

Artikel 2 und Artikel 13

der Richtlinie über das Urheberrecht im digitalen Binnenmarkt

in der vom Rechtsausschuss des EU-Parlaments am 20.06.2018 angenommenen Fassung.

Quelle: [Bericht des Rechtsausschusses](#)

Amendments 61 and 62

Article 2, paragraph 1, points 4 b (new) and 4 c (new)

(4b) ‘online content sharing service provider’ means a provider of an information society service one of the main purposes of which is to store and give access to the public to copyright protected works or other protected subject-matter uploaded by its users, which the service optimises.

Services acting in a non-commercial purpose capacity such as online encyclopaedia, and providers of online services where the content is uploaded with the authorisation of all concerned rightholders, such as educational or scientific repositories, should not be considered online content sharing service providers within the meaning of this Directive. Providers of cloud services for individual use which do not provide direct access to the public, open source software developing platforms, and online market places whose main activity is online retail of physical goods, should not be considered online content sharing service providers within the meaning of this Directive.

(4c) ‘information society service’ means a service within the meaning of Article 1(1)(b) of Directive (EU) 2015/1535 of the European Parliament and of the Council.

Amendment 77

Article 13

Use of protected content by online content sharing service providers

-1a. Without prejudice of Art. 3 (1) and (2) of the Directive 2001/29/EC online content sharing service providers perform an act of communication to the public and shall conclude fair and appropriate licensing agreements with rightholders, unless the rightholder does not wish to grant a license or licenses are not available. Licensing agreements concluded by the online content sharing service providers with rights holders shall cover the liability for works uploaded by the users of their services in line with terms and conditions set out in the licensing agreement, provided that these users do not act for commercial purposes or are not the rightholder or his representative.

*1. Online content sharing service providers referred to in paragraph -1a shall, in cooperation with rightholders, take **appropriate and proportionate** measures to ensure the functioning of **licensing** agreements **where** concluded with rightholders for the use of their works or other subject-matter **on those services**.*

In the absence of licensing agreements with rightholders online content sharing service providers shall take, in cooperation with rightholders, appropriate and proportionate measures leading to the non-availability of copyright or related-right infringing works or other subject-matter on those services, while non-infringing works and other subject matter shall remain available.

1a. Member States shall ensure that the online content sharing service providers referred to in the previous sub-paragraphs shall apply the above mentioned measures based on the relevant information provided by rightholders.

The online content sharing service providers shall be transparent towards rightholders and shall inform rightholders of the measures employed, their implementation, as well as when relevant, shall periodically report on the use of the works and other subject-matter.

1.b Members States shall ensure that the implementation of such measures shall be proportionate and strike a balance between the fundamental rights of users and rightholders and shall in accordance with Article 15 of Directive 2000/31/EC, where applicable not impose a general obligation on online content sharing service providers to monitor the information which they transmit or store.

2. To prevent misuses or limitations in the exercise of exceptions and limitations to copyright law, Member States shall ensure that the service providers referred to in paragraph 1 put in place effective and expeditious 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 without undue delay. The rightholders should reasonably justify their decisions to avoid arbitrary dismissal of complaints.

Moreover, in accordance with Directive 95/46/EC, Directive 2002/58/EC and the General Data Protection Regulation, the measures referred to in paragraph 1 should not require the identification of individual users and the processing of their personal data.

Member States shall also ensure that, in the context of the application of the measures referred to above, users have access to a court or other relevant judicial authority to assert the use of an exception or limitation to copyright rules.

3. Member States shall facilitate, where appropriate, the cooperation between the online content sharing service providers information society service providers, users and rightholders through stakeholder dialogues to define best practices for the implementation of the measures referred to in paragraph 1 in a manner that is proportionate and efficient, taking into account, among others, the nature of the services, the availability of technologies and their effectiveness in light of technological developments.

Amendment 78

Article 13 a (new)

Member States shall provide that disputes between successors in title and information society services regarding the application of Article 13(1) may be subject to an alternative dispute resolution system.

Member States shall establish or designate an impartial body with the necessary expertise, with the aim of helping the parties to settle their disputes under this system.

The Member States shall inform the Commission of the establishment of this body no later than (date mentioned in Article 21(1)).