



EU Copyright Directive

Frequently Asked Questions about the text and the legislative process

In a nutshell...

The Directive is for the benefit of both creators and citizens:

- Creators have a say online, no matter how big they are or where they come from.
 - Authors and performers benefit from increased transparency obligations on their contractual counterparts, a contract adjustment mechanism, and dispute resolution process.
 - A principle of fair remuneration and a revocation provision for authors and performers are also introduced.
 - Authors and performers need article 17 to make these provisions meaningful.
 - Commercial platforms giving access to large amounts of copyright works need licences.
 - Non-profit platforms, online encyclopedias, open source software platforms and online marketplaces are exempted.
 - Citizens are in the clear as licences automatically cover their uploads.
 - Arbitrary take-downs by platforms have to stop.
 - Platforms are prevented from using measures for general monitoring or surveillance and have to respect rules on privacy and processing personal data.
 - Rules allowing caricature, parody, criticism etc. continue to apply (e.g. to memes).
 - Freedom of expression and fundamental rights are upheld for creators & citizens.
 - A complaints mechanism provides redress, human review and an independent body.
 - Obligations on platforms vary according to their type, their audience, their size, the works uploaded, the means available to them and their cost.
 - Small start-ups benefit from a light regime altogether (take down, not stay down)
- ⇒ The directive makes sure the above is clear and safeguards are watertight. It represents years of analysis, debate and compromise.
- ⇒ The copyright debate showed how certain operators will abuse their network and customers to skew the legislative process. The EU must show strength and leadership.
- ⇒ The directive is about putting people first, establishing a fair & sustainable internet for the benefit of creators AND citizens, and ensuring democratic processes are respected.

Why is copyright important?

Copyright is a liberator and helps all creators make a living. It gives artists and their partners a say in how their works are used. Copyright is a fundamental partner of freedom of expression.

Why is the EU directive necessary?

In a nutshell, it's about making copyright fair and sustainable for all. It's about balance in the online world. We embrace the fact that creators and citizens enjoy a unique relationship online. We

also embrace the fact that posting and sharing user-generated content, such as memes, is part of our daily life online. At the same time, certain rules of engagement online needed to be rewritten because some large platforms were claiming that responsibility lied only with the user and the owner of the content, and that can't be right. Europe took the lead on these issues worldwide.

Why is the result ok?

One of the main provisions is Article 17 dealing with the value gap between platforms and creators (see more under "What are the numbers" below). The text has significant safeguards:

- Only services providing access to large amounts of copyright protected works uploaded by their users as their main purpose and for profit are affected. Not-for-profit online encyclopaedias (e.g. Wikipedia), not-for-profit educational and scientific repositories, open source software developing and sharing platforms (e.g. Github), online marketplaces (e.g. eBay) or b2b cloud services and services which allow users to upload content for their own use (e.g. Dropbox) are untouched.
- There's a special regime for small start-ups which means they are subject to lighter obligations.
- Non-infringing works and other works, e.g. covered by exceptions, must not be taken down.
- The complaints mechanism providing redress applies and it must involve human review.
- Rightholders' requests to services to take action against uploads by users have to be duly justified, and users are able to access out-of-court redress mechanisms to settle disputes.

Don't the new rules introduce upload filters?

No - services can't use filters to monitor all content. They can only track content that has been flagged by rightholders. General monitoring is banned and so is arbitrary take-down. When no authorisation has been granted, services need to make best efforts to avoid the availability on their services of unauthorised works notified to them. There is no requirement to install « upload filters » or « monitor all content ». Services may choose to introduce technological tools, but the existing technology only relies on « matching », i.e. cross-checking the data provided by rightholders.

In any case, non-infringing works and other works, e.g. covered by exceptions, are protected as they must not be taken down. The directive introduces a complaints and redress mechanism in case of disputes over removal of content. On top of this, requests to remove content must be duly justified and decisions are subject to human review. Independent music companies' main priority is about clarifying copyright and licensing. We have completely embraced the user-generated economy and we urgently needed the licensing framework to catch up.

What are the numbers?

99% of music businesses are micro, small or medium sized enterprises. Independents account for 80% of all new releases and 80% of the sector's jobs. As a whole, the cultural and creative sector provides more than 12 million full-time jobs, and accounts for 4.4% of the EU's GDP. Copyright-intensive sectors make a positive contribution to the EU's trade balance with a net export of €15bn. Without copyright, it would be impossible to take risks and help artists have a voice. They are also a vital part of the local economy, creating jobs that can't be relocated elsewhere in the world and that have a higher percentage of youth employment than other sectors. The directive tackles a market failure. On the one hand, in 2018 digital music revenues accounted for 54% of total industry revenues, compared to 30% for physical sales. On the other hand, with 255 million users, audio streaming services (paid) generated over \$7bn for creators, while video streaming services, such as Youtube, with over 1.3 billion users, generated only \$998m.

Audio streams (Spotify, Deezer, etc.)		Video streams (Youtube etc.)
255m users	vs	+1.3bn users
+\$7bn to creators & rightholders		\$998m to creators & rightholders

Isn't this about getting more money for big artists and major music companies?

It's the opposite. We need a level playing field for all creators of today and tomorrow, big and small, and this can be done only by removing the existing friction in the licensing market. This directive introduces fairness and balance between big platforms and small creators. Today, only the bigger actors have a say in how their content is used online. The market failure needed to be fixed so that revenue generated around creative works can be shared fairly with smaller artists and their partners.

Of course it doesn't mean all platforms have to pay the same as every single service is different. It's more about being able to have a normal negotiation with platforms providing access to creative works and making sure all services play by the same rules. It was vital to at least clarify the position on copyright and licensing, as the courts had already done. With this directive, more services will have the possibility to enter the market and compete with established players. Without these changes, one service would be able to continue to dominate and stifle the market for other services and start-ups. That's what monopolies do.

What do the new rules do for artists and authors?

They benefit from new rules obliging their contractual partners to pay them fairly and transparently. They also have access to dispute resolution and a contract adjustment mechanism in certain circumstances, as well as revocation of rights. Two of these provisions (fair remuneration and revocation of rights) were won by the parliament in the final negotiations. These new rules also need Article 17.

Is this the end of the internet as we know it?

No. Article 17 only covers user-uploaded services whose main purpose is to make a profit from providing access to large amounts of creative works. Others are excluded (see above "why is the result ok?") passive platforms, as well as open source software, online marketplaces, non-profit online encyclopaedia and scientific repositories etc. In addition, when they upload content users can rely on the following exceptions which are now mandatory in each member state: quotation, criticism, review, use for the purpose of caricature, parody or pastiche.

Won't it stop memes?

No – memes are safe. Rules allowing caricature, parody, criticism etc. continue to apply to memes. The text only applies to certain for-profit platforms, not to the internet as a whole. On top of that, a licence given to a platform also covers its users. If anything, the legislation only positively affects the creation of memes. A new complaints mechanism also provides redress for users under EU law, including human review and access to an independent body to assert their use of copyright exceptions.

Why did Wikipedia switch off again before the final vote?

Wikipedia and others are specifically exempted but said they needed to object because the new rules are against an open internet. This is not just about copyright. Every time there is any attempt to introduce any level of control or measures to be taken, whether it comes to data protection, copyright, hate speech, trafficking etc., there is a massive hand washing exercise and claims of attacks against freedom of expression, against start-ups, end of the internet etc. The rules against general monitoring and surveillance are expressly incorporated in the current text.

What about all the lobbying against the directive which took place?

Gatekeepers are change averse – they fight very hard to defend their kingdom. Beneath clever messages about innovation lies a deeply conservative and defensive approach. Millions are invested in lobbying every year to defend the status quo. Parliamentarians were subject to a lot of anti-copyright lobbying before (more on this [here](#)) and there were threats from digital rights group about shaming Parliamentarians who voted yes to the proposed reform of copyright. [The pledge19 campaign](#) aimed to force MEPs to vote against the directive with the following message: "We will only vote for politicians who vote against Article 13 and say no to upload filters". The website showed the name and face of MEPs who did and did not pledge to vote

against. Google also tried to [influence the press](#). Certain actors are very skilful in aligning citizens' interests with their own commercial interests, and seek to create a false divide between creators and citizens. The majority of parliamentarians and member states were not fooled.

What we saw in the last few months of the legislative process was a new chapter - unprecedented in terms of advertising and messaging by Google/YouTube to its own subscribers (see [here](#) and [here](#)). It was also revealed ([here](#) and [here](#)) how some influential YouTubers were being paid to protest. No media or broadcast operator is allowed to use their network in this way to promote political or other messaging or advertising. This is about competition as well as ethics. How can it be that these operators should be able to secure an unfair competitive advantage by using their own platform and scale to carpet bomb people (not least children) with their own agenda? It would be prohibitively costly for those with different views to get even close to advertising at this scale. An [open letter](#) to YouTube asked for access to their network to send emails to YouTubers and use banner ads in the same way YouTube has, to no avail.

Why wasn't article 17 deleted?

Voting against article 17, or seeking to change it, would only have made things worse for creators, but also for citizens and smaller platforms. If platforms don't share revenues properly, improved transparency and fairness (Articles 18 to 22) could never have full effect. Second, citizens would have lost protection as licences wouldn't cover their uploads, and they would still be responsible. Exceptions would not have been mandatory, so memes would not be safer. Smaller platforms would have been worse off as they would have lost the benefit of flexibility based on their type, their audience, their size, the works uploaded, the means available to them and their cost. Small start-ups would have lost their special regime. The reality is that those who stood to benefit most from deleting Article 17 were the ones who wanted to hold onto the status quo and stifle competition, such as big incumbent platforms. Legislators knew that wasn't the right outcome, so they decided the directive should be adopted as a whole balanced package.

We also need to remember that years were spent on drafting this directive. Various alternatives had been examined and rejected along the way, mostly because they would have made the status quo worse. In addition, this directive was a legislative and political package. Opposing or amending Article 17 would have been tantamount to voting against the directive, as the directive would never have seen the light of day.

What is the bigger picture?

It's all about balance in the online world – it's not just copyright. The EU has taken the lead in many areas - fake news, data protection, making sure public opinion can't be manipulated and ensuring online operators can't abuse smaller suppliers. Other tools to recalibrate the digital market have been finalised, such as a new regulation to tackle the "power gap" between platforms and smaller players. It's not a coincidence that these issues are being tackled now and Europe's leading worldwide.

The bigger economic picture is also important in this debate. Copyright reform is a fundamental part of this general desire to see more balance in the online world, and also to create new provisions for artists and writers in their relations with labels and publishers. It was vital that this reform go through; otherwise all of the goals flagged above would have failed.

The European Parliament should decide itself what it can and can't discuss. The debate was about copyright yesterday, but tomorrow it will be about democracy, unless Europe establishes itself as a true leader and sets out clear boundaries.

**For more information, visit article13.org and [IMPALA's website](#).
The official text of the directive is available [here](#).**