

Directive Copyright in the Digital Single Market

Article 13

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Proposals in draft Copyright Directive

- **Exceptions for text and data mining, teaching activities, and preservation of cultural heritage**
- **Out of commerce works**
- **Access and availability of AV works on VOD platforms**
- **Introduction of a press publishers right**
- **Fair compensation for statutory exceptions**
- **Certain uses of protected content by online services**
- **Fair remuneration in contracts of authors and performers**

Timeline

How we got here

- **Commission Proposal September 2016**
- **European Council May 2018 – agreed mandate for trilogue**
- **European Parliament September 2018 – agreed mandate for trilogue**

What next?

- **Trilogue (October 18 – January 19)**
- **Adoption ? (NB new European Parliament and Commission 2019)**
- **Implementation – 24th months (NB UK withdrawal from the European Union)**

Value gap

The ‘transfer of value’ or ‘value gap’, is the process by which the value of works has been transferred away from the creators to online platforms who have built their businesses worth billions of pounds while paying only minimal royalties, or refusing to pay at all. This has only been made possible because existing law is ambiguous, and case law conflicting, which has allowed some platforms to wrongly claim they aren’t liable for copyright.



Value gap in figures

- 1 million streams on YouTube generates as little as £540 for the artist.
- YouTube pays creators a tiny £0.00054p per stream of music.
- Streaming sites like Apple Music and Spotify pay £4.3 billion for music use – way more than YouTube, even though YouTube is the most popular music service.
- 85% of YouTube's visitors come to the site for music. At least £2.33bn of YouTube's revenue in 2017 was generated by music.

European Parliament July 2018 – mandate for trilogue not granted

- 278 in favour.
- 318 against
- 31 abstentions

European Parliament September 2018 – mandate for trilogue granted (updated text)

- 438 in favour.
- 226 against
- 39 abstentions

Status text Articles 2 and 13 – trilogue (nb changes during negotiations)

<u>Issue</u>	<u>European Council</u>	European Parliament
Online Content Sharing Service Providers	Information service provider: Main purpose storing and giving access Large amount Promoting and optimising for profit Not encyclopaedia	Information service provider: Main purpose storing and giving access Significant amount Promoting and optimising for profit Not encyclopaedia Excluding micro and small business
Communication to the public (No reference to reproduction)	Communication to the public	Communication to the public
Obtain authorisation (scope)	Obligation covering user activities	Obligation covering user activities
Licensing agreements	Licensing agreements	Licensing agreements (fair and appropriate)
Limitations of liability	Art 14 ECD not but reference to limitation under certain circumstances, e.g. applying best efforts to prevent availability and acting expeditiously upon notification (art 13.4)	Art 14 ECD not Good faith cooperation

Status text Articles 2 and 13

<u>Issue</u>	<u>European Council</u>	European Parliament
Measures	Measures proportionate taking into account: <ul style="list-style-type: none">• Nature/ size of service• Amount and type of work	No measures but dialogues to define best practice
Cooperation	Cooperation Dialogues	Good faith Dialogues to define best practice
Complaints and redress mechanism	Yes	Yes, expeditious Alternative Dispute solution, Art 13a
Special		Special rules automated image referencing, Art 13b



<https://love-music.co>
<https://www.m-magazine.co.uk/features/article-13-music-not-misinformation/>

Thanks