

EU copyright reform is an opportunity for both consumers and creators

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Opinion

Copyright reform should not be treated as an opportunity to punish big business, writes Marc Joulaud.



Marc Joulaud | *Photo credit: European Parliament audiovisual*

Copyright has crept out of a technical and obscure legal field, to become a magic word for many in the European Parliament and beyond - and for good reason. It is central to many aspects of our everyday lives, especially online.

A reform of the current rules, which have been in place since 2001, was long-awaited, as the challenges raised by the place of copyright in the digital environment were becoming more and more severe.

Intense but necessary debates have taken place in Parliament over the past few years, and have allowed us, as MEPs, to clearly outline our expectations to the Commission: tailored solutions to key identified problems that would embrace the new possibilities offered by digital tools and improve the remuneration of authors.

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Last September, the Commission presented its proposal for a directive on copyright in the digital single market. This was a step in the right direction, which Parliament must now consolidate. It is my privilege, and responsibility, to drive the discussions on this major reform as the rapporteur for the culture and education committee.

On a subject of such importance, especially for citizens and creators, it is vital to have a balanced and responsible approach.

Unfortunately, a ridiculous fear-mongering campaign was quickly launched, portraying the proposal as a digital apocalypse that would shut down the internet and hamper the freedom of European citizens.

At a time when populist efforts to undermine the trust of citizens in European institutions are already worrying, one can only regret such grotesque Trump-like caricatures. The text surely needs clarification and improvements, and it will be my task to propose such precisions, but the Commission's intentions are nonetheless crystal clear.

Consumers and rights holders are not enemies, as some would like to make it seem. Consumers are not selfish looters of cultural content, nor are rights holders greedy monsters.

They both need each other to thrive and make the best of the tremendous opportunities offered by the digital environment. This has always been my driving principle in dealing with copyright.

If the protection of intellectual property is a fundamental right, it should not be a disproportionate obstacle to the use of works for public interest. This is why copyright has always provided exceptions and limitations for such purposes.

The proposal reinforces and facilitates the possibilities for public interest activities - such as education, research or the preservation and promotion of our cultural heritage - to make the best use of digital tools with legal certainty and improved possibilities of cross-border activities.

Such exceptions for public interest activities can only be encouraged and improved, but should not be distorted to go beyond what is necessary and justified, for instance by threatening existing and perfectly viable ecosystems, like commercial licences for data mining or educational licencing schemes.

Similarly, legitimate and everyday digital uses of copyrighted works by consumers should be clarified

and protected, such as for the use of short extracts or quotations or sharing press publications that they find noteworthy.

A major improvement in this proposal is the acknowledgement by the Commission that platforms actively exploiting and profiting from vast amounts of works are not the emerging passive platforms that they once were, and therefore can no longer be treated as such. With maturity comes responsibility, and this should be a central principle in the debates to come.

A service cannot use its sheer market power to 'beat into submission' those who only want to reach a fair agreement with the service for the use of their content. It is a question of elementary fairness in business-to-business relationships.

Nonetheless, this should not be understood as a way to 'punish' big or successful platforms, but rather as a way of ensuring that everyone can sit at the table as equals and negotiate mutually beneficial agreements.

Both sides must abide by mutual obligations to make the whole system work, and consumers should not be disproportionately impacted for their legitimate uses by the agreements that may be concluded between platforms and rights holders.

But the whole 'raison d'être' of copyright is the proper remuneration of authors, who are the source of the rich cultural diversity that makes us, Europeans, proud. Without thriving authors, all the efforts and attention around copyright would be for naught.

Making sure that authors and performers know with certainty how their work is used by their contractual partners is not only fair, but also indispensable for them to determine if the remuneration that they negotiated is equitable considering the actual use and success of their work.

Just like a level playing field between rights holders and platforms is needed, equality of arms between authors and their contractual partners must be improved.

The culture committee will be the first to have a say in the Parliament on this reform and I intend to make good use of that opportunity to send a strong signal that the digital world is not the Wild West.

About the author

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