Copyright in the age of online access

Alternative compensation systems in EU copyright law

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Annex 1. List of Proposals for Alternative Compensation Systems

List mentioned in Chapter 3, at 3.1.; organised chronologically

REFERENCE	ORIGIN AND TYPE
Stallman, 1993	US, Activist This proposal is generally recognised as an ACS precursor. Stallman advocates for the adoption of a system to tax digital copying of music, similar to European levy-based private copying systems. The system would have the following basic features: impose no restrictions on digital copying equipment; use surveys to measure the extent of copying of each musical piece; collect funds with a "tax" on machines and media; distribute these funds entirely to the individuals who create music.
Fisher, 2000	US, Academic Early work from Fisher in the field of ACS. The article focuses on the downloading of recorded music, and discusses the issue of mass infringement. It briefly examines different models for harnessing the benefits of online music distribution, including some of those later detailed in **Fisher, 2004** (see *infra*), such as the tax-and-royalty system and statutory licensing for digital music.
Shavell & Ypersele, 2001	US/Belgium, Academics The article compares intellectual property rights with reward systems, i.e. systems where innovators are paid directly by the government and innovations pass directly into the public domain. The authors conclude that intellectual property rights do not possess fundamental social advantages over reward systems. Furthermore, they argue, an optional reward system (where innovators choose between the status quo and a reward system) is superior to a system based solely on intellectual property rights. The article focuses mostly on patents and does not offer concrete implementation details, but its application to copyright would qualify the mandatory or optional reward system as a State System.
Lunney, 2001	US, Academic The author's preferred option is for a model of "digital abandon" for digital private copying. However, he suggests as a fallback model the adoption of a private digital statutory licence for private copying, similar to that in place in many EU countries.
Ku, 2002	US, Academic The author's preferred option is for a model of "digital abandon" for non-commercial acts of reproduction and distribution of online music between end-users. This model would be implemented through an uncompensated exception covering such use and subject matter. Kur believes the goal of incentivising the creation and dissemination of works would not be hindered by such a regime. If, however, revenue from album sales augmented by voluntary "tipping" proves insufficient, Ku proposes the adoption of a statutory licence for the use in question. In this system, levies would be imposed on services (subscriptions for Internet access) and goods (sales of computer, audio and video equipment), administered by a government entity. Compensation would be distributed to musicians and songwriters.
Lincoff, 2002	US, Lawyer/Consultancy Proposes a statutory licence for online music, encompassing musical compositions and sound recordings. The licence would apply to a newly created "online transmission

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	right", and be managed by a single CMO (or performing rights organisation). In this system, the CMO would either license intermediary "service operators" or directly license end-users using P2P networks and similar sharing websites. Rights holders could also directly license service operators in a parallel "voluntary system". End-users engaging in non-commercial P2P activities would pay for the licence through a monthly flat rate. Works licensed in the system would need to be registered for subsequent tracking of usage and payment of amounts collected in the system. This work is reviewed and developed in **Lincoff, 2008** (see *infra*).
Love, 2003	US, Advocacy/Academic Referred to as the Blur/BANFF Proposal. The main proposal is for a statutory licence for the right of reproduction (acts of downloading) of musical works exchanged in P2P networks. The system would generate compensation *inter alia* through levies on devices and services (flat rate on Internet access). Distribution would be based on relative usage and an array of other methods (including some based on social and cultural aspects). The compensation collected in this system would benefit individual creators.
Baker, 2003	US, Consultancy Proposes a State System based on refundable tax credits for the benefit of registered creative workers, known as the Artistic Freedom Voucher (AFV). Described at 3.3.6.2.
Netanel, 2003	US, Academic Statutory licence for P2P file sharing known as the "Noncommercial Use Levy". Described at 3.3.5.2.
Grassmuck & Stalder, 2003	Europe, Academic After a critical review of existing proposals for ACS, the authors outline a proposal for a statutory licence for the online rights of reproduction and communication to the public (including commercial use). In this system, authors and performers are granted an unwaivable remuneration right, subject to obligatory collective management supervised by a government agency. Compensation would be paid through a flat or lump sum levy, and the amounts distributed on the basis of the actual use of works. For this purpose, works should be registered in the system with the competent CMO. This work is reviewed and developed in **Grassmuck, 2010a** (see *infra*).
Sobel, 2003	US, Academic Proposes a system where ISPs operate as "Digital Retailers" for the licensing of the rights of reproduction and communication to the public. In this model, ISPs would license digital works from copyright owners at wholesale prices set by the owners. ISPs would then sell the digital works to their subscribers at retail prices. Copyright owners have the choice to join the system by apposing DRM on their works. Failure to do so is construed as an authorisation to freely use the works. Copyright owners may set the amount of compensation as a wholesale amount for ISPs, who can then impose a retail mark-up when licensing the works to end-users. The retail price is based on usage, determined by the number of times a work passes through an ISP's router (pay-per-redistribution model). The DRM on digital files will allow subsequent distribution of amounts between copyright owners.
Nadel, 2004	US, Academic In a model classified by some scholars as "digital abandon", Nadel proposes to reduce the scope of exclusive rights online and replace them with a minimal level of copyright protection against unauthorised copying. The new regime would be modelled on the fair

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	use test and focus solely on prohibiting commercial copying. It would also include a stronger right of paternity to foster the use of social norms to control unreasonable copying. Compensation for rights holders would result from limited exclusive rights and business models based on social norms (e.g. pre-sales to consumers, versioning, advertising, donations). Nadel further proposes maintaining existing compulsory licences under US law.
Gervais, 2004	Canada/US, Academic Gervais argues that music file sharing (and online sharing generally) forms part of the social norm among Internet users, making efforts to stop it through use of legal norms ineffective. He therefore proposes "embracing and licensing file-sharing" through "ISPs, copyright collectives, or technology companies, or a combination of two or all three of these entities". Gervais argues that both voluntary collective licensing and ECL (with opt-out) are feasible options to license P2P acts of up- and download of online music.
Litman, 2004	US, Academic Proposes a statutory licence with opt-out for online music sharing. Described at 3.3.5.2.
Lohmann, 2004	US, Advocacy Proposal by the Electronic Frontier Foundation for a system of voluntary collective licensing for music file sharing. Described at 3.3.2.2. This work is updated (and mostly replicated) in **Lohmann, 2008** (see *infra*).
Fisher, 2004	US, Academic Monograph discussing several possible models for ACS. Preference for a "tax-and-royalty system" for entertainment works that would qualify as a State System. Fisher also discusses adoption of ACS through a statutory licence and voluntary collective licensing. Described at 3.3.6.2.
Gratz, 2004	US, Academic Proposes an ACS based on taxation and compulsory licensing for non-commercial P2P sharing of music. System includes an opt-in through the registration of works with the US Copyright Office, and allows an opt-out for rights holders.
Wizards of OS, 2004	Europe, Academic/Activist Berlin Declaration on Collectively Managed Online Rights: Compensation Without Control (Jointly issued by speakers of the conference "Wizards of OS. The Future of the Digital Commons," 10-12 June 2004, Berlin). The declaration argues for an ACS based on statutory licensing labelled as a "Content Flatrate" for digital works. The system is described as follows: "Under the proposed system, rights holders would license their on-line rights to a collecting society for collective representation, as they already do for many off-line uses today. This on-line collecting society would oversee the measurement of transfers of protected works over the Internet and then compensate the rights holders based on the actual use of their files by end users. The funds from which the rights-holders are compensated could be raised through any of a number of sources: voluntary subscription payments by end-users or proxies for them or levies on relevant associated goods and services, such as broadband Internet connections, MP3 players and others, in addition to the levies on blank media, photo copiers, and so on which are already collected today" (p.6, footnotes omitted)
Eckersley, 2004	Australia/US, Academic and Advocacy Proposes the adoption of a "virtual market reward/remuneration system", which can be

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	qualified as a State System. Proposal described at 3.3.6.2. This work is reviewed and developed in **Eckersley, 2012** (see *infra*).
von Lewinski, 2005	Europe, Academic Description and compliance analysis of different legalisation proposals for P2P exchange of online works between individuals. Argues for the admissibility of mandatory collective management and ECL in EU copyright law for the management of these activities.
Peukert, 2005	Germany/US, Academic Peukert discusses the legal compatibility with international copyright law of ACS proposals based on non-voluntary licences. Peukert's specific proposal is for an opt-in statutory licence that he calls a "bipolar copyright system". In this system, the default regulation for online use is exclusivity. Rights holders may choose to opt-in (through registration) to a statutory licensing system for non-commercial P2P file sharing of their works, covering the rights of reproduction and communication to the public. The licence would be funded through a "levy/tax" on the goods and services whose value is increased by file sharing (similar to Netanel, 2003). The system is different from voluntary collective licensing as rights holders would not have to form a CMO or rely on user licences, as the levy would be imposed upfront on goods/services.
L'ALLIANCE public.artistes, 2005, 2006; and **Bernault & Lebois, 2005**	France, CMOs and Academics Proposals and feasibility study for the French *licence globale* model. This model combines statutory licensing for the online right of reproduction (extension of the private copying limitation to acts of downloading) and mandatory collective management for the online right of communication to the public. In this way, the licence would cover P2P acts of downloading and uploading between individuals for non-commercial purposes. The licence would cover most types of work shared online. Internet users can decide to enter into an agreement with their Internet access providers to benefit from the licence, and pay the corresponding amount through a flat rate in addition to their monthly subscriptions. Internet users that do not purchase the licence would be liable for acts of P2P file sharing. Distribution of amounts to categories of rights holders would follow traditional mandatory collective management agreements (principle of equal distribution). Within each category, compensation should be allocated based on relative usage of works online.
Hayward, 2007	US, Academic Hayward does not offer a concrete legalisation proposal but indicates a preference for statutory licensing of P2P file sharing for non-commercial purposes. His proposal relies on expanding the fair use defence to infringement claims arising from file sharing for non-commercial private use, provided "licensing fees are paid" (in a similar fashion to that which occurred with "photocopying of printed materials").
Beltrandi, D'Elia, Turco, Mellano, & Poretti, 2007	Italy, Political Party Legislative proposal presented in the Italian Parliament for a model combining statutory licensing for the online right of reproduction and ECL for the online right of communication to the public. The licence covers acts by individuals for non-commercial purposes regarding music and audio-visual content obtained from authorised sources (NB the authorisation obtained through the ECL would qualify as an authorised source). Proposal mentioned at 3.3.3.2 and replicated in **Beltrandi et al., 2008** (see *infra*).

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Mehra, 2008	US, Academic Mehra proposes a modified version of the statutory licence ACS for non-commercial P2P file sharing between individuals proposed by American scholars. His system is based on the Japanese private copying scheme and aims at creating a "Digital Clearinghouse" with four main characteristics, explained as follows: "1. The clearinghouse should be structured as a cooperative owned by those users who purchase copyrighted works. 2. Ownership should be pro rata divided by users based on their annual level of purchasing copyrighted works. 3. The prices for copyrighted works should be set by the clearinghouse itself. 4. A portion of the clearinghouse's revenues should be rebated back to users annually." The remaining aspects of the system are similar to those advanced by Netanel, 2003 and Fisher, 2004.
Richter, 2008	UK, Academic Discussion of two possible scenarios to capture the value of unauthorised file sharing of online music. The first scenario is that of a "fragmented landscape of privatized music spaces walled within social networks", where "content providers partner with gatekeepers to create legal spaces of digital music". The second scenario is of a "compulsory blanket license for digital music", identical to that proposed in Fisher, 2004. Richter concludes that both are viable options and that, while it is likely that the market will cause the occurrence of the first scenario, "we as an economy and a society may be better off by choosing the second option".
Aigrain, 2008	France, Academic and Advocacy In this monograph Aigrain develops the French *Licence Globale* model, with some variations. Aigrain analyses different models for regulation of non-commercial file sharing (with an emphasis on acts of reproduction and communication to the public). Although no clear choice is made, he denotes a preference for ECL (with the possibility to opt-out) and statutory licensing. The model proposed includes the registration of works (for identification and use measurement) and covers most published digital content used for non-commercial purposes. Compensation comes in the form of a "creative contribution", which combines elements of copyright remuneration with public funding to incentivise creation of works. Collected sums are to be distributed to creators, media/intermediation channels (which include related rights holders), and public funds for subsidising cultural works. Distribution to rights holders follows the logic of traditional levy-based schemes and is proportional to the frequency of use. Levy targets include broadband Internet access. Measurement of use is the competence of an independent observatory and should take into account the results of a grand permanent panel of Internet users. These users will have measuring software installed on their computers, which will collect and transmit strictly anonymous information regarding the accessing or use of works. This work is reviewed and developed in **Aigrain, 2012** (see *infra*).
Lohmann, 2008	Updated and identical version of **Lohmann, 2004** (see *supra*).
Lincoff, 2008	US, Academic/Lawyer/Consultancy This proposal is a revised version of **Lincoff, 2002** (see *supra*). Lincoff proposes the creation of a new digital transmission right for online music, which would replace existing exclusive rights for online use of music. The new right would also apply to over-the-air broadcast radio stations, as well as to the websites they operate. As a rule, this right would be subject to voluntary collective licensing, but would allow (exceptionally) the possibility of direct licensing by rights holders. In this system, at least one CMO per territory would be authorised to grant non-exclusive worldwide licences for the right at its local rates for activities covered that originate in

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	its territory. The right would be owned in equal shares by all categories of rights holders. The author provides further details on the calculation of compensation and transitional rules to migrate from the current system to the model of the digital transmission right.
Beltrandi et al., 2008	Identical to **Beltrandi, D'Elia, Turco, Mellano, & Poretti, 2007** (see *supra*).
Earp & McDiarmid, 2008	US, Academic The authors argue that voluntary collective licensing is an appropriate and achievable solution to the problems posed by P2P file sharing, and advocate for its testing in the setting of US University campuses. The model proposed is similar to that advanced by the Electronic Frontier Foundation (Lohmann 2004, 2008; see *supra*), adjusted to the context of Universities.
Sterling, 2008, 2009	UK, Academic The proposal is mostly detailed in Sterling, 2008. Proposals for a Global Internet Licensing Agency ("GILA") System to manage a system of voluntary collective licensing for an "Internet right", i.e. "the right to make material available on demand on the Internet, including the right to reproduce such material in the course of such making available". This right is intended to apply to global licensing via a central agency, the GILA. Sterling identifies twelve categories of act covered, including streaming (for commercial and non-commercial purposes) and downloading. The right is intended to apply both to scenarios of file hosting and file sharing (in centralised and decentralised P2P networks). The author further identifies eight different categories of potential licensee of the Internet right, namely: "uploader, host, link provider, accessor, software provider, file provider, central index provider, file receiver."
Roßnagel, Jandt, Schnabel, & Yliniva-Hoffman, 2009	Germany, Academic Feasibility study discussing a legalisation model for a "Culture Flat-Rate". In general, the study concludes that a statutory licence for non-commercial acts of reproduction and making available would be compatible with EU law, subject to certain changes to the InfoSoc Directive (and compliance with the three-step test) and national laws. This licence could be adjusted so that the making available right is instead subject to mandatory collective management, administered by a CMO created for that purpose. This variation would more clearly approximate the legalisation model known as Culture Flat-Rate". The licence would cover all protected subject matter, with the exception of software. The details of the system would resemble those of a traditional levy system, with the difference that the levy would target ISPs.
Ciurcina, Martin, Margoni, Morando, & Ricolfi, 2009	Italy, Academic and Advocacy Proposal by the NEXA Center for Internet and Society (Politecnico di Torino) for the application of ECL for acts of P2P file sharing.
Dimita, 2010	Italy/UK, Academic Monograph (PhD Dissertation) proposing a system combining statutory licensing with obligatory collective management of a new Global Dissemination Right ("GDR"). The GDR is designed as an unwaivable remuneration right for non-commercial acts of online dissemination of works, including user-initiated acts covered by the right of communication to the public. Dimita proposes that the GDR is implemented through a new WIPO Treaty, the "Global Dissemination Treaty", and administered through an international collective rights management system. This system will include a supervisory body, the Global

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	Dissemination Agency (GDA), and national agencies to administer the GDR (constituted by all the relevant stakeholders in the field). Dimita permits different methods of collection of remuneration (similar to existing collective rights management systems), and offers detailed rules on the management system, compensation targets and burden of compensation. For example, a levy may be imposed on goods or services that directly or indirectly benefit from unauthorised uses of a protected work (e.g. internet access providers and mobile network providers).
Zelnik, Toubon, & Cerutti, 2010	France, Political Report "Creation et Internet" commissioned by the French Ministry of Culture and communication. The authors of the report advance different proposals for a combination of legal licensing with collective rights management. One of the proposals is for statutory licensing of the online right of (linear) communication to the public, as it applies to webcasting. The goal is to facilitate the licensing of online webcasters. This proposal would extend the existing satellite broadcasting and cable retransmission regime to the new online uses, including the applicable right of equitable remuneration and scheme of collective management of different features of mandatory collective management. The report also proposes the adoption of voluntary collective licensing for the online right of (interactive) making available of musical works (including the resulting acts of downloading), to be negotiated between stakeholders within one year. Should the negotiations fail, a fallback regime of mandatory collective management would apply to these uses as it relates to the rights of producers and performers.
Hellings & Piryns, 2010 and **Morael & Piryns, 2010**	Belgium, Political Identical legislative proposals from the Belgian Green Party for an ACS. The proposal is for a "global license" for acts of up- and download by Internet users, presumably applying to all subject matter, and based on an ECL. The licence would be negotiated between CMO(s) and ISP(s), who would be authorised by their clients to exchange files containing protected works included in the licence. The total amount of the licence is reviewed on a yearly basis. Collection is the competence of an umbrella CMO, who will distribute the amounts to sectorial CMOs in accordance with an agreed upon distribution matrix. Yearly distribution to rights holders is based on measurement of use, carried out by an Internet Observatory, based on sampling of anonymous web traffic. The proposal specifies that the monthly price of Internet access depends on the speed of the connection, and that low debit accounts are exempt from payment. It also states that the maximum price of the surcharge on Internet access is established by equating Internet access to a utility. These proposals are mentioned at 3.3.3.2.
Seay, 2010	US, Academic Seay advances a proposal to overhaul the US online music licensing regime "to establish one-stop licensing while preserving a minimum statutory rate and clarify the rights landscape to prevent rights-holders from demanding payment for superfluous licenses." The licensing regime is aimed at commercial use by "online music purveyors". The proposal entails the creation in the US of a "one-stop licensing" shop. Existing performing rights organisations would evolve into Music Rights Organisations (MROs) authorised to represent all rights holders for the licensing of their online rights of reproduction and communication to the public in musical works and recordings. This would be accompanied by the clarification in the law of which rights apply to which online acts, avoiding instances of accumulation of rights (e.g. download should involve only reproduction and streaming only performance.) The system would also impose a minimum statutory rate periodically set by a Copyright Royalty Board, applicable to all

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	rights administered by MROs.
Compartilhamento Legal, 2010 (Translated to English in Rocha, 2010)	Brazil, Advocacy Legalisation model based on a combination of statutory licensing and mandatory collective management. The licence applies to acts of "online sharing" for non-commercial and personal or private purposes, including reproduction, making available and "access" to works. For these uses, rights holders are granted a remuneration right. Remuneration is collected through a broadband levy, the amount of which is fixed by a public body and charged to ISPs for every Internet access account they provide. The amount of the levy will vary according to the speed of the connection and has a low maximum ceiling. A special CMO will be created to collect and administer the levy. Distribution is made to rights holders on the basis of anonymous monitoring of Internet use. All categories of rights holders will benefit from the remuneration but individual creators (authors and performers) must receive at least half of the amount collected. Furthermore, 20% of the amounts collected must be allocated to cultural or social purposes.
Grassmuck, 2010a	Germany, Academic Proposes a statutory licence with obligatory collective management for non-commercial online sharing acts between individuals ("a legal permission for private online sharing of published copyright protected works for non-commercial purposes subject to a collectively managed levy")
Consumentenbond en Artiestenvakbonden, 2010	The Netherlands, Consumers and Artists Joint proposal by a Union of Dutch Artists and a Dutch Consumers Association for the legalisation of non-commercial acts of P2P file sharing of music and films. The proposal combines a statutory licence for the online right of reproduction (acts of downloading) and voluntary collective licensing for the right of communication to the public (acts of making available). The statutory licence would be financed first through a levy on devices (that allow recording and playback of music and films) and later by Internet subscriptions.
Songwriters Association of Canada, 2011	Canada, Authors Proposal to monetise the non-commercial sharing of music through a model of voluntary collective licensing. "Private individuals and households who wish to music file-share would be licensed to do so in conjunction with an agreement to pay a reasonable monthly license fee." CMOs would license consumers and partner with ISPs to facilitate that licensing.
Colin, 2011	Belgium, Academic Feasibility study of licensing systems for the P2P exchange of works on the Internet. Study commissioned by Belgian CMOs and the Belgian government. It concludes that possible mechanisms for allowing non-commercial P2P exchanges of works between individuals are those based on mandatory collective management or ECL (preferably with opt-out). This study forms the basis of the analysis in **Dusollier & Colin, 2011** (see *infra*).
Modot et al., 2011	EU, Consultancy Study commissioned by the European Parliament's Committee on Culture and Education. The study examines the political and economic "feasibility of the setting up of a content flat-rate for rights holders to provide consumers with the possibility to do P2P legally." The study concludes that the only feasible alternative to the status quo is a

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	scheme based on ECL "limited to downloading and some form of uploading (making available) to allow access to P2P networks (where the protocol usually requires some form of uploading during downloading). The system will permit the global sharing of works of an end-user's own digital collection, and will limit any form of sharing, over P2P networks, social sites, cyberlockers, etc., to a private circle of friends and family". Proposal mentioned at 3.3.3.2.
Iuliano, 2011	US, Academic Argues that a carefully constructed ACS would pass the three-step test and satisfy international copyright law. Iuliano's preferred proposal is based on a statutory licence system. However, he admits that, if compliance with the test becomes an issue, an ACS should be adopted through a model of voluntary collective licensing, with limited possibilities for rights holders to opt out (a "nominally voluntary system").
Dusollier & Colin, 2011	Belgium, Academic This article summarises and updates the report in **Colin, 2011**. It analyses different proposals authorising non-commercial P2P transfers under a global licence that provides compensation to rights holders. From the legal compliance standpoint, the authors argue that the most feasible models are mandatory collective management and ECL, as they "can help collective management schemes to prevent copyright fragmentation and facilitate copyright clearance." In their view, such models "could support a system granting mass authorizations to P2P users." The authors further discuss practical difficulties CMOs would face in granting blanket licences. Chief among these is the role afforded to ISPs in the legalisation schemes, which appears to clash with their legal status as intermediaries exempt from liability for most acts of Internet users in the context of the services they provide.
Creation-public-internet, 2011	France, Advocacy The "Creation-Public-Internet" is a French platform created to define, "debate, and promote a distribution model for digital works that provides for: the access of all to a diverse culture, a fair remuneration for artists/creators, a new source of financing for producing new works." The basic proposal is for a statutory licence for acts of "non-market sharing" of works from a lawful source. The remuneration is secured through a surcharge on the monthly subscription for Internet access. The amount in question should be "reasonable" and is to be defined via stakeholder debate, supervised by the state. The amount is collected by the ISP, who then transfers it to the competent CMOs. The collected sums are divided between the rights holders of works shared online and a fund for financing future creations. The exact division may differ across media.
Partido Comunista Português (Grupo Parlamentar), 2012	Portugal, Political Legislative proposal for an ACS based on statutory licensing with the possibility for rights holders to opt out. The licence applies to all subject matter lawfully published or made available, with the exception of software and periodic publications. It covers the rights of reproduction and communication to the public, which are free (in the sense of non-onerous) and for non-commercial purposes. The proposal expressly allows exchange of works through "sharing platforms" (irrespective of their physical location), but prohibits any commercial use in the context of the same. The opt-out mechanism is defined as an express declaration on the work and/or to a governmental entity, which will publish online a list of works excluded from the system. Specific rules apply to cases of joint ownership of works. Compensation is paid through a surcharge on the rate of Internet access (an amount is added to all contracts with ISP subscribers both for fixed and mobile technologies),

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	which cannot be passed on to end-users. Amounts thus collected are destined for a specific sharing fund, managed by the government. The compensation in this system accrues to remuneration or compensation from other statutory licences (e.g. private copying). The amounts are distributed according to the following matrix: 70% to CMOs representing authors (40%), performers (30%) and producers/publishers (30%), and 30% to a fund for investment in arts and audio-visual.
Harris, 2012	US, Academic Although it does not present a detailed ACS proposal, Harris advocates for legalising certain non-commercial file sharing, either through "legislation specifically recognizing consumers' right to noncommercial filesharing, or expanding 'fair use' to include filesharing, similar to time-shifting"
Eckersley, 2012	Australia/US, Academic and Advocacy This PhD monograph develops **Eckersley, 2004**, and the proposal for a type of State System labelled "virtual market reward/remuneration system" (see *supra*). Eckersley's proposal is similar to a blanket licence for non-commercial acts of reproduction and making available to the public (although the coverage of this second type of act is not clearly explained). The proposal deviates from statutory licensing insofar as it is based on public funding, with a significant part of the compensation (one third) collected originating from taxation. The remaining compensation (two thirds) originates from levies on devices/media and Internet connections. Furthermore, the system relies on a Central Government Agency for collection and on a complex virtual market scheme for distribution of monies, relying on contingent valuation methods based on voting by Internet users (in a "one user, one vote" system). The proposal further defines a minimum amount of the collected sums that must be awarded to individual creators, following the logic of progressive distribution. This proposal is described at 3.3.6.2.
Ricolfi, 2012	Italy, Academic Ricolfi's proposal is for a hybrid "Copyright 2.0" system, which is closer to a model of "digital abandon" for non-commercial use. This system comprises two co-existing legal regimes: The current regime ("Copyright 1.0"), and a separate copyright regime for digital works and uses, in which creators are limited to a right of attribution without remuneration ("Copyright 2.0"). Copyright 2.0 would be the default regime for the digital environment, meaning that creators would have to opt out—through the introduction of a copyright notice on works at the time of original release—in order to be regulated by the Copyright 1.0 exclusive rights regime. After release of the work, opt-out would still be possible but its effects limited to restoring the exclusive right against subsequent unauthorised commercial use; non-commercial use would remain uncompensated.
Aigrain, 2012	France, Academic and Advocacy This monograph builds on **Aigrain, 2008**, and the author's proposal for a Creative Contribution model. The proposal is described as a mutualised financing scheme for cultural and expressive activity, based on a statutory (compulsory) financial contribution, supplemented by voluntary resource pooling. Unlike the licensing approach in Aigrain, 2008, this proposal follows a "social rights approach", which defines two "positive social rights": the right to access the cultural commons of non-market sharing, and the right to be rewarded for one's contribution to their enrichment. The right to share allows for the reproduction and communication to the public of all categories of subject matter lawfully published or made available for "non-market" or

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	non-profit purposes, except software and databases. (The author accepts the possibility of extending the right to adaptations, such as remixes.) The compensation portion of the system (the Creative Contribution) is viewed as a two-prong reward for non-market use *and* for financing production and quality of new works. It is qualified as a statutory payment (not a tax), meaning that rewards are not part of the State budget but collected and managed by a specific entity for a specific purpose. The beneficiaries of the reward are individual creators of creative works; the beneficiaries of the financing part of the Creative Contribution are certain intermediaries. N.B. the financial reward is optional, as creators may choose to waive their right to it. Aigrain further develops a complex system for measurement of use and distribution of sums, including elements of monitoring, sampling and contingent valuation.
La Quadrature du Net & Aigrain, 2013	France, Academic and Advocacy This proposal builds on **Aigrain 2008, 2012**. The authors advocate the application of the doctrine of exhaustion to online acts of "non-market sharing of digital works between individuals" (involving the rights of reproduction and communication to the public). The proposal aims to place these acts outside the scope of copyright protection, whilst recognising "new social rights to remuneration and access to financing for contributors." The preferred remuneration model follows a "Creative Contribution scheme", implemented through a legally organised resource pooling system. Creators are entitled to a "remuneration/reward" funded through a monthly Internet flat-rate on household connections, distributed on the basis of data stored and made available by voluntary users about their non-market exchanges of works (e.g. P2P sharing, recommendations, or blog posting). The general features of the proposal qualify it as a State System type of ACS. This proposal is described at 3.3.6.2.
Consumentenbond, FNV KIEM, Ntb, & UFC-Que Choisir, 2012, 2014	The Netherlands/France; Consumer Associations, Trade Union of Creative Workers and a Dutch Performers Association Proposal originally presented in 2012 for a licence for the non-commercial P2P exchange of music and films (lawfully published or made available between individuals). The licence would combine mandatory collective management and ECL for the relevant online rights. In 2014, following the CJEU judgment in *ACI Adam* (discussed in Chapter 4), the proposal was submitted again in a letter to representatives of the Dutch. In this letter, the proponents approximate the licensing model advanced as similar to the licensing schemes used for broadcasting, public lending, and private copying.