Question for written answer E-004912/2018
to the Commission
Rule 130
Miapetra Kumpula-Natri (S&D)

Subject: Potential impact of Article 12 of the proposed Digital Single Market directive on contractual freedom and negotiation positions

Contractual freedom is a key starting point for most contractual relationships. It is usually only limited in order to protect the weaker contractual party, such as an employee in the case of labour legislation or a tenant for legislation concerning residential leases. It is also widely recognised, including in the Commission’s proposal for a directive on copyright in the Digital Single Market\(^1\), that authors are in a weaker contractual position in relation to publishers, and that their bargaining position should be strengthened.

Article 12 of the proposed directive, however, would give publishers the right to a share of the compensation paid for use of a work, under an exception or limitation to a transferred right. This would further shift the balance in favour of publishers, as legislation would provide them with an additional financial benefit and an even stronger legal position. This would in turn weaken authors’ bargaining positions and lead to a transfer of income from authors to publishers.

Can the Commission explain why this legislation seems set to be used to strengthen the contractual position of the already dominant party?

\(^1\) COM(2016)0593.