

Copyright in the digital single market

On 13 February 2019, after more than two years of protracted negotiations, Parliament and Council negotiators reached a provisional agreement on the proposal for an EU directive on copyright. The compromise, approved by the Legal Affairs Committee and by the Council, is due to be voted by Parliament in plenary during March.

European Commission proposal

In September 2016, the Commission proposed a new directive in order to adapt EU copyright legislation to the digital environment, which is rapidly changing the way copyright-protected works and content are created, produced, distributed and exploited. Two controversial provisions were much [disputed](#): first, the creation of a new right allowing press publishers to claim remuneration for the online use of their publications, and second, the imposition of content-monitoring measures on online platforms (such as YouTube) to help rights-holders better monetise and control the distribution of their content online. Policymakers, stakeholders and academics have been strongly divided on this legislative proposal.

European Parliament position

The Legal Affairs Committee (JURI) approved its [report](#) in June 2018 and the green light for negotiations was finally granted in September 2018 with a [revised mandate](#) voted in plenary. Interinstitutional negotiations resulted in a trilogue agreement in February 2019. The main points of the [compromise](#) are as follows:

Press publishers' right (Article 11). The directive would introduce in EU law a new right to the benefit of press publishers for the online use of their press publications by information society service providers (such as news aggregators or media monitoring services). The final text clarifies that 'hyperlinks' to news articles and 'individual words or very short extracts' (i.e. 'snippets') do not fall within the scope of the new right. Member States will have to ensure the author of the work, e.g. the journalist, receives an appropriate share of the revenues. The new right for press publishers would be granted for a two-year period.

Value gap (Article 13). Online content-sharing service providers that store and give the public access to a large amount of copyright-protected works would have to obtain an authorisation from the rights-holders concerned. In situations where there are no licensing agreements concluded, platforms would need to take certain actions if they want to avoid liability. The final text clarifies that no general monitoring obligation would be imposed in line with Article 15 of the [e-Commerce Directive](#), and that existing copyright exceptions, allowing for instance quotation, caricature, parody or pastiche would not be affected – which is very much contested by opponents of the proposed measures. New small platforms will benefit from a lighter regime in case they do not obtain an authorisation from rights-holders.

Furthermore, the new directive, inter alia, enshrines in EU law several **new mandatory copyright exceptions** (for teaching, preservation of cultural heritage, and **text and data mining**), introduces a new licensing mechanism for **out-of-commerce works**, contains a new negotiation mechanism to make available **more European audiovisual works on video-on-demand platforms**, and includes a new provision to ensure nobody can claim copyright protection for **works of art in the public domain**.

The Council endorsed the compromise text on 20 February 2019. However, several Member States highlighted in a [joint statement](#) their opposition to the outcome of the negotiations.

First-reading report: [2016/0280\(COD\)](#); Committee responsible: JURI; Rapporteur: Axel Voss, (EPP, Germany). For further information, see also our 'EU Legislation in progress' [briefing](#).

