



25 October 2016

Dear Vice-President Ansip,
Dear Commissioner Oettinger,
Dear Members of the European Parliament,

We very much appreciate the ongoing efforts of the European Commission to adapt the European copyright law to the digital era. We are of the opinion that the review of the European copyright law provides a great opportunity to turn the European digital market into a leading global standard.

We would therefore like to highlight some aspects of the legislative proposal which we regard as a step backwards, and explicate the possible negative outcomes that may arise from such.

- **No general monitoring obligations**

Over the past years, there has been an immense expansion of the monitoring of online user-behaviour. In most cases, such measures have been justified on the grounds of national security interests. However, the current proposal is mainly addressed to the fight against copyright infringements. The signatories recognise the importance of the protection of intellectual property rights, especially in order to protect future innovations and to safeguard a positive development of the European creative sectors. Nonetheless, it cannot be ignored that the suggested monitoring obligation provokes a disproportionate interference in fundamental rights and constitutes an excessive measure that will particularly affect small and medium-sized enterprises and start-ups.

Article 15 of the E-Commerce-Directive, which we consider as a proven and successful regulatory instrument, contains a prohibition of general monitoring obligations for hosting providers. This limitation has repeatedly been confirmed in the jurisdiction of the European Court of Justice and should not be abandoned, neither from a human rights perspective – nor from an economic one.

- **No innovation chill**

Today the press publishing sector as well as many other commercial sectors face considerable challenges resulting from the on-going digitalisation and the related change in consumer's behaviour. The signatories however are of the opinion that the introduction of European ancillary rights does not constitute a suitable approach to solve these issues. This has repeatedly been proven by the negative experiences in Spain and Germany. Ancillary copyrights significantly hamper the establishment of new business models that advance freedom of expression and the creation of value in Europe. Thus, it would create a "lose-lose" situation for press publishers, journalists, search engines, news aggregators and last but not least Internet users. Such a situation very much contradicts with the intentions of the European Commission to create modern copyright framework in the European Union.

- **Fostering social and educational exchange**

Communication and exchange over the Internet are an essential part of the everyday life of European citizens. One of the main reasons for the success of the Internet hitherto has been its free and open design, which allows a multitude of actors, among them innovative non-profit organisations, to offer users unprecedented access to information. This has not only supported free education, but also initiated a rich cultural exchange and thereby helped to preserve the substantial European cultural heritage. The signatories request that the Commission adapt the respective provisions to the requirements of today's information society, for example by providing a harmonising framework for the currently fragmented regime on freedom of panorama in the member states.

Sincerely,



Arbeitskreis Vorratsdaten



Austrian Startups



Creative Commons Österreich



Digital Society



Fairkom - Gesellschaft zur Förderung
medialer Kommunikation und
immaterieller Gemeingüter



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