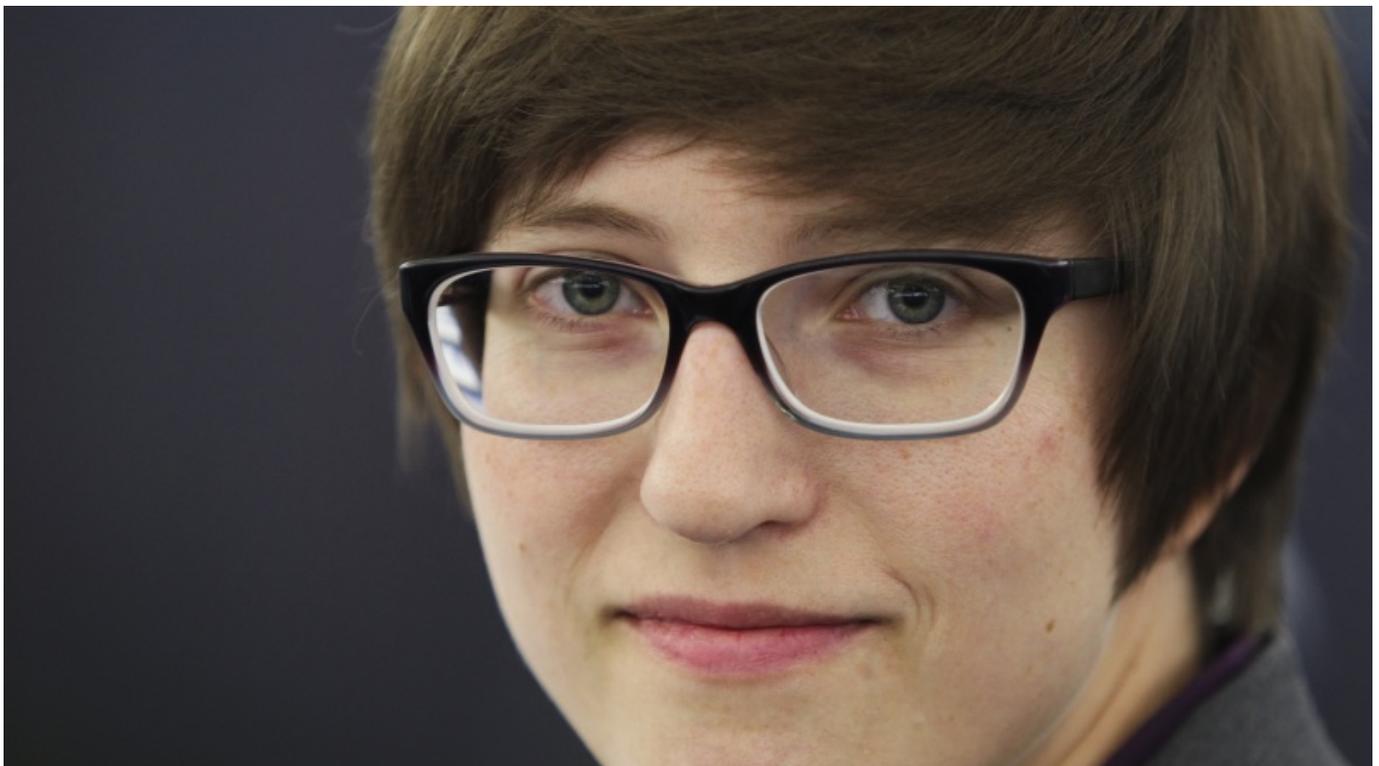


## Julia Reda: The Pirate in the Parliament

Written by Brian Johnson on 4 November 2015 in Interviews  
Interviews

Julia Reda talks online parodying, digital panoramas and why she's fighting for consumers' rights to be at the heart of EU copyright rules.



When she released her draft report on copyright reform back in January this year, Julia Reda called the EU's antiquated copyright rules "maladapted" to the internet age.

Not a commonly-used term these days - coined around the middle of the last century - it nevertheless is a word closely linked to modernity and the demands of an ever changing society.

Roughly defined as 'poorly suited to a particular condition or set of circumstances', Reda, in one word, had nailed the main problem at the heart of the EU's 2001 copyright directive: it was written before YouTube or Facebook.

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Nine months on from the release of her first draft, and three months on from the final adoption of her report by the European Parliament, we asked the German Pirate Party deputy whether she believes she achieved everything she set out to do on copyright reform.

"Yes, absolutely. I think the report really was a paradigm shift, especially if you compare it to older communications on the topic. Previous legislation on copyright from the Parliament was only really about extending the rights of rights holders."

"In my report, for the first time, the Parliament asked for a set of consumers' rights related to copyright as well as minimum standards for what you are allowed to do with that copyright-protected content that should apply across the entire European Union."

A key consumers' rights issue in Reda's view is geoblocking. In a 2014 European Commission consultation on copyright, the dreaded "This video is not available in your country" phrase drew the ire of thousands of citizen responders."

"My report of course included the right to access content across borders. Geoblocking is something that people experience in their daily lives, and they look to the EU to do more."

"So it would have been a huge waste not to take up this call for more common European rules for copyright that actually meet consumer expectations and that regular people are able to understand."

Unfortunately, suggests Reda, understanding isn't a key characteristic of Europe's copyright rules.

"Right now, copyright legislation is so complicated and varies so much from country to country that many people simply choose to ignore it," she says, explaining that her initial approach to tackling the issue was to recommend having the same copyright rules across the EU.

"The Parliament report, as adopted, is a bit more restrained. It states this as a long term possibility that the European Commission should research."

"It's not something that can simply be introduced tomorrow. Nevertheless, I think we can do something about geoblocking that would remove it now, even without fully harmonised copyright rules."

Reda highlights the example of satellite broadcasting. "Licensing works differently for broadcasting," she explains. "A TV station in the UK, for example, can just acquire the rights for films, or sports, or whatever they are showing in the UK."

"Nevertheless, people [who have bought a satellite receiver] in other countries may receive them. Therefore I would propose to use the same regime that has already worked well for broadcasting and apply it to online video and online streaming."

Opposition to stopping geoblocking, she says, was mostly centred on concerns that it would somehow hurt smaller European productions.

"Yet, if you look at the companies that the European Commission are actually investigating in its geoblocking competition enquiry, it's predominately big Hollywood studios. There is quite a strong campaign from rights holders, particularly in Hollywood, to use geoblocking as a way of maximising profits."

But she doesn't believe that smaller European productions necessarily benefit. "Take a smaller language film", she suggests, "You don't need geoblocking to still be able to sell it in other countries, and in fact it limits your potential audience."

"For example, if all Polish-speaking people across Europe had the possibility to sign up to a streaming service that caters to a Polish audience, Polish language content would reach the largest possible audience."

"Yet it would in no way endanger the profits of selling these works again in a different language, when they've been dubbed or subtitled."

Instead of 'protecting', geoblocking often 'prevents', she argues. "Minority language communities really suffer from this situation. For example, geoblocking the Danish speaking minority living in the north of Germany from accessing the Danish public broadcaster's programmes online."

"Unfortunately, they have no way to legally access these programmes, because as a small community there is no market for them in Germany. So often we see geoblocking supposedly 'protecting' a market that doesn't actually exist."

And it's not that the Danish broadcasters are necessarily being greedy or mean, explains Reda, it's primarily because they have to. Their licensing agreement with rights holders requires them to block content outside of Denmark.

"Often, broadcasters apply this policy to all their content simply because it's easier. It means that they may end up even blocking their own productions; otherwise they would have to differentiate between every single programme they show and determine whether they have the permission to show it outside of Denmark."

"You could argue that these kinds of contracts violate freedom of movement of services: Rights holders are imposing this territorial restriction on the broadcaster or on providers of online streaming services."

"I believe we need to clarify this within the law, rather than waiting for a court case or for the Commission's competition enquiry to figure it out."

Copyright on the internet is just one area where there is an urgent need for common European rules, according to the German deputy. "Today, every single country in the EU has its own rules on exceptions and limitations to copyright, that is, what rights you as a user of a copyrighted work have."

Only recently, the UK undertook some domestic copyright reform, introducing exceptions, such as seeking permission to make a parody of a copyrighted work.

"They consider this important for freedom of speech. The problem is, of course, if you make a parody in the UK and you put it on, say, YouTube, you want to be able to share this with people who live in other countries. Under the current system, it needs to comply with all the different national copyright laws depending on where it's being viewed."

However as the internet doesn't actually have any national borders, this just doesn't really work. "If

you really want to have legal certainty, you would need a European exception for parodies, rather than just having a UK one."

"I don't think member states are necessarily opposed to users' rights. I think the problem is a fear that the copyright exceptions in other countries will somehow harm local rights holders. So there is often hard lobbying against harmonisation."

Reda's questioning of what she believes to be unfounded copyright-based fears opened up heated discussions on issues that few had heard of before her report.

"Take France, where they don't have the freedom of panorama. This means that if you take a picture of a public building and publish it online, you need to have permission from the architect. The French are adamant that this protects architects' interests."

"However in countries like the UK, architects say they don't even want to be asked for permission, they want photos of their works to spread. They make their money not from postcard reproductions but from winning commissions to design new buildings."

Copyright issues, whether many of us realise it, are an everyday occurrence for millions of people nowadays. Simply posting a few seconds' worth of video footage of our favourite football team scoring a goal on a social network is more than likely breaking the law somewhere in our digital world.

"If you do that, you are definitely violating some exclusive rights. There are actually companies that specialise in sending take-down notices to people who put these kinds of images online."

"But I doubt anyone will stop going to football matches or subscribing to premium TV channels just because they've seen a two-second clip of a goal. So I don't think that there is any substitution going on here. The same is true for using tiny clips of films in online communications as a way of conveying emotions, and so on."

"If anything, this actually promotes the original product and add value, rather than taking anything away. The current copyright system simply fails to take this into account."

According to Reda, it's essential that we have exceptions in place for these 'everyday activities'. "A lot of exceptions are addressing exactly this problem: The transaction costs of asking permission for every single use of a work would be prohibitive, when it's really everyday activities that we are talking about."

"The cost of such a system is higher than any potential profits that rights holders may make. Of course as skilful lobbyists, rights holders will always argue for whatever maximises their profit."

"But they don't have to weigh profits against potential harm to the wider economy of having to make a lot of really minor copyright transactions. So I think our job as legislators is also to put these demands into the proper context."

"In some areas, like research and education, you simply have to say that the overall benefit of having access to research materials that were created in universities - financed by public money in the first place - are bigger than any profits that rights holders and scientific publishers may lose as a result."

Reda suggests that many rights holders have now realised that they can actually become even more economically successful if they take their users' and fans' concerns seriously. However in the long-term, she suggests that streaming models will have to become more attractive.

"They work quite well with music, but depending on the country you live in, for films and TV shows you only get a limited offer on platforms like Netflix. This is something that rights holders should be working on."

Digital content ownership is also a copyright minefield. For Europe's younger generation, streaming and access, rather than ownership, is attractive in areas where there are fast, reliable internet connections.

However, many of us still feel the need to buy content to own, not necessarily on a CD, or DVD, but as a download. "Unfortunately, if you buy an MP3 or an eBook over the internet, your rights are extremely limited."

"This is because you are not actually purchasing a product; you are buying a service where you have to abide by a number of small print licensing conditions."

Not everyone is aware of the fact that when Amazon sells you an eBook, they reserve the right to delete them from your eReader after they've sold it to you.

"This was actually the case with the novel 1984, which they sold as an eBook. One morning, when people opened their eReader, 1984 was no longer there. People are still quite upset about this."

"We increasingly hear about people who have bought a huge collection of eBooks or MP3s over the internet and, as they are getting older, are thinking about their wills. Then they find out that they can't actually give their digital music or book collections to their children, because they only have a simple single usage right."

Introducing rights for people who have actually purchased online content is likely to be a key issue of EU copyright reform.

"Access is all good and well, but I think that people understandably expect to pay less for mere access to content rather than ownership."

"If they have paid a high price for an eBook or MP3, then their expectation is that they do actually own it and that they can give it to their children, resell it or whatever. However these possibilities currently don't exist."

Unfortunately, says Reda, there's occasionally a lack of understanding of the bigger picture when it comes to tackling digital issues at EU level. "Of course it's not true for everybody, but I think there are many who look at the digital economy and just see that the biggest companies are not European".

"So instead of creating an environment where European start-ups can actually be successful, they are trying to stop the big American companies from offering services. In reality, what I think they achieve is erecting new barriers for European start-ups and actually making it harder for them to compete."

"I think there are a lot of misguided initiatives but thankfully at least the message has arrived at the highest political levels: we actually need new policies that will make it easier for technology companies and for people to have better access to online services."

## **About the author**

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