

The Copyright Directive: Articles 11 and 13 must go

Statement from European Academics in advance of the Plenary Vote on 26 March 2019

Academics from the leading European research centres for intellectual property and information law have taken a consistent position on the proposed Directive on Copyright in the Digital Single Market.

While we welcomed the ambition for copyright rules to be modernised “in the light of the digital revolution, new consumer behaviour and Europe’s cultural diversity” (Commission president Juncker’s 2014 “mission letter” to Günther Oettinger, then Commissioner for Digital Economy and Society), the implementation of this goal has been misguided.

Policy making moved from “legislative steps towards a connected Digital Single Market” towards supporting narrow sectoral interests. During a full parliamentary period, this new form of industrial policy was turned into an ideological battle between European culture and so-called “GAFA” (Google, Apple, Facebook, Amazon), the multinational industrial complex dominated by US firms.

In our first open letter of 24 February 2017, we said:

“While the Proposed Directive on Copyright in the Digital Single Market (COM(2016) 593 final) contains a number of reasonable, common sense measures (...), there are two provisions that are fundamentally flawed. They do not serve the public interest.

Article 11 [now 15] seeks to create an additional exclusive right for press publishers, even though press publishers already acquire exclusive rights from authors via contract. The additional right will deter communication of news, obstruct online licensing, and will negatively affect authors.

Article 13 [now 17] indirectly tries to amend the E-Commerce Directive (2000/31/EC) that arranges the liability of online intermediaries for user generated content into a shared responsibility of rights holders and service providers. The proposals will hinder digital innovation and users’ participation.”

This diagnosis is still correct. During the last two years, we have reviewed the existing evidence and offered access to independent research. There have been improvements to the initial drafts, but on balance, Articles 11 and 13 will do more harm than good. They should be deleted.

We have said previously: “It does not happen often that there is wide scientific consensus on a contested policy issue. This is such a case, and policy makers need to take note.”

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Note: More than 200 academics from over 25 research centres have signed open letters opposing Articles 11 and 13. Further information about this initiative, including monitoring of legislative progress, a database of scientific studies, [Open Letter #1](#) (24 February 2017), [Open Letter #2](#) from European Research Centres (26 April 2018) and Statement “[Misinformation and Independent Enquiry](#)” (29 June 2018) can be accessed here: <http://bit.ly/2loFISF>