



2016/0280(COD)

12.6.2017

AMENDMENTS

14 - 144

Draft opinion
Michal Boni
(PE604.830v01-00)

on the proposal for a directive of the European Parliament and of the Council
on copyright in the Digital Single Market

Proposal for a directive
(COM(2016)0593 – C8-0383/2016 – 2016/0280(COD))

Amendment 14
Eleftherios Synadinos

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) The Treaty provides for the establishment of an internal market and the institution of a system ensuring that competition in the internal market is not distorted. Harmonisation of the laws of the Member States on copyright and related rights should contribute further to the achievement of those objectives.

Amendment

(1) The Treaty provides for the establishment of an internal market and the institution of a system ensuring that competition in the internal market is not distorted. Harmonisation of the laws of the Member States on copyright and related rights should contribute further to the achievement of those objectives ***in an objective, transparent and proportionate manner.***

Or. en

Amendment 15
Eleftherios Synadinos

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) The directives which have been adopted in the area of copyright and related rights provide for a high level of protection for rightholders and create a framework wherein the exploitation of works and other protected subject-matter can take place. This harmonised legal framework contributes to the ***good*** functioning of the internal market; ***it stimulates innovation, creativity, investment and production of new content, also in the digital environment. The protection provided by this legal framework also contributes to the Union's objective of respecting and promoting cultural diversity while at the same time bringing the European common cultural heritage to the fore. Article***

Amendment

(2) The directives which have been adopted in the area of copyright and related rights provide for a high level of protection for rightholders and create a framework wherein the exploitation of works and other protected subject-matter can take place. This harmonised legal framework contributes to the functioning of the internal market ***as stipulated by priorities and objectives set at European level; it stimulates investment in the digital environment, innovation and creativity.***

167(4) of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action.

Or. en

Amendment 16
Eleftherios Synadinos

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules on rights in publications, on the use of works and other subject-matter by online service providers storing and giving access to user

Amendment

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework ***to ensure continuity and legal certainty and with an aim to modernise and update that legal framework***. This Directive provides for rules to adapt, ***in a targeted manner***, certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules on

uploaded content and on the transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

rights in publications, on the use of works and other subject-matter by online service providers storing and giving access to user uploaded content and on the *greatest possible* transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

Or. en

Amendment 17 **Eleftherios Synadinos**

Proposal for a directive **Recital 5**

Text proposed by the Commission

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in

Amendment

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market, *though this has not yet been asserted or presumed*. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of *national* cultural heritage *of the respective Member States* should be reassessed in the light of those new uses *and be protected as social assets under the auspices of the Member States*. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching in the digital environment and for preservation of

Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply **as an absolute minimum**. Directives 96/9/EC and 2001/29/EC should be adapted.

Or. en

Amendment 18 **Eleftherios Synadinos**

Proposal for a directive **Recital 8**

Text proposed by the Commission

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, research organisations such as universities and research institutes are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere

Amendment

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, **often of public nature or financed from national budgets, a process** generally known as text and data mining. Those technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, research organisations such as universities and research institutes are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required

facts or data which are not protected by copyright and in such instances no authorisation would be required.

from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

Or. en

Amendment 19
Eleftherios Synadinos

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) Union law *already* provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where researchers have lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

Amendment

(9) Union law *rightly* provides certain exceptions and limitations covering uses for scientific research purposes *already*, which may apply to acts of text and data mining. However, those exceptions and limitations are *merely* optional and not fully adapted to the use of technologies in scientific research. Moreover, where researchers have lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may *improperly, unnecessarily or wrongly* exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

Or. en

Amendment 20
Eleftherios Synadinos

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) In view of a potentially high number of access requests to and downloads of their works or other subject-matter, rightholders should be allowed to apply measures where there is risk that the security and integrity of the system or databases where the works or other subject-matter are hosted would be jeopardised. Those measures should not exceed what is necessary to pursue the objective of ensuring the security and integrity of the system and should not undermine the effective application of the exception.

Amendment

(12) In view of a potentially high number of access requests to and downloads of their works or other subject-matter, rightholders should be allowed to apply measures where there is risk that the security and integrity of the system or databases where the works or other subject-matter are hosted would be jeopardised. Those measures should not exceed what is ***proportional and*** necessary to pursue the objective of ensuring the ***respectively graduated or classified*** security and integrity of the system and should not undermine the effective application of the exception.

Or. en

Amendment 21
Eleftherios Synadinos

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) There is no need to provide for compensation for rightholders as regards uses under the text and data mining exception introduced by this Directive given that in view of the nature and scope of the exception the harm should be minimal.

Amendment

(13) There is no need to provide for compensation for ***directly relevant*** rightholders as regards uses under the text and data mining exception introduced by this Directive given that in view of the ***particular*** nature and ***limited*** scope of the exception the ***plausible*** harm should be minimal.

Or. en

Amendment 22
Eleftherios Synadinos

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also create new challenges. In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction in order to allow those acts of preservation.

Amendment

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation, ***maintenance and utilisation*** of their collections for ***the benefit of*** future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also create new challenges. In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction in order to allow those acts of preservation.

Or. en

Amendment 23
Eleftherios Synadinos

Proposal for a directive
Recital 19

Text proposed by the Commission

(19) Different approaches in the Member States for acts of preservation by cultural heritage institutions ***hamper*** cross-border cooperation and the sharing of means of preservation by cultural heritage institutions in the internal market, leading to ***an inefficient*** use of resources.

Amendment

(19) Different approaches in the Member States for acts of preservation by cultural heritage institutions ***judiciously impede*** cross-border cooperation and the sharing of means of preservation by cultural heritage institutions in the internal market, leading to ***a*** use of resources ***that is not the most efficient or widest possible***.

Or. en

Amendment 24
Eleftherios Synadinos

Proposal for a directive
Recital 26

Text proposed by the Commission

(26) *For reasons of international comity*, the licensing mechanisms for the digitisation and dissemination of out-of-commerce works provided for in this Directive should not apply to works or other subject-matter that are first published or, in the absence of publication, first broadcast in a third country or, in the case of cinematographic or audiovisual works, to works the producer of which has his headquarters or habitual residence in a third country. Those mechanisms should also not apply to works or other subject-matter of third country nationals except when they are first published or, in the absence of publication, first broadcast in the territory of a Member State or, in the case of cinematographic or audiovisual works, to works of which the producer's headquarters or habitual residence is in a Member State.

Amendment

(26) *Subject to the need for reciprocity between Member States and third countries as applicable*, the licensing mechanisms for the digitisation and dissemination of out-of-commerce works provided for in this Directive should not apply to works or other subject-matter that are first published or, in the absence of publication, first broadcast in a third country or, in the case of cinematographic or audiovisual works, to works the producer of which has his headquarters or habitual residence in a third country. Those mechanisms should also not apply to works or other subject-matter of third country nationals except when they are first published or, in the absence of publication, first broadcast in the territory of a Member State or, in the case of cinematographic or audiovisual works, to works of which the producer's headquarters or habitual residence is in a Member State.

Or. en

Amendment 25
Eleftherios Synadinos

Proposal for a directive
Recital 27

Text proposed by the Commission

(27) As mass digitisation projects can entail significant investments by cultural heritage institutions, any licences granted under the mechanisms provided for in this Directive should not prevent them from generating reasonable revenues in order to cover the costs of the licence and the costs of digitising and disseminating the works and other subject-matter covered by the

Amendment

(27) As mass digitisation projects can entail significant investments by cultural heritage institutions, any licences granted under the mechanisms provided for in this Directive should not prevent them from generating reasonable revenues in order to cover the costs of the licence and the costs of digitising and disseminating the works and other subject-matter covered by the

licence.

licence, *if those investments are not covered by other resources or funds.*

Or. en

Amendment 26
Eleftherios Synadinos

Proposal for a directive
Recital 30

Text proposed by the Commission

(30) To facilitate the licensing of rights in audiovisual works to video-on-demand platforms, this Directive requires Member States to set up a negotiation mechanism allowing parties willing to conclude an agreement to rely on the assistance of an impartial body. The body should meet with the parties and help with the negotiations by providing professional and external advice. Against that background, Member States should decide on the conditions of the functioning of the negotiation mechanism, including the timing and duration of the assistance to negotiations and the bearing of the costs. Member States should ensure that administrative and financial burdens remain proportionate to guarantee the efficiency of the negotiation forum.

Amendment

(30) To facilitate the licensing of rights in audiovisual works to video-on-demand platforms, this Directive requires Member States to set up a negotiation mechanism allowing parties willing to conclude an agreement to rely on the assistance of an impartial *and politically independent* body. The body should meet with the parties and help with the negotiations by providing professional and external advice. Against that background, Member States should decide on the conditions of the functioning of the negotiation mechanism, including the timing and duration of the assistance to negotiations and the bearing of the costs. Member States should ensure that administrative and financial burdens remain proportionate to guarantee the efficiency of the negotiation forum.

Or. en

Amendment 27
Axel Voss

Proposal for a directive
Recital 31

Text proposed by the Commission

(31) A free and pluralist press is essential to ensure quality journalism and

Amendment

(31) A free and pluralist press is essential to ensure quality journalism and

citizens' access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment *is* often complex and inefficient.

citizens' access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. ***News aggregators and search engines have increasingly developed their activities and are making profit from the content of press publishers. These profits are not shared fairly with the creators and publishers.*** In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment ***are*** often complex and inefficient.

Or. en

Amendment 28
Eleftherios Synadinos

Proposal for a directive
Recital 31

Text proposed by the Commission

(31) A free and pluralist press is essential to ensure quality journalism and citizens' access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment is often complex and inefficient.

Amendment

(31) A free and pluralist press is essential to ensure quality journalism and citizens' access to information. ***When it is indeed and truly free, its actions and goals are not dictated by third actors, and it is not driven by self-serving interests against the objectives that it theoretically serves, then*** it provides a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment is often complex,

fragmented and inefficient.

Or. en

Amendment 29
Eleftherios Synadinou

Proposal for a directive
Recital 32

Text proposed by the Commission

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. It is therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of digital uses. Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications in respect of digital uses.

Amendment

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. It is therefore necessary to ***assess whether it would be appropriate to*** provide at Union level a harmonised legal protection for press publications in respect of digital uses. Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications in respect of digital uses.

Or. en

Amendment 30
Gérard Deprez, Louis Michel, Jean-Marie Cavada

Proposal for a directive
Recital 32

Text proposed by the Commission

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press publications. Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications.

Or. en

Justification

The proposal only provides rights for digital uses, whereas the role of the the publisher and the investment of the publisher into the publishing enterprise is for both print and digital regardless of the method of dissemination. Other neighbouring right holders (phonogram producers, films producers and broadcasting organisations) enjoy the full scope of rights. Only to grand rights for digital uses creates a notion that the print edition is not worth the same level of protection.

Amendment 31

Axel Voss

Proposal for a directive

Recital 32

Text proposed by the Commission

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. It is therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of digital uses. Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications *in respect of digital uses*.

Amendment

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. It is therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of digital uses. Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications.

Or. en

Amendment 32
Gérard Deprez, Louis Michel, Jean-Marie Cavada

Proposal for a directive
Recital 33

Text proposed by the Commission

(33) For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. ***Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive.*** This protection does not extend to acts of hyperlinking which do not constitute communication to the public.

Amendment

(33) For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. This protection does not extend to acts of hyperlinking which do not constitute communication to the public.

Or. en

Justification

All kinds of press content and publications are being misused by third parties, ranging from daily newspapers, special interest magazines to scientific journals. The definition in the proposal is problematic as it divides and excludes parts of the periodical press. Scientific journals are part of the periodical press but in the proposal these are explicitly excluded despite the fact that they suffer as much from large scale commercial piracy as other publications.

Amendment 33
Gérard Deprez, Louis Michel, Jean-Marie Cavada

Proposal for a directive
Recital 34

Text proposed by the Commission

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, ***insofar as digital uses are concerned***. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.

Amendment

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC ***as well as the rights of distribution, rental and lending provided for in Directive 2006/115/EC***. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC, including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.

Or. en

Justification

The proposal only provides rights for digital uses, whereas the role of the the publisher and the investment of the publisher into the publishing enterprise is for both print and digital regardless of the method of dissemination. Other neighbouring right holders (phonogram producers, films producers and broadcasting organisations) enjoy the full scope of rights. Only to grant rights for digital uses creates a notion that the print edition is not worth the same level of protection.

Amendment 34

Axel Voss

Proposal for a directive

Recital 34

Text proposed by the Commission

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, ***insofar as digital uses are concerned***. They should also be subject to the same provisions on exceptions and

Amendment

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights

limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.

provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive. ***The protection granted to press publications under this Directive should also apply where the content is automatically generated by, for example, news aggregators.***

Or. en

Amendment 35

Axel Voss

Proposal for a directive

Recital 35

Text proposed by the Commission

(35) The protection granted to publishers of press publications under this Directive should not affect the rights of the authors and other rightholders in the works and other subject-matter incorporated therein, including as regards the extent to which authors and other rightholders can exploit their works or other subject-matter independently from the press publication in which they are incorporated. Therefore, publishers of press publications should not be able to invoke the protection granted to them against authors and other rightholders. This is without prejudice to contractual arrangements concluded between the publishers of press publications, on the one side, and authors and other rightholders, on the other side.

Amendment

(35) The protection granted to publishers of press publications under this Directive should not affect the rights of the authors and other rightholders in the works and other subject-matter incorporated therein, including as regards the extent to which authors and other rightholders can exploit their works or other subject-matter independently from the press publication in which they are incorporated. Therefore, publishers of press publications should not be able to invoke the protection granted to them against authors and other rightholders. This is without prejudice to contractual arrangements concluded between the publishers of press publications, on the one side, and authors and other rightholders, on the other side. ***Member States should ensure that a fair share of remuneration, derived from the use of the press publishers right, is attributed to journalists, authors and other rightholders.***

Or. en

Amendment 36

Miltiadis Kyrkos, Giorgos Grammatikakis, Silvia Costa, Luigi Morgano, Mary Honeyball

Proposal for a directive

Recital 37

Text proposed by the Commission

(37) Over the last years, the functioning of the online content marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement of right holders have flourished and have become main sources of access to content online. This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for it.

Amendment

(37) Over the last years, the functioning of the online content marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement ***or consent*** of right holders have flourished and have become main sources of access to content online. This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for it. ***The providers of the user uploaded content services claim that their services are covered by the safe harbor exemption of Directive 2000/31/EC of the European Parliament and of the Council^{1a} and either refuse to enter into licensing agreements or underpay creators, whilst at the same time they directly compete with fully licensed content providers for the same users and revenues. Those services therefore conflict with the normal exploitation of copyright protected works and subject-matter and drive down the overall value of creative content online***

^{1a} 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 ('Directive on electronic commerce') (OJ L 178, 17.7.2000, p. 1).

Or. en

Amendment 37

Axel Voss

Proposal for a directive

Recital 37

Text proposed by the Commission

(37) Over *the last* years, the functioning of the online content marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement of right holders have flourished and have become main sources of access to content online. This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for it.

Amendment

(37) Over *recent* years, the functioning of the online content marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement of right holders have flourished and have become main sources of access to content online. ***Thereby, the providers of online services often make profits from content that they do not create, which are not always shared fairly with the respective creators.*** This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for it.

Or. en

Amendment 38

Cecilia Wikström

Proposal for a directive

Recital 37

Text proposed by the Commission

(37) Over the last years, ***the functioning of the online content marketplace has gained in complexity.*** Online services providing access to ***copyright protected*** content uploaded by their users without the involvement of ***right holders have flourished and*** have become ***main*** sources of access to content online. This ***affects*** rightholders' possibilities to ***determine whether, and*** under which ***conditions,*** their ***work*** and other subject-matter are ***used*** as

Amendment

(37) Over the last years, online services providing access to content uploaded by their users without the involvement of ***rightholders have grown to a point that they*** have become ***alternate*** sources of access to ***copyright protected*** content online. This ***has negatively affected*** rightholders' possibilities to ***control the conditions*** under which their ***works*** and other subject-matter are ***made available and communicated to the public,*** as well

well as their possibilities to get an appropriate remuneration for it.

as their possibilities to get an appropriate remuneration for it.

Or. en

Justification

Mainly stylistic, but describes the current content marketplace more aptly, as said platforms are "alternate sources of access" rather than "main sources". The notions of "made available" and "communicated to the public" are also introduced in order to specify the issues for rightholders.

Amendment 39

Sylvie Guillaume, Christine Revault D'Allonnes Bonnefoy, Pervenche Berès, Virginie Rozière

Proposal for a directive

Recital 37 a (new)

Text proposed by the Commission

Amendment

(37a) Despite the fact that more creative content is being consumed today than ever before on services such as user uploaded content platforms and content aggregation services, yielding significant profits, the creative sectors have not seen a comparable increase in consumption. The value of cultural and creative works has been diverted away from the authors, artists, producers and others right holders, generating an unsustainable "value gap". This transfer of value, due to the lack of clarity regarding the status of these online services under copyright and e-commerce law, undermines the efficiency of the online market, distorts competition and drives down the overall value of cultural content online. It also limits consumer choice of new and innovative legitimate services in the European Digital Single Market and puts at risk cultural and creative industries that create significant jobs and growth for the Union economy, as underlined by the European Parliament resolution of 13

Amendment 40
Axel Voss

Proposal for a directive
Recital 37 a (new)

Text proposed by the Commission

Amendment

(37a) Today more creative content is being consumed than ever before. This mostly happens via platform services where content is uploaded by users, or via content aggregation services. At the same time, the revenues for the creative industries have not increased at anything like the same pace. This has generated a so-called 'value gap', where the providers of platform services retain the value of cultural and creative works, which is diverted from creators. The transfer of value has created an inefficient and unfair market, and threatens the long-term health of the Union's creative sector and the success of the Digital Single Market

Amendment 41
Sylvie Guillaume, Christine Revault D'Allonnes Bonnefoy, Pervenche Berès, Virginie Rozière

Proposal for a directive
Recital 37 b (new)

(37b) Digital platforms are means of providing wider access to cultural and creative works and offer great opportunities for cultural and creative industries to develop new business models. Consideration should be made of how this process can function with more legal certainty and fairness and respect for right holders. Importance of transparency and of ensuring a level playing field is necessary. In this regard, protection of right holders within the copyright and intellectual property framework is necessary in order to ensure recognition of values and stimulation of innovation, creativity, investment, to guarantee the success of a Digital Single Market, offering all diverse and quality cultural and creative works.

Or. en

Amendment 42

Axel Voss

Proposal for a directive

Recital 37 b (new)

(37b) Digital platforms are a means of providing wider access to cultural and creative works. They offer great opportunities for cultural and creative industries to develop new business models. How this process can be combined with greater legal certainty and respect for rightholders is therefore an issue that needs to be examined. It is of utmost importance to ensure transparency and a fair level playing field. The protection of right holders within the copyright and intellectual property framework is necessary in order to ensure

recognition of values and stimulation of innovation, creativity, investment and production of content.

Or. en

Amendment 43

Sylvie Guillaume, Christine Revault D'Allonnes Bonnefoy, Pervenche Berès, Virginie Rozière

Proposal for a directive

Recital 37 c (new)

Text proposed by the Commission

Amendment

(37c) This is why liability exemptions can only apply to genuinely neutral and passive online service providers, and not to services that play an active role in distributing, promoting and monetising content at the expense of creators.

Or. en

Amendment 44

Dietmar Köster, Lidia Joanna Geringer de Oedenberg, Emilian Pavel, Tiemo Wölken, Birgit Sippel, Josef Weidenholzer, Marju Lauristin

Proposal for a directive

Recital 38 – paragraph 1

Text proposed by the Commission

Amendment

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

deleted

*Parliament and of the Council*³⁴ .

³⁴ 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

Amendment 45
Cornelia Ernst

Proposal for a directive
Recital 38 – paragraph 1

Text proposed by the Commission

Amendment

*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*³⁴ .

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³⁴ 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

Amendment 46

Axel Voss

Proposal for a directive Recital 38 – paragraph 1

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 Council³⁴.

³⁴ 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).

Amendment

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 ***and an act of reproduction***, they are obliged to conclude licensing agreements with rightholders ***to protect the legitimate interest of the rightholder***, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴. ***This liability exemption can, however, only apply to totally neutral and passive online service providers, as defined in that Directive and in the case-law of the Court of Justice, and not to services that play an active role in distributing, promoting and exploiting content at the expense of creators.***

³⁴ 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

Amendment 47

Sylvie Guillaume, Christine Revault D'Allonnes Bonnefoy, Pervenche Berès, Virginie Rozière

Proposal for a directive Recital 38 – paragraph 1

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 Council³⁴.

³⁴ 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).

Amendment

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 ***installations and thus*** performing an act of communication to the public ***and/or making available to the public, as well as an act of reproduction,*** they are obliged to conclude licensing agreements with rightholders ***who so request,*** unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴. ***In the interests of ensuring legal certainty for the users of services, these agreements should cover the liability of the latter when they are not acting professionally for acts falling under Articles 2 and 3 of Directive 2001/29/EC that they perform.***

³⁴ 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

Amendment 48
Juan Fernando López Aguilar

Proposal for a directive
Recital 38 – paragraph 1

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

Amendment

Information society service providers ***that*** store and provide access to the public to copyright protected works or other subject-matter uploaded by their users ***go*** beyond

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 Council³⁴.

the mere provision of physical facilities and **perform** an act of communication to the public. **Those service providers are thus** obliged to conclude licensing agreements with rightholders, **when so requested by 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 Council³⁴. **In order to provide legal certainty for the users, the authorisation granted to these service providers should cover the liability of their users for the relevant copyright acts, provided the latter are not acting on a professional basis.**

³⁴ 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).

³⁴ 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

Amendment 49 **Barbara Matera**

Proposal for a directive **Recital 38 – paragraph 1**

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

Amendment

Information society service providers **that** store and provide access to the public to copyright protected works or other subject-matter uploaded by their users **go** beyond the mere provision of physical facilities and **perform** an act of communication **or making available** to the public, **as the case may be**. **Those service providers** 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

³⁴ 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).

³⁴ 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

Justification

It is necessary to clarify that the acts of UUC services could also fall under the right of “making available to the public”, because this is the right which applies to on-demand distribution or streaming by UUC services for certain right holders.

Amendment 50

Miltiadis Kyrkos, Giorgos Grammatikakis, Silvia Costa, Luigi Morgano, Mary Honeyball

Proposal for a directive Recital 38 – paragraph 1

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 Council³⁴ .

³⁴ 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

Amendment

Information society service providers **that** store **and/or** 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 **and reproduction**, are obliged to conclude licensing agreements with rightholders. **Information society service providers that play an active role are not** eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴ .

³⁴ 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).

electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. en

Amendment 51
Daniel Dalton

Proposal for a directive
Recital 38 – paragraph 1

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 Council³⁴ .

³⁴ 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).

Amendment

Where information society service providers ***are actively involved in the making available, promoting and curating*** to the public copyright protected ***digital content*** 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 Council³⁴ .

³⁴ 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

Amendment 52
Brice Hortefeux, Rachida Dati, Nadine Morano, Heinz K. Becker

Proposal for a directive
Recital 38 – paragraph 1

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 Council³⁴.

³⁴ 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).

Amendment

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 **and/or an act of reproduction** to the public, they are obliged to conclude licensing agreements with rightholders **requiring so**, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ 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

Amendment 53
Cecilia Wikström

Proposal for a directive
Recital 38 – paragraph 1

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

Amendment

Where information society service providers **offer users content storage services that** provide access to the public to copyright protected **content and are not merely passive in nature but perform** an act of communication to the public, they **should be** 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

Directive 2000/31/EC of the European Parliament and of the Council³⁴ .

and of the Council³⁴ .

³⁴ 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).

³⁴ 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

Amendment 54 **Jan Philipp Albrecht**

Proposal for a directive **Recital 38 – paragraph 1**

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 Council³⁴ .

³⁴ 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).

Amendment

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 *exemptions* provided in Directive 2000/31/EC of the European Parliament and of the Council³⁴ .

³⁴ 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

Amendment 55
Cecilia Wikström

Proposal for a directive
Recital 38 – paragraph 2

Text proposed by the Commission

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.

Amendment

deleted

Or. en

Amendment 56
Cornelia Ernst

Proposal for a directive
Recital 38 – paragraph 2

Text proposed by the Commission

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.

Amendment

No general obligation should be imposed on information society service providers to monitor the works or subject matter which they transmit or store, nor should a general obligation be imposed upon them to actively seek facts or circumstances indicating activity that would infringe rights under copyrighted works. Hosting providers should not be held liable as long as they do not have actual knowledge of illegal activity or information and are not aware of the facts or circumstances from which the infringing activity or information is apparent, pursuant to Articles 12, 13, 14 and 15 of Directive 2000/31/EC.

Or. en

Amendment 57

Dietmar Köster, Lidia Joanna Geringer de Oedenberg, Emilian Pavel, Tiemo Wölken, Birgit Sippel, Josef Weidenholzer, Marju Lauristin

Proposal for a directive

Recital 38 – paragraph 2

Text proposed by the Commission

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.

Amendment

No general obligation should be imposed on information society service providers to monitor the works or subject matter which they transmit or store, nor should a general obligation be imposed upon them to actively seek facts or circumstances indicating activity that would infringe rights under copyrighted works. Hosting providers should not be held liable as long as they do not have actual knowledge of illegal activity or information and are not aware of the facts or circumstances from which the infringing activity or information is apparent, pursuant to Articles 12, 13, 14 and 15 of Directive 2000/31/EC.

Or. en

Amendment 58

Miltiadis Kyrkos, Giorgos Grammatikakis, Silvia Costa, Luigi Morgano, Mary Honeyball

Proposal for a directive

Recital 38 – paragraph 2

Text proposed by the Commission

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.

Amendment

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. *An information society service provider should be obliged to acquire licenses for copyright protected content regardless of whether he has editorial*

responsibility for that content. The licenses acquired by service providers from right holders should be deemed to cover all the acts of their users, provided that they are acting for non-commercial purposes. This would provide legal certainty for individual users of such services whilst clarifying the liability of platforms.

Or. en

Amendment 59
Barbara Matera

Proposal for a directive
Recital 38 – paragraph 2

Text proposed by the Commission

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.

Amendment

In respect of Article 14, it is necessary to verify whether the service provider plays an active role. *Activities which amount to an active role include, but are not limited to, the arrangement, selection, promotion, and optimisation* of the *presentation of* works or *other protected subject-matter*, irrespective of the nature of the means used therefor. *In such cases, the service provider should not be considered to be merely hosting copyright protected works or other subject-matter uploaded by its users, should be ineligible for the liability exemption provided for in Article 14 of Directive 2001/29/EC and should be subject to the provisions thereof.*

Or. en

Justification

UUC services that play an active role cannot benefit from the “safe harbour” in Article 14 of the E-Commerce Directive, since the intention of that Article has always been to cover only mere host providers acting in a technical, automatic and passive capacity. It is also useful to explain further the types of activities that would amount to active role.

Amendment 60
Juan Fernando López Aguilar

Proposal for a directive
Recital 38 – paragraph 2

Text proposed by the Commission

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.

Amendment

In respect of *the application of* Article 14 of Directive 2000/31/EC to acts of such services relevant to copyright, 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, *to offer such works and other subject-matter to the public in a comparable way to digital content services*, irrespective of the nature of the means used therefor. *The service providers that play such an active role should not be able to claim the liability exemption of the Article 14 of that directive for their acts relevant to copyright.*

Or. en

Amendment 61
Daniel Dalton

Proposal for a directive
Recital 38 – paragraph 2

Text proposed by the Commission

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.

Amendment

In respect of Article 14, it is necessary to verify whether the service provider *has played* an active role *with knowledge of the copyright protected work in question*, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor.

Or. en

Amendment 62

Sylvie Guillaume, Christine Revault D'Allonnes Bonnefoy, Pervenche Berès, Virginie Rozière

Proposal for a directive

Recital 38 – paragraph 2

Text proposed by the Commission

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.

Amendment

In respect of Article 14 **of Directive 2000/31/EC**, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the **content provided by the service** or promoting **that content**, irrespective of the nature of the means used therefor.

Or. en

Amendment 63

Jan Philipp Albrecht

Proposal for a directive

Recital 38 – paragraph 2

Text proposed by the Commission

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.

Amendment

For the purposes of those exemptions, 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.

Or. en

Amendment 64

Cecilia Wikström

Proposal for a directive

Recital 38 – paragraph 2 a (new)

In order to be eligible for the liability exemption provided for in Article 14 of Directive 2000/31/EC information society service providers are, upon receiving notification or on becoming aware that a work which is subject to copyright and related rights is used in an unauthorised manner, obliged to act expeditiously to remove the content in question or conclude a licensing agreement with the relevant rightholders on fair and reasonable terms. To prevent misuses or abuses of notifications and of limitations and the exercise of exceptions to copyright law, and in order to protect freedom of information and expression, users of the information service society services should have access to effective and expeditious redress and complaint mechanisms.

Or. en

Justification

The addition intends to add a clear, positive definition of what measures internet society service providers are expected to take when receiving notification of copyright infringements.

Amendment 65

Dietmar Köster, Lidia Joanna Geringer de Oedenberg, Emilian Pavel, Tiemo Wölken, Birgit Sippel, Josef Weidenholzer, Marju Lauristin

**Proposal for a directive
Recital 38 – paragraph 3**

Text proposed by the Commission

Amendment

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

deleted

should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This 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.

Or. en

Amendment 66
Cornelia Ernst

Proposal for a directive
Recital 38 – paragraph 3

Text proposed by the Commission

Amendment

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 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.

deleted

Or. en

Amendment 67
Brice Hortefeux, Rachida Dati, Nadine Morano, Heinz K. Becker

Proposal for a directive
Recital 38 – paragraph 3

Text proposed by the Commission

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 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.

Amendment

In order to ensure the functioning of any licensing agreement **or to prevent the unauthorized availability on their services of copyright protected works or other subject-matter identified by rightholders**, information society service providers storing and providing access to the public to 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 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. **Such licensing agreements should also cover the content uploaded by users of these services, as well as their liability, including where they perform an act of reproduction to the public and/or an act of communication to the public, insofar they act on a non-professional basis.**

Or. en

Amendment 68
Barbara Matera

Proposal for a directive
Recital 38 – paragraph 3

Text proposed by the Commission

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

Amendment

In order to ensure the functioning of any licensing agreement **or to prevent the availability on their services of content not covered by such agreements**, 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

effective technologies. This 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.

proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies *consistent with prevailing technologies and industry best practices, and provided such technologies are reasonably commercially available. The implementation of such measures should ensure the balance between all fundamental rights, including the protection of intellectual property.* This 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.

Or. en

Justification

It should be clarified that service providers that store and provide access to large amounts of content need to take measures also in cases when they don't have agreements with right holders, in order to prevent such large amounts of unauthorized content to be available on their service. It is also appropriate to explain that technologies can be applied in case where such technologies exist, meaning that service providers are not obliged to invest into developing their own technologies. The implementation of the measures should respect the balance between the different fundamental rights of the right holders and the users.

Amendment 69

Sylvie Guillaume, Christine Revault D'Allonnes Bonnefoy, Pervenche Berès, Virginie Rozière

Proposal for a directive Recital 38 – paragraph 3

Text proposed by the Commission

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

Amendment

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to 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,

subject-matter, such as implementing effective technologies. This 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.

such as implementing effective technologies. This obligation should also apply when *no request for a licensing agreement is addressed to* the information society service providers *who play an active role or when the information society service providers which* are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC *store and offer to the public a significant quantity of works or other subject-matter uploaded by their users.*

Or. en

Amendment 70
Jan Philipp Albrecht

Proposal for a directive
Recital 38 – paragraph 3

Text proposed by the Commission

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 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.*

Amendment

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 measures should respect the fundamental rights of users and should not impose a general obligation on* information society service providers *to monitor the information which they transmit or store or a general obligation actively to seek facts or circumstances indicating illegal activity.*

Or. en

Amendment 71
Cecilia Wikström

**Proposal for a directive
Recital 38 – paragraph 3**

Text proposed by the Commission

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 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.**

Amendment

In order to ensure the functioning of any licensing agreement, information society service providers **that are actively and directly involved in allowing users to upload content, in making such works available to the public or promoting such works** should take appropriate and proportionate measures to ensure **the** protection of **copyright protected** works or other subject-matter. **Member States should not impose a general monitoring obligation on** information society service providers **as referred to in Article 15(1) of Directive 2000/31/EC and in accordance with relevant case law of the Court of Justice.**

Or. en

**Amendment 72
Daniel Dalton**

**Proposal for a directive
Recital 38 – paragraph 3**

Text proposed by the Commission

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 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.**

Amendment

In order to ensure the functioning of any licensing agreement, information society service providers **actively involved in the making available** 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 **their value and size to** ensure protection of works or other subject-matter, **in accordance with technological developments.**

Amendment 73

Miltiadis Kyrkos, Giorgos Grammatikakis, Silvia Costa, Luigi Morgano, Mary Honeyball

**Proposal for a directive
Recital 38 – paragraph 3**

Text proposed by the Commission

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 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.

Amendment

In order to ensure the functioning of any licensing agreement, *or to prevent the availability of works or other subject-matter identified by rightholders on the services of information society service providers, those* providers storing and providing access to the public to *significant* 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 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.

Or. en

Amendment 74

Barbara Matera

**Proposal for a directive
Recital 38 a (new)**

Text proposed by the Commission

Amendment

(38a) Large amounts of copyright protected works or other subject-matter should be understood as meaning large amounts of works or subject-matter within the same category or categories.

Categories should be interpreted broadly, and should include categories such as music, broadcasts, films, or computer games. Consequently, the obligations provided for in Article 13 should apply to information society service providers only in relation to the categories of works and other subject-matter that the service stores and provides access to in large amounts, and not to other categories.

Or. en

Justification

It should be clarified what “large amounts” means, and point out that the obligation under Article 13 would only apply when a service provides a large amount of the same category of works.

Amendment 75
Cornelia Ernst

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

deleted

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.

Or. en

Amendment 76

Dietmar Köster, Emilian Pavel, Lidia Joanna Geringer de Oedenberg, Tiemo Wölken, Birgit Sippel, Josef Weidenholzer, Marju Lauristin

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

Amendment 77

Miltiadis Kyrkos, Giorgos Grammatikakis, Silvia Costa, Luigi Morgano, Mary Honeyball

Proposal for a directive

Recital 39

Text proposed by the Commission

(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.

Amendment

(39) Collaboration between information society service providers storing and providing access to the public to **significant** 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. ***Those technologies should not require the identity of individual users uploading content to be disclosed and should not process data relating to individual users, in accordance with Directive 95/46/EC of the European Parliament and of the Council^{1a}, Directive 2002/58/EC of the European Parliament and of the Council^{1b} and Regulation (EU) 2016/679 of the European Parliament and of the Council^{1c}. On the contrary it should be limited to preventing the availability of specifically identified and duly notified works based on the information provided by rightholders and should not, therefore, lead to a general monitoring obligation.***

^{1a} Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1996, p. 31).

^{1b} Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

^{1c} Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

Or. en

Amendment 78
Cecilia Wikström

Proposal for a directive
Recital 39

Text proposed by the Commission

(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

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 ***licensing agreements***. Rightholders should provide the necessary data to allow the services to identify their content and the services should be

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.

transparent towards rightholders with regard to the deployed *measures*, to allow the assessment of their appropriateness. The services should provide rightholders with information on the type of *measures used and* on the use of their content covered by an agreement.

Or. en

Amendment 79

Brice Hortefeux, Rachida Dati, Nadine Morano, Heinz K. Becker

Proposal for a directive

Recital 39

Text proposed by the Commission

(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

Amendment

(39) Collaboration between information society service providers storing and providing access to the public to 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

service providers on the use of their content covered by an agreement.

content covered by an agreement. *In accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council^{1a}, those technologies should not require the identification of individual users and the processing of their personal data.*

^{1a} Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

Or. en

Amendment 80 **Daniel Dalton**

Proposal for a directive **Recital 39**

Text proposed by the Commission

(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

Amendment

(39) Collaboration between information society service providers ***actively involved in the making available*** to the public of 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.

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.

Or. en

Amendment 81
Barbara Matera

Proposal for a directive
Recital 39 a (new)

Text proposed by the Commission

Amendment

(39a) The use of appropriate and proportionate measures is essential for the functioning of online licensing and rights management purposes. Those measures can include, for example, content recognition technologies, or other types of measures that are appropriate and proportionate in relation to the type and the volume of the content, the size of the service provider etc. The market already exists and is expected to grow in a data-based economy. The existence of measures of this kind and the competition among developers of such measures should therefore encourage innovation and create a fair market that would cater to all service providers to which Article 13 applies, irrespective of their size, ensuring that SMEs' access to such measures is affordable and simple. It is therefore appropriate to impose a clear legal obligation on service providers to use these measures. The implementation of those measures would not require the processing of personal data about the uploaders and hence would not pose any risk for their privacy. Furthermore, those measures involve the highly targeted technical cooperation of rightholders and information society service providers

based on the data provided by rightholders in relation to specific identified works or subject-matter, and therefore do not lead to a general obligation for the service provider to monitor and find facts about any content uploaded by the users. The provision of Article 13 therefore is fully compatible with Article 15 of Directive 2000/31/EC and the Charter of Fundamental Rights of the European Union as well as the applicable Union legislation on data protection.

Or. en

Justification

Appropriate and proportionate measures are necessary to facilitate the licensing agreements for online use of copyright protected content, as well as to assist in identifying any unauthorized content and preventing its availability. The obligation to implement measures is general enough to be technology neutral to allow for developing a market for innovating such measures, adapted to various types of content and services. It is important to clarify that the use of such measures involves a process of exchanging information and data specifically linked to uploaded copyright protected content, and does not involve processing of personal data or lead to obligation for service providers to monitor all the information uploaded by their users.

Amendment 82
Juan Fernando López Aguilar

Proposal for a directive
Recital 39 a (new)

Text proposed by the Commission

Amendment

(39a) Use of technical measures is essential for the functioning of online licensing and rights management purposes. In order for such technical measures used in modern technology to be qualified as appropriate and proportionate they do not need to require the identity or personal information of uploaders and hence would not pose any risk for privacy of individual end users.

Furthermore, those technical measures need to involve a highly targeted technical cooperation of rightholders and information society service providers based on the data provided by rightholders, and therefore should not lead to general obligation to monitor and to find facts about the content. Only under these conditions would Article 13 be fully compatible with Article 15 of Directive 2000/31/EC and the Charter of Fundamental Rights of the European Union.

Or. en

Amendment 83
Cecilia Wikström

Proposal for a directive
Recital 39 a (new)

Text proposed by the Commission

Amendment

(39a) Appropriate safeguards should be put in place to ensure a fair balance between the property rights of holders of copyright and the fundamental rights of users, such as their right to the protection of their personal data and their freedom to receive or disclose information in accordance with Articles 8 and 11 of the Charter of Fundamental Rights of the European Union, taking particular account of the exercise of exemptions or limitation to copyright protection.

Or. en

Justification

Instead of merely referring to the charter and the general protection of fundamental rights, it is more apt to refer to "a fair balance" as that is what this committee should strive for. Neither privacy, freedom of expression nor property rights are absolute rights. Rather, we want to strike the right balance. This also justifies the removal of general monitoring obligations since case law has deemed it to not fulfil the criteria for "a fair balance".

Amendment 84
Juan Fernando López Aguilar

Proposal for a directive
Recital 39 b (new)

Text proposed by the Commission

Amendment

(39b) The market for technologies for content identification is already well developed and destined to grow in a data based economy. Existence of and competition between such technology solution providers are therefore supposed to ensure affordable and easy access to market, especially for SMEs, by creating a level playing field for all businesses regardless of their size. Such measures need to be appropriate and proportionate for the purposes of rights management and should not be used by the information society service providers for purposes going beyond such purpose. However, without clear legislative obligations to use such technologies, the services in the market, and especially the dominant ones, refuse to use such tools that are appropriate and proportionate for licensing and rights management purposes.

Or. en

Amendment 85
Axel Voss

Proposal for a directive
Recital 41 a (new)

Text proposed by the Commission

Amendment

(41a) Member States should ensure that authors and performers receive proportionate and equitable remuneration of the revenues derived from the

exploitation of their works.

Or. en

Amendment 86
Eleftherios Synadinos

Proposal for a directive
Recital 43

Text proposed by the Commission

(43) Authors and performers are often reluctant to enforce their rights against their contractual partners before a court or tribunal. Member States should therefore **provide** for an alternative dispute resolution procedure that addresses claims related to obligations of transparency and the contract adjustment mechanism.

Amendment

(43) Authors and performers are often reluctant to enforce their rights against their contractual partners before a court or tribunal, **since this procedure is often economically inexpedient or unviable in addition to procedural barriers**. Member States should therefore **assess the applicability of providing** for an alternative dispute resolution procedure that addresses claims related to obligations of transparency and the contract adjustment mechanism.

Or. en

Amendment 87
Eleftherios Synadinos

Proposal for a directive
Recital 46

Text proposed by the Commission

(46) Any processing of personal data under this Directive should respect fundamental rights, including the right to respect for private and family life and the right to protection of personal data under Articles 7 and 8 of the Charter of Fundamental Rights of the European Union and must be in compliance with Directive 95/46/EC of the European Parliament and of the Council³⁵ and Directive 2002/58/EC

Amendment

(46) Any processing of personal data under this Directive should respect fundamental rights **as these are stipulated in the Treaties, the legislation and relevant case-law**, including the right to respect for private and family life and the right to protection of personal data under Articles 7 and 8 of the Charter of Fundamental Rights of the European Union and must be in compliance with Directive

of the European Parliament and of the Council³⁶ .

95/46/EC of the European Parliament and of the Council³⁵ and Directive 2002/58/EC of the European Parliament and of the Council³⁶ .

³⁵ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31–50). This Directive is repealed with effect from 25 May 2018 and shall be replaced by Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1–88).

³⁵ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31–50). This Directive is repealed with effect from 25 May 2018 and shall be replaced by Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1–88).

³⁶ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37–47), called, as amended by Directives 2006/24/EC and 2009/136/EC, the “e-Privacy Directive”.

³⁶ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37–47), called, as amended by Directives 2006/24/EC and 2009/136/EC, the “e-Privacy Directive”.

Or. en

Amendment 88 **Eleftherios Synadinos**

Proposal for a directive **Article 1 – paragraph 1**

Text proposed by the Commission

1. This Directive lays down rules which aim at further harmonising the Union law applicable to copyright and related rights in the framework of the

Amendment

1. This Directive lays down rules which aim at further harmonising the Union law applicable to copyright and related rights in the framework of the

internal market, taking into account in particular digital and cross-border uses of protected content. It also lays down rules on exceptions and limitations, on the facilitation of licences as well as rules aiming at ensuring a well-functioning marketplace for the exploitation of works and other subject-matter.

internal market, *with interventions on the digital internal market proportional to the objectives pursued*, taking into account in particular digital and cross-border uses of protected content. It also lays down *certain specific* rules on exceptions and limitations, on the facilitation of licences as well as rules aiming at *theoretically* ensuring a well-functioning marketplace for the exploitation of works and other subject-matter.

Or. en

Amendment 89
Eleftherios Synadinos

Proposal for a directive
Article 2 – paragraph 1 – point 1 – introductory part

Text proposed by the Commission

(1) ‘research organisation’ means a university, a research institute or any other organisation the primary goal of which is to conduct scientific research *or to conduct scientific research and provide educational services*:

Amendment

(1) ‘research organisation’ means a university, a research institute or any other organisation the primary goal of which is to conduct scientific research:

Or. en

Amendment 90
Eleftherios Synadinos

Proposal for a directive
Article 2 – paragraph 1 – point 1 – point b

Text proposed by the Commission

(b) pursuant to a public interest mission recognised by a Member State;

Amendment

(b) pursuant to a public interest mission *explicitly* recognised by a Member State *within the territory of which it operates and in which it is primarily based and where its headquarters are located*;

Amendment 91
Eleftherios Synadinos

Proposal for a directive
Article 2 – paragraph 1 – point 3

Text proposed by the Commission

(3) ‘cultural heritage institution’ means a publicly accessible library or museum, an archive or a film or audio heritage institution;

Amendment

(3) ‘cultural heritage institution’ means a publicly accessible, ***directly or indirectly***, library or museum, an archive or a film or audio heritage institution, ***or organization explicitly recognised by a Member State as such or pursuant to such a mission***;

Or. en

Amendment 92
Eleftherios Synadinos

Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission

2. Any contractual provision contrary to the exception provided for in paragraph 1 shall be unenforceable.

Amendment

2. Any contractual provision contrary to the ***spirit of the*** exception provided for in paragraph 1 shall be unenforceable.

Or. en

Amendment 93
Eleftherios Synadinos

Proposal for a directive
Article 4 – paragraph 4

Text proposed by the Commission

4. Member States may provide for ***fair*** compensation for the harm incurred by the

Amendment

4. Member States may provide for ***directly proportional*** compensation for the

rightholders due to the use of their works or other subject-matter pursuant to paragraph 1.

established and documented harm incurred by the rightholders due to the use of their works or other subject-matter pursuant to paragraph 1.

Or. en

Amendment 94
Cornelia Ernst

Proposal for a directive
Article 11

Text proposed by the Commission

Amendment

Article 11

deleted

***Protection of press publications
concerning digital uses***

1. Member States shall provide publishers of press publications with the rights provided for in Article 2 and Article 3(2) of Directive 2001/29/EC for the digital use of their press publications.

2. The rights referred to in paragraph 1 shall leave intact and shall in no way affect any rights provided for in Union law to authors and other rightholders, in respect of the works and other subject-matter incorporated in a press publication. Such rights may not be invoked against those authors and other rightholders and, in particular, may not deprive them of their right to exploit their works and other subject-matter independently from the press publication in which they are incorporated.

3. Articles 5 to 8 of Directive 2001/29/EC and Directive 2012/28/EU shall apply mutatis mutandis in respect of the rights referred to in paragraph 1.

4. The rights referred to in paragraph 1 shall expire 20 years after the publication of the press publication. This term shall be calculated from the first day of January of the year following

the date of publication.

Or. en

Justification

The provisions of this Article are not compatible with Article 11 of the Charter.

Amendment 95

Axel Voss

Proposal for a directive

Article 11 – paragraph 1

Text proposed by the Commission

1. Member States shall provide publishers of press publications with the rights provided for in Article 2 and Article 3(2) of Directive 2001/29/EC for the *digital* use of their press publications.

Amendment

1. Member States shall provide publishers of press publications with the rights provided for in Article 2 and Article 3(2) of Directive 2001/29/EC for the use of their press publications, *including an inalienable right to equitable remuneration for this use. That inalienable right to equitable remuneration can be enforced only by a collective management organisation.*

Or. en

Amendment 96

Gérard Deprez, Louis Michel, Jean-Marie Cavada

Proposal for a directive

Article 11 – paragraph 1

Text proposed by the Commission

1. Member States shall provide publishers of press publications with the rights provided for in Article 2 and Article 3(2) of Directive 2001/29/EC for the *digital* use of their press publications.

Amendment

1. Member States shall provide publishers of press publications with the rights provided for in Article 2 and Article 3(2) of Directive 2001/29/EC *and Article 3 and 9 of Directive 2006/115/EC* for the use of their press publications.

Justification

The proposal only provides rights for digital uses, whereas the role of the the publisher and the investment of the publisher into the publishing enterprise is for both print and digital regardless of the method of dissemination. Other neighbouring right holders (phonogram producers, films producers ans broadcasting organisations) enjoy the full scope of rights. Only to grand rights for digital uses creates a notion that the print edition is not worth the same level of protection.

Amendment 97

Axel Voss

Proposal for a directive

Article 11 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The rights referred to in paragraph 1 shall not extend to acts of hyperlinking which do not constitute acts of communication to the public.

Or. en

Amendment 98

Gérard Deprez, Louis Michel

Proposal for a directive

Article 11 – paragraph 4

Text proposed by the Commission

Amendment

4. The rights referred to in paragraph 1 shall expire **20** years after the publication of the press publication. This term shall be calculated from the first day of January of the year following the date of publication.

4. The rights referred to in paragraph 1 shall expire **50** years after the publication of the press publication. This term shall be calculated from the first day of January of the year following the date of publication.

Or. en

Justification

All the other related rights holders enjoy a term of protection of at least 50 years.

Amendment 99

Axel Voss

Proposal for a directive

Article 11 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Member States shall ensure that journalists, authors and other rightholders have a fair share of the remuneration derived from the use of the rights referred to in paragraph 1 arising from a press publication.

Or. en

Amendment 100

Dietmar Köster, Lidia Joanna Geringer de Oedenberg, Emilian Pavel, Tiemo Wölken, Birgit Sippel, Josef Weidenholzer, Marju Lauristin

Proposal for a directive

Title IV – Chapter 2 – title

Text proposed by the Commission

Amendment

Certain uses of protected content by online services

deleted

Or. en

Amendment 101

Dietmar Köster, Lidia Joanna Geringer de Oedenberg, Emilian Pavel, Tiemo Wölken, Birgit Sippel, Josef Weidenholzer, Marju Lauristin

Proposal for a directive

Article 13

Article 13

deleted

Use of protected content by information society service providers storing and giving access to large amounts of works and other subject-matter uploaded by their users

1. Information society service providers that store and provide to the public access to large amounts of works or other subject-matter uploaded by their users shall, in cooperation with rightholders, take measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter or to prevent the availability on their services of works or other subject-matter identified by rightholders through the cooperation with the service providers. Those measures, such as the use of effective content recognition technologies, shall be appropriate and proportionate. The service providers shall provide rightholders with adequate information on the functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the works and other subject-matter.

2. Member States shall ensure that the service providers referred to in paragraph 1 put in place complaints and redress mechanisms that are available to users in case of disputes over the application of the measures referred to in paragraph 1.

3. Member States shall facilitate, where appropriate, the cooperation between the information society service providers and rightholders through stakeholder dialogues to define best practices, such as appropriate and proportionate content recognition technologies, taking into account, among others, the nature of the services, the

availability of the technologies and their effectiveness in light of technological developments.

Or. en

Amendment 102
Cornelia Ernst

Proposal for a directive
Article 13

Text proposed by the Commission

Amendment

Article 13

deleted

Use of protected content by information society service providers storing and giving access to large amounts of works and other subject-matter uploaded by their users

1. Information society service providers that store and provide to the public access to large amounts of works or other subject-matter uploaded by their users shall, in cooperation with rightholders, take measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter or to prevent the availability on their services of works or other subject-matter identified by rightholders through the cooperation with the service providers. Those measures, such as the use of effective content recognition technologies, shall be appropriate and proportionate. The service providers shall provide rightholders with adequate information on the functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the works and other subject-matter.

2. Member States shall ensure that the service providers referred to in paragraph 1 put in place complaints and redress mechanisms that are available to

users in case of disputes over the application of the measures referred to in paragraph 1.

3. Member States shall facilitate, where appropriate, the cooperation between the information society service providers and rightholders through stakeholder dialogues to define best practices, such as appropriate and proportionate content recognition technologies, taking into account, among others, the nature of the services, the availability of the technologies and their effectiveness in light of technological developments.

Or. en

Amendment 103

Miltiadis Kyrkos, Giorgos Grammatikakis, Silvia Costa, Luigi Morgano, Mary Honeyball

Proposal for a directive

Article 13 – title

Text proposed by the Commission

Use of protected content by information society service providers storing **and** giving access to **large** amounts of works and other subject-matter uploaded by their users

Amendment

Use of protected content by information society service providers storing **and/or** giving access to **significant** amounts of works and other subject-matter uploaded by their users

Or. en

Amendment 104

Sylvie Guillaume, Christine Revault D'Allonnes Bonnefoy, Pervenche Berès, Virginie Rozière

Proposal for a directive

Article 13 – title

Text proposed by the Commission

Use of protected content by information

PE606.057v01-00

Amendment

Use of protected content by information

64/90

AM\1127680EN.docx

society service providers storing and giving access to **large amounts of** works **and** other subject-matter uploaded by their users

society service providers storing and giving access to works **or** other subject-matter uploaded by their users

Or. en

Amendment 105

Brice Hortefeux, Rachida Dati, Nadine Morano, Heinz K. Becker, Barbara Matera

Proposal for a directive

Article 13 – title

Text proposed by the Commission

Use of protected content by information society service providers storing and giving access to **large amounts of** works and other subject-matter uploaded by their users

Amendment

Use of protected content by information society service providers storing and giving access to works and other subject-matter uploaded by their users

Or. en

Amendment 106

Dietmar Köster, Emilian Pavel, Lidia Joanna Geringer de Oedenberg, Tiemo Wölken, Birgit Sippel, Josef Weidenholzer, Marju Lauristin

Proposal for a directive

Article 13 – paragraph 1

Text proposed by the Commission

1. Information society service providers that store and provide to the public access to large amounts of works or other subject-matter uploaded by their users shall, in cooperation with rightholders, take measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter or to prevent the availability on their services of works or other subject-matter identified by rightholders through the cooperation with the service providers. Those measures,

Amendment

deleted

such as the use of effective content recognition technologies, shall be appropriate and proportionate. The service providers shall provide rightholders with adequate information on the functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the works and other subject-matter.

Or. en

Amendment 107

Brice Hortefeux, Rachida Dati, Nadine Morano, Heinz K. Becker, Barbara Matera

Proposal for a directive

Article 13 – paragraph 1

Text proposed by the Commission

1. Information society service providers that store and provide to the public access to *large amounts of* works or other subject-matter uploaded by their users shall, in cooperation with rightholders, take measures to ensure the functioning of agreements *concluded with rightholders for the use of their works or other subject-matter or to* prevent the availability on their services of works or other subject-matter identified by rightholders through the cooperation with the service providers. Those measures, such as the use of effective content recognition technologies, shall be appropriate and proportionate. The service providers shall provide rightholders with adequate information on the functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the works and other subject-matter.

Amendment

1. Information society service providers that store and provide to the public access to *copyright protected* works or other subject-matter uploaded by their users *go beyond the mere provision of physical facilities and perform an act of communication to the public. They shall accordingly conclude licensing agreements with rightholders so requesting, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC. Under the terms of the licensing agreement concluded with rightholders, information society service providers* shall, in cooperation with rightholders, take measures to ensure the functioning of *such* agreements *for the use of their works or other subject-matter. Licensing agreements concluded by the information society service providers shall cover the liability of their users, provided that users are not acting in a professional capacity.*

Information society service providers shall take appropriate measures to prevent the availability on their services of

copyright protected works or other subject-matter identified by rightholders through the cooperation with the service providers, *where those providers fall under one of the following categories:*

(a) they play an active part but are not required by rightholders to conclude a licensing agreement for works and other subject-matter stored by them and to which they provide public access or;

(b) they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC but store and provide to the public access to copyright protected works or other subject-matter.

Those measures, such as the use of effective content recognition technologies, shall be appropriate and proportionate. The service providers shall provide rightholders with adequate information on the functioning and the deployment of the measures, as well as, when relevant, adequate *and timely* reporting on the recognition and use of the works and other subject-matter. *Rightholders shall provide information society service providers with all relevant and necessary details to ensure the functioning of measures taken by the service providers.*

Or. en

Amendment 108

Sylvie Guillaume, Christine Revault D'Allonnes Bonnefoy, Pervenche Berès, Virginie Rozière

Proposal for a directive

Article 13 – paragraph 1

Text proposed by the Commission

1. Information society service providers that store and provide to the public access to *large amounts of* works or other subject-matter uploaded by their users shall, *in cooperation* with

Amendment

1. Information society service providers that store and provide to the public access to *protected* works or other subject-matter uploaded by their users shall *conclude fair and balanced agreements*

rightholders, take measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter *or* to prevent *the availability on their services of* works or other subject-matter identified by rightholders *through the* cooperation with the service providers. Those measures, such as the use of effective content recognition technologies, shall be appropriate and proportionate. The service providers shall provide rightholders with adequate information on the functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the works and other subject-matter.

with all rightholders governing such content at the request of those rightholders, unless they are eligible for the liability exemption provided for in article 14 of Directive 200/31/EC. Under the terms of the agreements with rightholders, these service providers shall take measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter. These agreements should cover the liability of users of information society providers' services when these users are not acting professionally for acts falling under Articles 2 and 3 of Directive 2001/29/EC that they perform.

Information society service providers shall take measures to prevent protected works or other subject-matter identified by rightholders in cooperation with the service providers from being made available by their services, where those providers:

(a) play an active part but are not required to conclude a licensing agreement by the holders of rights to works or other subject-matter stored by them and to which they provide public access; or

(ii) are eligible for the liability exemption provided for in Article 14 of Directive 2000/31/EC, but store and provide to the public access to a large number of protected works or other subject-matter,

Those measures, such as the use of effective content recognition technologies, shall be appropriate and proportionate. The service providers shall provide rightholders with adequate information on the functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the works and other subject-matter. *Rightholders shall provide information society service providers with all relevant and necessary details to ensure the functioning of measures taken by the*

service providers pursuant to this Article.

Or. en

Amendment 109

Axel Voss

Proposal for a directive Article 13 – paragraph 1

Text proposed by the Commission

1. Information society service providers that store **and** provide **to** the public access to large amounts of works or other subject-matter uploaded by their users **shall, in cooperation with rightholders, take measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter or to prevent the availability on their services of works or other subject-matter identified by rightholders through the cooperation with the service providers. Those measures, such as the use of effective content recognition technologies, shall be appropriate and proportionate. The service providers shall provide rightholders with adequate information on the functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the works and other subject-matter.**

Amendment

1. Information society service providers that store **or** provide the public **with** access to large amounts of **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, are obliged to conclude licensing agreements with rightholders. Those service providers shall not benefit from the liability exemption provided for in Article 14 of Directive 2000/31/EC. Those service providers shall, in cooperation with rightholders, take measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter. Service providers that are eligible for the liability exemption provided for in Article 14 of Directive 2000/31/EC shall, in cooperation with rightholders, take measures to ensure that the availability on their services of works or other subject-matter identified by rightholders is prevented.**

Or. en

Amendment 110

Cecilia Wikström

Proposal for a directive Article 13 – paragraph 1

1. Information society service providers *that store* and provide *to* the public access to *large amounts of works or other subject-matter uploaded by their users shall, in cooperation with rightholders, take measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter or to prevent the availability on their services of works or other subject-matter identified by rightholders through the cooperation with the* service providers. *Those measures, such as the use of effective content recognition technologies, shall be appropriate and proportionate.* The service providers shall *provide rightholders with adequate information on the functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the works and* other subject-matter.

1. *Where* information society service providers *offer users content storage services* and provide the public access to *content and where such activity is not eligible for the liability exemptions provided for in Directive 2000/31/EC, they shall, upon receiving notification or becoming aware that an uploaded work subject to copyright and other related rights is used in an unauthorised manner, act expeditiously to remove or to disable access to the content, except where* service providers *conclude a licensing agreement with rightholders enabling the content to remain available.* The service providers shall *take appropriate and proportionate measures in collaboration with the rightholders to ensure the functioning of the licensing agreements, including measures allowing the rightholders to obtain information on the measures used and the use of their content or other subject-matter covered by such agreements.*

Or. en

Justification

Instead of only focusing on when ISSPs are excluded from the scope of the article, clear language is introduced to draw limits to the safe harbour, and what measures internet society service providers need to take in order to maintain their safe harbour status. The suggested changes then introduces clearer instructions on when the service providers need to enter into licensing agreements, and on how said licensing agreements shall function.

Amendment 111
Juan Fernando López Aguilar

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

Amendment

1. Information society service providers that store and provide to the public ***access to large amounts of*** works or other subject-matter uploaded by their users ***shall, in cooperation with rightholders, take measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter or to prevent the availability on their services of works or other subject-matter identified by rightholders through the cooperation with the service providers. Those measures, such as the use of effective content recognition technologies, shall be appropriate and proportionate. The service providers shall provide rightholders with adequate information on the functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the works and other subject-matter.***

1. Information society service providers that store and provide ***access*** to the public ***to copyright protected*** works or other subject-matter uploaded by their users ***go beyond the mere provision of physical facilities and intervene in the act of communication to the public initiated by their users uploading such works and other subject matter. Those service providers are thus obliged to conclude licensing agreements with rightholders both for communication to the public and reproduction rights, in which they play an indispensable role, unless they are eligible for the liability exemption provided for in Article 14 of Directive 2000/31/EC. The authorisation granted to those service providers shall be deemed to cover such acts carried out by their users, if the latter are not acting on a professional basis.***

Or. en

Amendment 112

Jan Philipp Albrecht

Proposal for a directive

Article 13 – paragraph 1

Text proposed by the Commission

Amendment

1. Information society service providers ***that*** store and provide to the public access to large amounts of works or other subject-matter uploaded by their users ***shall, in cooperation with rightholders, take measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter or to prevent the availability on their services of works or other subject-matter identified by***

1. ***Where*** information society service providers store and provide to the public access to large amounts of ***copyright protected*** works or other subject-matter uploaded by their users, ***and where such activity is not eligible for the liability exemptions provided for in Directive 2000/31/EC, they shall take appropriate and proportionate measures to ensure the functioning of licensing agreements concluded with rightholders. The***

rightholders through the cooperation with the service providers. Those measures, such as the use of effective content recognition technologies, shall be appropriate and proportionate. The service providers shall provide rightholders with adequate information on the functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the works and other subject-matter.

implementation of such agreements shall respect the fundamental rights of users and shall not impose a general obligation on information society service providers to monitor the information which they transmit or store or a general obligation actively to seek facts or circumstances indicating illegal activity.

Or. en

Amendment 113
Daniel Dalton

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

1. Information society service providers *that store and provide to the public access to large amounts of works or other subject-matter uploaded by their users* shall, *in cooperation with rightholders, take measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter or to prevent the availability on their services of works or other subject-matter identified by rightholders through the cooperation with the service providers. Those measures, such as the use of effective content recognition technologies, shall be appropriate and proportionate.* The service providers shall provide rightholders with adequate information on the *functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the works and other subject-matter.*

Amendment

1. Information society service providers *whose users upload copyright protected content without the authorisation of rightholders, if that authorisation is required, shall endeavour to achieve, where appropriate, agreements with rightholders governing this content, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC. The implementation of such agreements shall respect users' fundamental rights and Article 15 of Directive 2000/31/EC.* The service providers shall provide rightholders with adequate information on the *implementation of such agreements.*

Or. en

Amendment 114

Miltiadis Kyrkos, Giorgos Grammatikakis, Silvia Costa, Luigi Morgano, Mary Honeyball

Proposal for a directive

Article 13 – paragraph 1

Text proposed by the Commission

1. Information society service providers that store and provide to the public access to **large** amounts of works or other subject-matter uploaded by their users shall, in cooperation with rightholders, take measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter or to prevent the availability on their services of works or other subject-matter identified by rightholders through the cooperation with the service providers. Those measures, such as the use of effective content recognition technologies, shall be appropriate and proportionate. The service providers shall provide rightholders with adequate information on the functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the works and other subject-matter.

Amendment

1. Information society service providers that store and provide to the public access to **significant** amounts of works or other subject-matter uploaded by their users shall **conclude licensing agreements with rightholders. Those providers shall**, in cooperation with rightholders, take measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter or to prevent the availability on their services of works or other subject-matter identified by rightholders through the cooperation with the service providers. Those measures, such as the use of effective content recognition technologies, shall be appropriate and proportionate. The service providers shall provide rightholders with adequate information on the functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the works and other subject-matter. **Rightholders shall provide information society service providers with the reference file, metadata or any information necessary to ensure the effective functioning of those measures.**

Or. en

Amendment 115

Cecilia Wikström

Proposal for a directive
Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. For the purpose of ensuring the functioning of licensing agreements, as referred to in paragraph 1, information society service providers and rightholders shall cooperate with each other. Rightholders shall accurately identify to information society service providers the works or other subject-matter in respect of which they have the copyright and related rights. The information society service providers shall inform rightholders of the measures employed and the accuracy of their functioning and shall, when relevant, periodically report on the use of the works and other subject-matter.

Or. en

Amendment 116
Axel Voss

Proposal for a directive
Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The measures referred to in paragraph 1 shall include, for example, effective content recognition technologies. These measures shall be appropriate and proportionate. All service providers shall provide rightholders with adequate information on the functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the works and other subject-matter.

Or. en

Amendment 117
Cecilia Wikström

Proposal for a directive
Article 13 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. In implementing the licensing agreements, all stakeholders shall respect a fair balance of the rights between the rightsholders and users, whereby the Member States shall not impose a general monitoring obligation on information society service providers as referred to in Article 15(1) of Directive 2000/31/EC.

Or. en

Amendment 118
Dietmar Köster, Lidia Joanna Geringer de Oedenberg, Emilian Pavel, Tiemo Wölken, Birgit Sippel, Josef Weidenholzer, Marju Lauristin

Proposal for a directive
Article 13 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall ensure that the service providers referred to in paragraph 1 put in place complaints and redress mechanisms that are available to users in case of disputes over the application of the measures referred to in paragraph 1.

deleted

Or. en

Amendment 119
Juan Fernando López Aguilar

Proposal for a directive
Article 13 – paragraph 2

Text proposed by the Commission

2. **Member States shall ensure that the service providers referred to in paragraph 1 put in place complaints and redress mechanisms that are available to users in case of disputes over the application of the measures referred to in paragraph 1.**

Amendment

2. **The conditional liability exemption provided for in Article 14 of Directive 2000/31/EC shall not apply to the activities of information society services providers which make protected works and other subject-matter available to the public and play an active role.**

Or. en

Amendment 120

Brice Hortefeux, Rachida Dati, Nadine Morano, Heinz K. Becker, Barbara Matera

**Proposal for a directive
Article 13 – paragraph 2**

Text proposed by the Commission

2. Member States shall ensure that the service providers referred to in paragraph 1 put in place complaints and redress mechanisms that are available to users in case of disputes over the application of the measures referred to in paragraph 1.

Amendment

2. Member States shall ensure that the service providers referred to in paragraph 1 put in place complaints and redress mechanisms that are available to users in case of disputes over the application of the measures referred to in paragraph 1. **Any complaint filed under such mechanisms shall be processed by the relevant rightholder within a reasonable period of time. The rightholder shall provide evidence for the rights being claimed.**

Or. en

Amendment 121

Sylvie Guillaume, Christine Revault D'Allonnes Bonnefoy, Pervenche Berès, Virginie Rozière

**Proposal for a directive
Article 13 – paragraph 2**

Text proposed by the Commission

2. Member States shall ensure that the

Amendment

2. Member States shall ensure that the

service providers referred to in paragraph 1 put in place complaints and redress mechanisms that are available to users in case of disputes over the application of the measures referred to in paragraph 1.

service providers referred to in paragraph 1 put in place complaints and redress mechanisms that are available to users in case of disputes over the application of the measures referred to in paragraph 1. ***Any complaint filed under such mechanisms shall be processed by the relevant rightholder within a reasonable period of time. The rightholder shall give evidence for the rights being upheld.***

Or. en

Amendment 122
Cecilia Wikström

Proposal for a directive
Article 13 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that the service providers referred to in paragraph 1 put in place complaints and redress mechanisms that are available to users in case of disputes over the application of the measures referred to in paragraph 1.

Amendment

2. Member States shall ensure that the service providers referred to in paragraph 1 put in place, ***in cooperation with rightholders***, complaints and redress mechanisms that are available to users in case of disputes over the application of the measures ***taken for the purpose of ensuring the proper functioning of the licensing agreements*** referred to in paragraph 1.

Or. en

Amendment 123
Eleftherios Synadinos

Proposal for a directive
Article 13 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that the service providers referred to in paragraph 1 put in place complaints and redress

Amendment

2. Member States shall ensure that the service providers referred to in paragraph 1 put in place complaints and redress

mechanisms that are available to users in case of disputes over the application of the measures referred to in paragraph 1.

mechanisms that are available to users in case of disputes over the application of the measures referred to in paragraph 1, ***in addition to the ordinary court or tribunal procedures.***

Or. en

Amendment 124
Daniel Dalton

Proposal for a directive
Article 13 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that the service providers referred to in paragraph 1 put in place complaints and redress mechanisms that are available to users in case of disputes over the ***application of the measures*** referred to in paragraph 1.

Amendment

2. Member States shall ensure that the service providers referred to in paragraph 1 put in place complaints and redress mechanisms that are available to users in case of disputes over the ***implementation of agreements*** referred to in paragraph 1.

Or. en

Amendment 125
Cecilia Wikström

Proposal for a directive
Article 13 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. This Article shall be without prejudice to legal redress in accordance with Member States' legal systems in case of the legitimate exercise of exceptions or limitations to copyright and to appeal any restrictive measures agreed upon.

Or. en

Amendment 126

Dietmar Köster, Lidia Joanna Geringer de Oedenberg, Emilian Pavel, Tiemo Wölken, Birgit Sippel, Josef Weidenholzer, Marju Lauristin

Proposal for a directive

Article 13 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall facilitate, where appropriate, the cooperation between the information society service providers and rightholders through stakeholder dialogues to define best practices, such as appropriate and proportionate content recognition technologies, taking into account, among others, the nature of the services, the availability of the technologies and their effectiveness in light of technological developments.

deleted

Or. en

Amendment 127

Juan Fernando López Aguilar

Proposal for a directive

Article 13 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall facilitate, where appropriate, the cooperation between the information society service providers and rightholders through stakeholder dialogues to define best practices, such as appropriate and proportionate content recognition technologies, taking into account, among others, the nature of the services, the availability of the technologies and their effectiveness in light of technological developments.

3. Information society service providers that store and provide to the public access to significant amounts of copyright protected works or other subject-matter uploaded by their users, as well as the services referred to in paragraphs 1 and 2, shall, if requested by and in cooperation with rightholders, take measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter or to prevent the availability on their services of works or other subject-matter, if no agreements for use are concluded. For proper functioning of

such arrangements, relevant information on the works and other subject matter that need to be identified through the required technical measures shall be provided by rightholders through the cooperation with the service providers. Those measures, such as the use of effective technologies for content identification, shall be appropriate and proportionate and compliant with the relevant industry standards. The service providers shall provide rightholders with adequate information on the functioning and the deployment of the measures, as well as, when relevant, adequate and timely reporting on the recognition and use of the works and other subject-matter.

Or. en

Amendment 128

Sylvie Guillaume, Christine Revault D'Allonnes Bonnefoy, Pervenche Berès, Virginie Rozière

Proposal for a directive Article 13 – paragraph 3

Text proposed by the Commission

3. Member States shall facilitate, where appropriate, the cooperation between the information society service providers and rightholders through stakeholder dialogues to define best practices, such as appropriate and proportionate content recognition technologies, taking into account, among others, the nature of the services, the availability of the technologies and their effectiveness in light of technological developments.

Amendment

3. Member States shall facilitate, where appropriate, the cooperation between the information society service providers and rightholders through stakeholder dialogues to define best practices, such as appropriate and proportionate content recognition technologies, taking into account, among others, the nature of the services, the availability of the technologies and their effectiveness in light of technological developments. ***In cooperation with the Member States, the Commission shall encourage the exchange of best practices across the Union regarding the results of any cooperation established in implementation of paragraph 1.***

Amendment 129**Brice Hortefeux, Rachida Dati, Nadine Morano, Heinz K. Becker, Barbara Matera****Proposal for a directive****Article 13 – paragraph 3***Text proposed by the Commission*

3. Member States shall facilitate, where appropriate, the cooperation between the information society service providers and rightholders through stakeholder dialogues to define best practices, such as appropriate and proportionate content recognition technologies, taking into account, among others, the nature of the services, the availability of the technologies and their effectiveness in light of technological developments.

Amendment

3. Member States shall facilitate, where appropriate, the cooperation between the information society service providers and rightholders through stakeholder dialogues to define best practices, such as appropriate and proportionate content recognition technologies, taking into account, among others, the nature of the services, the availability of the technologies and their effectiveness in light of technological developments. ***In cooperation with the Member States, the Commission shall encourage the exchange of best practices across the Union regarding the results of any cooperation established pursuant to this Article.***

Amendment 130**Daniel Dalton****Proposal for a directive****Article 13 – paragraph 3***Text proposed by the Commission*

3. Member States shall facilitate, where appropriate, the cooperation between the information society service providers and rightholders through stakeholder dialogues to define best practices, such as appropriate and proportionate content recognition

Amendment

3. Member States shall facilitate, where appropriate, the cooperation between the information society service providers, ***user representatives*** and rightholders through stakeholder dialogues to define best practices ***for the implementation of paragraph 1 in a***

technologies, taking into account, among others, the nature of the services, the availability of the technologies and their effectiveness in light of technological developments.

manner that is proportionate and efficient, such as appropriate and proportionate content recognition technologies, taking into account, among others, the nature of the services, the availability of the technologies and their effectiveness in light of technological developments.

Or. en

Justification

Clarification is necessary to outline those conditions under which hyperlinking is legally safe to avoid the potential adverse effects of contradictory judgements.

Amendment 131 Cecilia Wikström

Proposal for a directive Article 13 – paragraph 3

Text proposed by the Commission

3. Member States shall facilitate, where appropriate, the cooperation between the information society service providers and rightholders through stakeholder dialogues to define best practices, ***such as*** appropriate and proportionate ***content recognition technologies, taking*** into account, among others, the nature of the services, the availability of the technologies and their effectiveness in light of technological developments.

Amendment

3. Member States shall facilitate, where appropriate, the cooperation between the information society service providers and rightholders ***referred to in paragraph 1 and collective rights management organisations*** through stakeholder dialogues to define best practices ***as regards the measures used for the purposes of paragraph 1. These measures shall be*** appropriate and proportionate ***and take*** into account, among others, the nature of the services, the availability of the technologies and their effectiveness in light of technological developments.

Or. en

Amendment 132 Eleftherios Synadinos

Proposal for a directive
Article 13 – paragraph 3

Text proposed by the Commission

3. Member States shall *facilitate*, where appropriate, the cooperation between the information society service providers and rightholders through stakeholder dialogues to define best practices, such as appropriate and proportionate content recognition technologies, taking into account, among others, the nature of the services, the availability of the technologies and their effectiveness in light of technological developments.

Amendment

3. Member States shall *contribute*, where appropriate, *to* the cooperation between the information society service providers and rightholders through stakeholder dialogues to define best practices, such as appropriate and proportionate content recognition technologies, taking into account, among others, the nature of the services, the availability of the technologies and their effectiveness in light of technological developments.

Or. en

Amendment 133

Miltiadis Kyrkos, Giorgos Grammatikakis, Silvia Costa, Luigi Morgano, Mary Honeyball

Proposal for a directive
Article 13 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Information society service providers that take measures referred to in paragraph 1, shall ensure that such measures are in full compliance with Directive 95/46/EC and Directive 2002/58/EC, and the Regulation (EU) 2016/679.

Or. en

Amendment 134
Daniel Dalton

Proposal for a directive
Article 13 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. *Hyperlinking to an already publicly available content does not constitute a communication to the public of that source, where the hyperlink only contains information necessary to find and/or request the source's contents.*

Or. en

Amendment 135

Brice Hortefeux, Rachida Dati, Nadine Morano, Heinz K. Becker, Barbara Matera

Proposal for a directive

Title IV – Chapter 2 a (new)

Text proposed by the Commission

Amendment

CHAPTER 2a

Protection of audiovisual authors for the making available of their works

Or. en

Amendment 136

Sylvie Guillaume, Christine Revault D'Allonnes Bonnefoy, Pervenche Berès, Virginie Rozière

Proposal for a directive

Article 13 a (new)

Text proposed by the Commission

Amendment

Article 13 a

Licensing agreements for information society service providers that store and/or provide access to the public to significant amounts of copyright protected works or other subject-matter uploaded by their users

1. *Information society service providers that store and/or 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 and of reproduction, shall conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

2. Service providers that play an active role, including by optimising the presentation of uploaded works or subject-matter or promoting them, are not eligible for the safe harbour liability exemption.

3. Licences acquired by information society service providers shall cover all the acts of their individual users, which are not for direct or indirect economic or commercial advantage.

Or. en

Amendment 137

Brice Hortefeux, Rachida Dati, Nadine Morano, Heinz K. Becker, Barbara Matera

Proposal for a directive

Article 13 a (new)

Text proposed by the Commission

Amendment

Article 13a

1. Member States shall ensure that whenever an audiovisual author or performer transfers his/her right to a producer to authorise or to prohibit the making available of that work to the public, that author shall retain the right to obtain equitable remuneration for making such work available, provided that these measures are not included in the initial contract.

2. The right to equitable remuneration shall be proportionate to

the revenues generated by the exploitation of the work.

3. The right to equitable remuneration shall be non-transferable and may not be waived.

Or. en

Amendment 138
Juan Fernando López Aguilar

Proposal for a directive
Article 13 a (new)

Text proposed by the Commission

Amendment

Article 13 a

Inalienable right to remuneration

1. Member States shall ensure that when an audiovisual author has transferred or assigned his right to make works available to a producer, that author shall retain the right to obtain an equitable remuneration.

2. This right to obtain an equitable remuneration for the making available of the author's work is inalienable and cannot be waived.

3. The administration of the right to obtain an equitable remuneration for the making available of the author's work shall be entrusted to collective management organisations representing audiovisual authors.

4. Authors' collective management organisations shall collect the equitable remuneration from audiovisual media services making audiovisual works available to the public.

Or. en

Amendment 139

Sylvie Guillaume, Christine Revault D'Allonnes Bonnefoy, Pervenche Berès, Virginie Rozière

Proposal for a directive

Article 13 b (new)

Text proposed by the Commission

Amendment

Article 13 b

Inalienable right to fair remuneration for authors and performers

- 1. Member States shall ensure that when authors and performers transfer or assign their right of making the works available to the public, they retain the right to obtain fair remuneration derived from the exploitation of their work.***
- 2. The right of an author or performer to obtain fair remuneration for the making available of his work cannot be waived.***
- 3. The administration of this right to fair remuneration for the making available of an author's or performer's work shall be entrusted to their collective management organisations, unless other collective agreements, including voluntary collective management agreements, guarantee such remuneration to authors and performers for their right of making works available.***
- 4. Collective management organisations shall collect the fair remuneration from information society services making works available to the public.***

Or. en

Amendment 140

Axel Voss

Proposal for a directive

Article 14 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that authors and performers receive ***on a regular basis*** and taking into account the specificities of each sector, timely, adequate and sufficient information on the exploitation of their works and performances from those to whom they have licensed or transferred their rights, notably as regards modes of exploitation, revenues generated and remuneration due.

Amendment

1. Member States shall ensure that authors and performers receive ***upon request once a year at the most*** and taking into account the specificities of each sector, timely, adequate and sufficient information on the exploitation of their works and performances from those to whom they have licensed or transferred their rights, notably as regards modes of exploitation, revenues generated and remuneration due. ***This claim does not apply to subordinate contributions to works.***

Or. en

Amendment 141
Eleftherios Synadinos

Proposal for a directive
Article 14 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that authors and performers receive on a regular basis and taking into account the specificities of each sector, timely, adequate and sufficient information on the exploitation of their works and performances from those to whom they have licensed or transferred their rights, notably as regards modes of exploitation, revenues generated and remuneration due.

Amendment

1. Member States shall ensure that authors and performers ***are entitled to*** receive on a regular basis and taking into account the specificities of each sector, timely, adequate and sufficient information on the exploitation of their works and performances from those to whom they have licensed or transferred their rights, notably as regards modes of exploitation, revenues generated and remuneration due.

Or. en

Amendment 142
Axel Voss

Proposal for a directive
Article 14 – paragraph 3

Text proposed by the Commission

3. Member States may decide that the obligation in paragraph 1 does not apply when the contribution of the author or performer is not significant having regard to the overall work or performance.

Amendment

3. Member States may decide that the obligation in paragraph 1 does not apply when the contribution of the author or performer is not significant having regard to the overall work or performance ***or when there is no significant link between the specific work or performance and those obliged to provide remuneration.***

Or. en

Amendment 143
Eleftherios Synadinos

Proposal for a directive
Article 15 – paragraph 1

Text proposed by the Commission

Member States shall ensure that authors and performers are entitled to request additional, appropriate remuneration from the party with whom they entered into a contract for the exploitation of the rights when the remuneration originally agreed is disproportionately low compared to the subsequent relevant revenues and benefits derived from the exploitation of the works or performances.

Amendment

Member States shall ensure that authors and performers are entitled to request additional, appropriate remuneration from the party with whom they entered into a contract for the exploitation of the rights when the remuneration originally agreed is disproportionately low compared to the subsequent relevant revenues and benefits derived from the exploitation of the works or performances, ***in accordance with the relevant case-law and without disproportionately burdening the party that exploits the rights conferred upon those works.***

Or. en

Amendment 144
Eleftherios Synadinos

Proposal for a directive
Article 21 – paragraph 2

Text proposed by the Commission

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Amendment

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive *post-adoption*.

Or. en