transparency.

Furthermore, we need much stronger incentives for vendors and producers of IT systems to deliver more secure products and react to known vulnerabilities far more quickly. We therefore think that liability provisions should be introduced into legislation when, as a result of a known vulnerability that was not fixed, significant damage occurs (the "polluter pays" principle).

We need to protect the immune system of the internet. Therefore, we oppose the criminalisation of "white hat" hackers that experiment with security issues, help document and fix them, and do not do any harm and have no criminal intentions.

Therefore, we as Greens are aiming for:

1. Application of the concepts of 'privacy by design' and 'privacy by default' in the development of databases with strong guarantees against 'function creep'.
2. *Reduction of the amount of personal data required and stored by government agencies and companies as well as the length of the storage*
3. Guaranteeing, as it is in the physical world, anonymity on the internet
4. When anonymity is not possible, a form of personal data protection that is anchored and guaranteed explicitly in the Law, but that enables everyone to publish their own data and information freely in a self-determined fashion, and actively share them with others.
5. Personal data protection laws that limit the storage and distribution of personal data to specific goals, require the consent of the persons involved, promote transparency, and promote the right to correct personal data and to end the storage if there is no further need.
6. Prohibiting unconditional mass surveillance on the internet and in databases.
7. The rejection of data retention and evaluation of the abuses of the retention practices so far.
8. Protection of personal data of European citizens against US regulation (Patriot Act) and a "European cloud" under European jurisdiction.
9. Rejection of police powers to break into computers, perform warrantless or secret searches, install spyware, search computers and destroy data.
10. Putting people in control of their private information through transparent agreements and opt-in procedures, e.g. for cookies
11. Rejection of uncontrolled 'third party cookies'.
12. Collaborative actions of Member States in the fight against cyber crimes.

13. Incentives for secure and resilient IT systems

3. Creation, innovation and the digital commons

More than any other point in history, the internet has given us the chance to share information and culture outside the restrictions of time and place. The current EU laws on patents or copyrights (and more generally “intellectual property” rights, to use the terms crafted by right owners) have not been adapted to the digital age. As a consequence the relationship between creators and consumers has been disrupted, while intermediaries multiplied and gained unjustified power. This has led to the strangling of innovation. In art as in science, the route between producer and consumer should be made shorter, while the power of intermediaries should be reduced. The cultural domain needs the principles of ‘fair trade’ (a reasonable income for the artist) and ‘fair use’ (free use of parts of protected works in education, libraries, museums, archives and the media).

3.1 Open access and public domain

- Open access to research publications and data funded by public money. Research and innovation build on the capacity of scientists, research institutions, private firms and citizens around the world to openly access, share and use scientific information. However, academic publishing is not yet part of the digital commons. In the context of an oligopoly of publishers, journals that do not pay for the research, nor for the scientific validation of its results made through the peer-reviewing of articles, privatize them in expensive academic publications. As a consequence academic research is extremely difficult to access for a lay person, as well as for universities, schools and libraries. This is particularly true in developing countries, but also happens in wealthier countries. To increase the circulation and dissemination of knowledge, free open access to scientific publications, already embraced in the research program of the European Commission, should apply to all scientific publications which receive public funding in Europe. Publications should be made accessible as soon as possible, or within six months of publication at the latest in extreme cases. Data produced or collected through the financing of government agencies and public institutions should likewise be made publicly accessible (provided that the protection of personal data be applied). Studies and analysis funded through public institutions should be published in formats that allow sharing and reuse of the data involved.
- Open access to publications from government and public institutions. Publications from government and other public institutions (studies, reports, speeches, statements, etc.) should not be copyrighted and should be made systematically accessible to the public. Public broadcasters should open their archives to the public and start releasing in-house productions as creative commons.
- Open data. According to open data principles, certain data should be freely available to everyone to use and republish as they wish, without restrictions from copyright, patents or other mechanisms of control. We support the free open access and re-use of data produced or collected by or through the financing of government agencies and public institutions (as long as the rules for privacy protection and the protection of personal data do not object).
- Open standards. Open standards are the basis for innovation. While private companies and stakeholders drive a lot of the standard development in dynamic environments, there should be some

underlying rules imposed on industry-wide standards, such as free use and openness of the standardisation process. Digital public libraries and other institutions which aim to make information and documents accessible to the public should not be party to Digital Rights Management (DRM). Instead they should use open formats and open standards.

- **Open source.** The source code of software used to be a highly guarded corporate secret. But the open source movement has shown that world class software can be developed out in the open, with successes such as Linux. Open source software should be used whenever there is a good existing open source alternative. When the European Union and member countries purchase new software systems they should always perform a check whether it can be developed as open source software. The development of open source software should be encourage and supported, including through EU funding, as a key public good. Universities should be encouraged to release research results as open source software. More generally, open source mechanisms that can allow researchers to collaborate and share knowledge with in other technological fields. It can be an especially useful tool for biomedical research (neglected diseases, antibiotic research) or to research targeting climate change, and more generally for certain conditions that are not properly addressed in a purely market-driven model.

- **Public Domain.** After decades of measures extending copyright and threatening the public domain, it is time to adjust the scope of regulations to match the real and positive contributions of the digital society. A new regulation should be adopted at EU level in order to recognise the importance of the public domain, to protect it from private appropriation so that it remains available for all to use, and to enhance it. The EU should adopt a legal statute for the public domain, voluntary commons and essential user prerogatives towards works, including the prerogatives of creative workers who need to access and reuse existing works.

3.2 A fair balance between producers and users. We call for “Fair trade for the artist, and fair use for the users”. We need to find a balance between producers and users. The question of non-commercial use has been debated by the Greens for years. With sub-chapters a) and b) below, we present a balance that we think would be fair.

a) Reform and harmonisation of copyright rules

Copyright has to be reformed to adapt to today’s technological reality and to enable the broader dissemination of information and culture through the internet.

- We encourage a culture of production using creative commons, and will make grants and stipends available for such productions.

- **Non-commercial private use.** Non-commercial private use of copyrighted material should be legalized at the EU level. The difference between "non-commercial" and "commercial" shall be defined as follows: If content, protected by authors' rights, is being offered directly on an internet site, which acquires revenues to a non-negligible degree through donations, for example via membership contributions, through payments by clients or via advertisement or advertisement through links to other homepages, such an activity shall be considered to be commercial. Three-strike type of laws should be repealed where they exist in Europe. Three-strike type of laws should be repealed where they exist in Europe. While contexts differ according to countries, EU legislations should allow European countries to adopt flat rate and other global licenses schemes. In order to simplify the all

too often obscure distribution of authors' rights, we advocate the idea of a European central body dealing with the acquisition of the rights to process, interpret, remix or mashup content with a commercial intent. We support attempts to make free licensing more attractive and are in favour of publicly subsidising such models.

- The right to quote and remix. Increasingly restrictive copyright legislation and practices are becoming a major obstacle to musicians, filmmakers, and other artists who want to create new works by reusing parts of existing works. We want the right to remix for at least non-commercial usage. The right to quote (to reproduce a part of a work with the indication of the name of the author of material already made public) should be permitted in all member states. The treatment of sites providing directories of links associated with the partial reproduction of contents should be based on a modernization of the right of quotation and the suppression of the sui-generis database protection defined in directive 96/9/EC. Hyperlink can never be subject to copyright law. Clear exceptions and limitations are needed to allow remixes and parodies, as well as quotation rights for sound and audio visual material modelled after the existing quotation rights of text. Any sensible copyright legislation should contain some form of fair use clauses, which are necessary for cultural conversations and to allow satire and critics, but also sampling and remix culture.

- Exceptions to copyright for non-commercial educational and research purposes should exist in all countries. This exception must apply to educational or research practices independently of the context in which they are conducted (for instance, the exception cannot be limited to teaching establishments, or to the fact that the participants are registered students). Open education, in all its form, must be promoted, as well as cultural practice workshops or educational activities in libraries and museums.

- The 'book famine' experienced by visually impaired and print-disabled people needs to be addressed. The Commission and Member States must support the urgent adoption of a legally binding international treaty introducing an exception to copyright rules to ensure that visually impaired and print-disabled people enjoy access to cultural materials in accessible formats.

- Orphan works. Exclusive rights should be limited if a work is orphaned, i.e. the copyright holder has not been found despite appropriate search or cannot be contacted for other reasons. However, the search procedures required by the law should not be too time consuming or expensive. Copyright holders should only be able to prohibit the use of the work or demand the payment of a reasonable remuneration, without any right to compensation for past use. The recent French law on out-of-publication works (pending review by the Constitutional Court) centres solely on the commercial exploitation of out-of-publication works and ignores, or even tries to prevent, any form of non-market access. Authors are left only with the possibility to opt out of the system. A recent English bill goes exactly in the same direction. We believe such laws are the wrong way to go.

- The copyright protection time has been increased over the last decades to 70 years after death of the author. This is disproportionally long and doesn't serve its purpose (to help authors to create and live from their work). Therefore it should be shortened. In order to facilitate the identification of authors and their remuneration and to avoid orphan works we will review possibilities for a transparent system of registration of authors and their works. Registration and procedures to oppose, should be simple, easy and free of charge. This will facilitate licensing procedures and innovation of services built upon such content.

- For protected works that are not commercially exploited, the EU should evaluate mechanisms to allow use without the permission of the right owners (including uses that would be appropriate as an

exception to exclusive rights under Articles 13, 14 or 40 of the TRIPS Agreement, or under the considerable flexibilities of TRIPS Articles 44.1 and 44.2, to limit remedies for unauthorized uses of works).

- Cross border accessibility to services and products. Access services (e.g. streaming) and online products accessible in one European country should be accessible in the others. More generally, the EU single market should rest on the use of cross-border licenses or expansion of exhaustion rules in order to allow access to but also competition between legal offers (thus driving down prices that are often too expensive).

Direct and indirect financial contributions of citizens to culture (through taxes, levies, purchases, etc.) should be assessed nationally and this information should be made public in order to facilitate debates over the financing of creation. .

b) Protection of the authors

- Authors should always be able to licence their work under Creative Commons.

- Contract law should be revised in order to improve the negotiating position of authors. Measures to be taken include: A separate contract for digital publishing rights, with limited duration, corresponding to the reality of fast-changing digital technology and usage; In the case of a mixed edition (paper or other carrier and digital edition), the rule of a return to authors of rights as soon as one of the modalities is no longer available (with a reasonable delay after notification by the author, at most six months); The impossibility for publishers to use the availability of a digital version as a reason to keep paper editions out-of-print for as long as they wish; Forbidding distribution platforms to impose terms that exclude the non-market distribution of works by their authors; Minimum royalty levels for authors and other contributors in commercial exploitation of their work, taking in account the strong reduction of costs in digital publishing. To rebalance the power relation between authors and publishers, licences granted by authors to publishers should be limited by law to not more than ten years. In the case of academic authors, a research paper should always be owned by the author unless it has been commissioned and fully paid for by a journal.

- Reform of collective rights management. Collective rights management, when properly functioning, is the most effective way for authors to benefit the licensing of their rights. To preserve this role there is an urgent need to reform collective rights management. While the importance of collective right management as a principle is obvious, in recent years, many concerns and criticism have been raised by both rightholders and users on the functioning of collective management societies, calling for better management and efficiency, improved transparency on tariffs, revenue distribution and accounting practices as well as better governance. On one hand, collective rights management should not prevent the possibility for authors to rely on independent management or management through commercial agents. On the other hand, commercial agents engaging in the management of authors' rights should have to apply transparency rules in order to allow fair competition. An author should be able at any time to revoke the mandate given to a collecting society. Authors should be free to become a member to any collecting society, irrelevantly of the country of settlement and the citizenship. An author should be allowed to register different works with different collecting societies, as well as to leave other works unregistered. A collecting society should not be allowed to collect money for a work that was not registered with it. As Greens we would like to give more flexibility to authors in the management of their rights. For instance, we believe they should have the

right to grant free licences for the use of their works and rights, provided that when they do they inform in due time the collective management organisations authorised to manage the rights of such works that a free license has been granted. Each member of a collecting society should have a right to vote during the general assembly. Where the amounts due to rightholders cannot be distributed after three years they should either be redistributed by the collective management organisation to its members, or attributed to cultural and social funds targeting artists and the promotion of young artists under the control of Member States or under the control of members of collective management organisations making decision at the general meeting. Data about the collected and redistributed sums, as well as the fees applied by a collecting society must be of compulsory publication and auditable by representatives of authors, artists, consumers and users. Collective management societies should provide accurate repertory information, including for works falling into the Public Domain. Information in respect of the works whose term of protection terminates should be accurate and regularly updated, in order to exempt such works from licensing and avoid claims on such works to be enforced by collective management societies.

3.3 Research and patents

- We want innovation to be driven by society needs. Platforms that aim to facilitate bottom up innovation by detecting and showcasing innovative technical and social projects, increasing knowledge sharing, connecting project managers with others, and giving them tools to self organise, should be promoted. We also call for the development of new financing models of innovation, such as innovation prizes that do not rest on the granting of exclusive rights on knowledge and invention, to maximize the public returns from research financing and to ensure that innovation not only tackles the most urgent needs of society but also can rapidly benefit to citizens. Publicly financed research should lead to nonexclusive licensing of patents. This would allow the highest possible social benefit for these researches.
- Software patents. Greens have always opposed the monopolisation of generic ideas for algorithms. Nobody can pretend to own mathematical formulas and logical schemes. This is why we continue to oppose software patents.
- Patents on life forms are not allowed by the European patent convention. This however did not prevent the European Patent Office to grant patent for genetically modified plants and animals. Patents even cover plant varieties and conventional breeding which conflict directly with the Article 4 of Directive 98/44/EC.
- Patent law harmonisation. Currently, national patent law is not harmonised within the Union, rather de facto streamlined by other non-EU actors that stands beyond democratic controls (like the controversial European Patent Office). Harmonisation should take place in order to unify the way the examination process works in the member states to improve practises in patent examination according to EU rules, and to end wrong doing in patenting (on life forms for instance).
- The assessment of the quality of patents and the accessibility to such information are determinant to avoid the increase in the number of bogus patents used as defensive weapons to block competition and patent thickets in technological fields that are important both economically and socially.
- In the context of the rapid proliferation of “intellectual property” rights, the internet and digital technologies can facilitate greater transparency as regards rights portfolios and in their management. It is essential to develop tools that facilitate the identification of patents linked to an invention or a field

of research, as well as their acquisition, exchange, licensing, pooling, etc. This is necessary to facilitate research and ensure patents do not block research and innovation. Moreover, such tools for information and transparency can improve the ability for SMEs and public institutions to actively participate to innovation and develop inventions. They must be developed at national and EU levels.

- The setting-up of patent pools granting non-exclusive licenses should be encouraged by the EU and Member States in order to allow the sharing of patented scientific data, and increase collaborative efforts and R&D cooperation on specific technological needs. This mechanism would be particularly suitable for technologies that are both complex and expensive allowing the avoidance of the blocking of research due to patent thicket situations.

3.4 Limitations to enforcement rules of "Intellectual property" rights

- Enforcement of copyright, patents and other "Intellectual property rights" should be limited to commercial violation.

- Investigation and prosecution should be executed by official authorities only in the case of real suspicion and shall not rely on continuous monitoring.

- We reject the disclosure of user account information to private parties, as stipulated by the IPRED directive. We think that such disclosures should be limited to law enforcement in criminal investigations.

- Three strikes laws should be abolished in countries where they have been adopted: besides threatening freedom and being expensive, they do not bring any concrete benefit to authors and artists.

- Downloading copyright protected work should be legal everywhere. Instead of criminalisation of non-commercial private small-scale sharing of copyright protected work the focus should be on prosecution of copyright violations committed by people and companies that actually make money from sharing without compensation for authors and artists

- Trade agreements should not include intellectual property standard provisions or enforcement provisions.

Therefore, the Green aims are:

1. Open Access as the rule for all information produced by governments and facilitated by public funding, and for all research publications financed by public money.
2. Allowing the re-use of open data from public institutions
3. The promotion of open source not only in the context of software but in all fields of research.
4. Open standards as useful for innovation, easy collaboration and competition
5. Innovation driven by the needs of society and not only by the market, hence the need for incentives for innovation that do not rely on market exclusivity
6. Reform and harmonisation of copyright laws in Europe, adapted to the digital environment
7. Freedom to use and share information for non-commercial private purposes
8. The right to quote, remix, parody and hyperlink in all countries

9. Better protection of the authors, notably in the context of the negotiation of contracts and by a stronger position in collective rights management
10. Harmonization and transparency in the patent system that needs control on accessibility and the quality of patents
11. Decriminalization of downloading and enforcement of intellectual property rights limited to commercial violation
12. Trade agreements cannot overrule IPR nor enforcement rules

4 Strengthening the Digital Democracy and Community inside and outside the EU

4.1. Develop E-democracy and democratic participation.

The internet provides more opportunities than ever to inform the public and encourage participation in democratic decisions.

To participate in a democracy citizens need transparency in public administration and transparency in political processes. We believe that an open government should be part of the digital commons. As Greens we encourage public authorities at all levels to give citizens access to all relevant documents in the policy process. In many countries and in the EU so-called *Freedom of Information Acts* can be improved and adapted to the opportunities offered by the internet. Governments should be proactive in making policy documents, plans and evaluations public. Neither citizens nor the press should be hindered by complex procedures and expensive charges for requests.

Citizens should have opportunities to take part in decision making more directly, by the government using the internet to involve the public and for the public to use the internet for citizens initiatives. The European Citizens Initiative was introduced last year. First impressions show that there are still some bureaucratic and financial thresholds in ECI procedures that must be taken away.

We are now at the beginning to experiment on issues such as "constitution written by ordinary people", collaborative work on laws or public budgets, online participation, etc. But we believe that those experimentations increase citizenship and social cohesion.

To favour better democratic participation through new technologies secure e-voting should be investigated only as an alternative option for voting. Trust in the outcome of an election should never be based on faith in organizational procedures alone, but always needs to be backed up by universally understandable, transparent and replicable procedures, in the same way voting by pencil is. Any electronic alternative to traditional voting needs to show positively before adoption that it is immune to large-scale fraud and impact assessments need to be made in public and in advance, so vulnerabilities and risks can be assessed and addressed before the vote takes place. Up to now, academic research demonstrated that there are fundamental complications that cannot be fixed and that make it impossible to organize free, secure, transparent, secret and anonymous voting through the internet or in many cases through voting computers. However, to favour better democratic participation it is worthwhile to investigate ways to use technological advances in other environments of decision making. For instance, electronic counting of votes can sometimes improve the accuracy as well as accountability of voting processes and can be cost effective. Electronic voting

can in the long run gain credibility only if at all times a manual recount of the votes can be easily and swiftly organized (i.e. through a paper trail).

Open source, licence free and cost free software and online platforms for collecting signatures have to be used.

As digital technologies continue to revolutionise communication, we can talk about increased participation for citizens, meaning new opportunities to combine representative and participative democracy practices. The use of digital tools for political experimentation shouldn't be limited to the fringes of political processes.

4.2. Education

Education policies regarding the use of information technologies is necessary in order to ensure further generations are well-informed and alert to possible infringements of privacy, property rights and security.

Education professionals will be trained to educate people to digital literacy including online persona and e-reputation, as well as cooperative redaction and basic coding and the work of search engines.

As Greens we encourage educational programs aimed at the emancipation of the individual. In this context the new generation, as well as the older ones, need to be empowered to act independently as user of digital means of communication and as participants in the digital commons. This means that they know the way it works as well as the consequences of their actions. It means also that you can evaluate the information you receive. The digital world is complex and lacks transparency in many respects. Education should help people to remain independent and to make their own choices.

The digital commons can be used to facilitate and improve the education in general.

Sharing educational material used by teachers and students should be encouraged. New copyright laws should not restrict the use of digital materials in an educational context. Educational tools should include free software and open hardware as an alternative to proprietary technologies, and use digital commons as a legitimate reference.

4.3. Freedom of expression.

Any regulation of communication by means of digital technology has to respect the freedom of speech, the freedom of the press and the freedom of association and demonstration. We Greens support an active role for the EU in safeguarding these digital civil rights in all member states, as well as outside Europe.

Free speech can be restricted by national law (e.g. in the case of defamation). But in these cases the rule of law has to be followed, which means that any filtering, blocking or deleting of controversial content by private companies serving the general public must be regarded as illegal.

As Greens we value the role of whistle-blowers who take the responsibility to open up about crimes and fraud in their organisation. In the digital world safety can be promoted by ensuring whistle blowers do not have to fear sanctions, e.g. in case of the dataleaks. We aim for a “whistle-blowers” act including the right to use different kinds of digital means of communication.

4.4. Safeguarding human rights in external relations.

Europe, national states as well as the EU, has to guarantee the application of digital rights not only at home but also in foreign relations. In all kinds of external relations the EU must promote a free and open internet and all relevant rights of citizens as users of the internet.

We oppose any collaboration with the export of censorship technology and technologies of mass surveillance.

EU must be a global role-model. We strongly oppose efforts currently underway to make the EU industry a global market leader in the field of so-called “security” technologies, which in the hands of any repressive regime boil down to easier repression of democratic movements.

Therefore, the Green aims are:

1. The development of open government as part of the digital commons
2. Providing access to documents more proactively on all levels of government
3. Free and easy access to governmental documents on the internet
4. More frequent use of the internet for consultations of citizens
5. Better provisions for the European Citizens’ Initiative
6. Research in safe technology for secure e-voting systems
7. Educational programs for young and older people to be able to use the new technologies safely and smartly
8. Sharing of educational material on the internet
9. Free speech in the digital commons, only restricted by national law
10. Protection of whistle blowers
11. Safeguarding digital rights outside the EU in our external relations by states as well as companies