



The EU copyright Directive

Giuseppe Abbamonte

Director Media Policy

European Commission, DG CNECT



The EU copyright Directive

The Directive was published in OJ of 17 May 2019

Transposition deadline is 7 June 2021.

Directive on Copyright in the DSM Objectives

- 1. Facilitating cross-border access to copyright protected content online*
- 2. Modernising the EU rules on key exceptions and limitations in the areas of research, education, and preservation of cultural heritage*
- 3. Introducing fairer rules of the game for a better functioning copyright marketplace*



Fairer rules of the game

Article 11. The press publisher right

Introduction of a new related right for press publishers to:

- **Strengthen the bargaining power of the press industry with the aggregators**
- **Facilitate enforcement of rights in publications**

The duration of the right is 2 years



Fairer rules of the game

Article 15-The press publisher right

The right does not apply to non-commercial uses.

Impact on freedom to share: hyperlinks and snippets

*ECJ C-5/08 **Infopaq** International A/S v Danske Dagblades Forening - 16 July 2009*



Fairer rules of the game

Article 15-The press publisher right

The right must not affect the rights of the authors of the press publications and other rightholders

The authors of the works must receive an appropriate share of the revenues

Fairer rules of the game

Article 17. Value Gap

Art. 2(5) define online content sharing providers as providers which store and give the public access to a large amount of copyright protected Works uploaded by users, which it organises and promotes for profit-making purposes.

Non profit online encyclopedias, educational and scientific repositories, on line market places are not covered.



Fairer rules of the game

Article 17. Value Gap

- **Platforms perform an act of communication to the public by giving the public access to protected works uploaded by the user.**
- **Platforms must obtain a license. The license covers private uses.**
- **Platforms cannot benefit from the limitation of liability under Article 14 of the eCommerce Directive.**

Fairer rules of the game

Article 17. Value Gap

If no authorisation is granted the platform is not liable if:

- **Best efforts to obtain license**
- **Best efforts to ensure unavailability of specific works (Cooperation)**
- **Acted expeditiously to remove or disable access to protected works on sufficiently substantiated notice and made best efforts to prevent future uploads**

Fairer rules of the game

Article 17. Value Gap

Principle of proportionality: type, audience and size of the service, type of works, suitable and effective means and cost to providers.

Rule on start ups (turnover below EUR 10m and up to 5m monthly unique viewers), no stay down

Fairer rules of the game

Article 17. Value Gap

Fair use (US) v exceptions and limitations

*The UGC rules. Mandatory exceptions for:
Quotation, criticism, review;
Caricature, parody or pastiche*

*Platforms to put in place complaint and redress
mechanism for users*

The stakeholder dialogue

Art 17(1) requires the Commission to organise a stakeholder dialogue in cooperation with Member States

Best practices for cooperation between platforms and rightholders

Guidance in Spring 2020.

The stakeholder dialogue

Call for expression of interest (80 invitees)

*Webstream, 5 meetings planned until end
January*

*The first two meetings (15 October and 5
November) mapping of existing practices on
licensing and avoiding unauthorised content*