

**Amendment 204****Julia Reda**

on behalf of the Verts/ALE Group

**Report****Axel Voss**

Copyright in the Digital Single Market

(COM(2016)0593 - C8-0383/2016 - 2016/0280(COD))

**A8-0245/2018****Proposal for a directive****Recital 38***Text proposed by the Commission*

Where information society service providers *store* and provide *access to* the public *to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing* an act of communication to the public, *they are* obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability *exemption* provided in *Article 14 of Directive 2000/31/EC of the European Parliament and of the Council*<sup>34</sup>.

*In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor.*

In order to ensure the functioning of any licensing agreement, information society service providers *storing and providing access* to the public *to large amounts of copyright protected works or other subject-matter uploaded by their users* should take appropriate and proportionate measures to ensure protection of works or other subject-matter, *such as implementing effective technologies. This*

*Amendment*

Where information society service providers *offer users content storage services* and provide the public *with access to content and where such activity constitutes* an act of communication to the public *and is not of a merely technical, automatic and passive nature, they should be* obliged to conclude licensing agreements with rightholders *as regards copyright protected works or other subject-matter*, unless they are eligible for the liability *exemptions* provided in *Directive 2000/31/EC of the European Parliament and of the Council*<sup>34</sup>.

In order to ensure the functioning of any licensing agreement, information society service providers *actively and directly involved in allowing users to upload, making works available and promoting works* to the public should take appropriate and proportionate measures to ensure protection of works or other subject-matter. *Such measures should respect the Charter of Fundamental Rights of the European*

obligation *should also apply when the* information society service providers *are eligible for the liability exemption provided* in Article **14** of Directive 2000/31/EC.

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<sup>34</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

*Union and should not impose a general obligation on* information society service providers *to monitor the information which they transmit or store as referred to* in Article **15** of Directive 2000/31/EC.

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<sup>34</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. en

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**Proposal for a directive**

**Recital 38 b (new)**

*Text proposed by the Commission*

*Amendment*

***(38 b) For the implementation of such measures, the cooperation between information society service providers and rightholders is essential. Rightholders should accurately identify to information society service providers the works or other subject-matter in respect of which they claim to have the copyright. Rightholders should retain responsibility for claims made by third parties over the use of works which they would have identified as being their own in the implementation of any agreement reached with the information society service provider.***

Or. en

**Amendment 206****Julia Reda**

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**Report****A8-0245/2018****Axel Voss**Copyright in the Digital Single Market  
(COM(2016)0593 - C8-0383/2016 - 2016/0280(COD))**Proposal for a directive****Recital 39***Text proposed by the Commission**Amendment*

**(39) Collaboration between information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.**

*deleted*

Or. en

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**Proposal for a directive****Article 3 – paragraph 1 a (new)***Text proposed by the Commission**Amendment*

***1 a. Member States shall provide for an exception to the rights provided for in Article 2 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC and Article 11(1) of this Directive for reproductions and extractions made in order to carry out text and data mining as regards works and other subject-matter that are lawfully available online, provided that the rightholder has not reserved such uses in a machine readable format.***

***This exception shall not apply to text and data mining of press publications within the meaning of point 4 of Article 2 of this Directive or to text and data mining of any works and other subject-matter incorporated in a press publication, provided that publishers of those press publications express such reservation by listing their websites in a central point of information online.***

***Reproductions and extractions made for the process of text and data mining of such works and other subject-matter shall be deleted as soon as they are no longer required for that purpose.***

Or. en

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(COM(2016)0593 - C8-0383/2016 - 2016/0280(COD))

**Proposal for a directive****Article 3 – paragraph 1 b (new)***Text proposed by the Commission**Amendment*

***1 b. Member States shall provide for an exception to the rights provided for in Article 2 of Directive 2001/29/EC, Articles 5(a) and 7(1) of Directive 96/9/EC and Article 11(1) of this Directive for reproductions and extractions of works or other subject-matter to which they have acquired lawful access, made in order to carry out on a non-for-profit basis text and data mining for the purposes of scientific research by research organisations and cultural heritage institutions.***

***Any contractual provision contrary to the exception provided for in the first subparagraph shall be unenforceable.***

***Reproductions and extractions made for text and data mining purposes shall be stored in a secure manner. As soon as the research activity has ended the copies shall be deleted or, if Member States choose to make use of this possibility, stored by trusted bodies appointed for this purpose.***

Or. en