European Parliament: Modernising the EU copyright

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After two years of intense discussion, the European Parliament, the Council and the European Commission have finally reached a political agreement on a new Copyright Directive, which aims to adapt EU copyright rules to a context in which digital technologies have transformed the way audiovisual works and other creative content are produced, distributed and accessed. The Copyright Directive was submitted to a plenary vote in the European Parliament on 26 March 2019, and now the final say belongs to the Council of the European Union, which should release its decision shortly. Once adopted, the directive will have to be transposed by the EU member states into their national legislation.

The directive introduces inter alia three new mandatory exceptions to copyright protection in the areas of education, research, and preservation of cultural heritage. It also requires member states to put a legal mechanism in place to facilitate licensing agreements for out-of-commerce works. A new negotiation mechanism will also be created to support the availability and circulation of European films and series on VOD services, with a view to facilitating the conclusion of contractual agreements and unlocking the difficulties related to the licensing of the necessary rights for their exploitation on these services.

In addition, the directive creates a new neighbouring right for press publishers concerning the online use of their press publications by major platforms and services, such as news aggregators, in order to strengthen their bargaining position when they negotiate the use of their content by these services. According to the final political agreement reached, the use of individual words and very short extracts of press publications (so-called ‘snippets') does not fall within the scope of the new right. In addition, the directive does not target individual users, who will continue to be able to share content on social media and link to websites and newspapers as of today.

Furthermore, the directive aims to reinforce the position of rightsholders to negotiate and be remunerated for the online use of their content by certain platforms that store and provide access to large numbers of works (the so-called ‘value gap’). Such platforms will now be considered to be carrying out acts of communication (or making available) to the public, for which they will need to make best efforts to obtain an authorisation from the rightsholders concerned and ensure the unavailability of unauthorised content. They will be required to act

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expeditiously to remove any unauthorised content following a notice received and also to make their best efforts to prevent any future uploads. New small platforms will benefit from a lighter regime when there is no authorisation granted by rightsholders.

Finally, the directive contains a set of new measures to strengthen the position of authors and performers, including a principle of appropriate and proportionate remuneration; a transparency obligation concerning the exploitation of their works and performances; a contract adjustment mechanism to allow them to obtain a fair share when the remuneration originally agreed becomes disproportionately low compared to the success of their work or performance; a mechanism for the revocation of rights when their works are not being exploited; and a dispute resolution procedure.

2016/0280(COD) Copyright in the digital single market

https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2016/0280(OLP)

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