



Jean-Claude Juncker
President
of the European Commission
Andrus Ansip
Vice-President
of the European Commission
Günther Oettinger
Commissioner

Brussels, 20 June 2016

Open letter: Status of online platforms in the EU as regards copyright and the need for legislation

Dear President Juncker,
Dear Vice-President Ansip,
Dear Commissioner Oettinger,

Following the release of the e-commerce package and ahead of the publication of the Copyright reform we would like to draw your attention to a specific issue, which we believe is vital for a thriving cultural and creative economy in Europe.

Creative industries in Europe make a substantial contribution to EU economy, creating more than €550 billion in value added to the GDP (4.4% of total GDP), and providing 8.3 million full-time jobs, thereby employing 3.8% of Europe's workforce. Creative industries also account for roughly 4.2% of EU exports, while being one of the few IPR-intensive sectors generating a trade surplus. Cultural and creative industries (CCIs) in the EU employ as many people as the food and beverage service industry does; provide work for nearly 2.5 times more people than automotive manufacturers and 5 times more than the chemical industry.

Despite the fact that more creative content is being consumed today than ever before, on services such as user-uploaded content platforms and content aggregation services, the creative sectors have not seen a comparable increase in revenues from this increase in consumption. One of the main reasons is being referred to as a transfer of value that has emerged due to the lack of clarity regarding the status of these online services under copyright and e-commerce law.

The existing Safe Harbour provisions within the e-Commerce Directive 2000/31/EC allow platforms and intermediaries such as YouTube to claim that they are passive and neutral hosting services entitled to benefit from exemptions to copyright law.

The European Parliament took position on this issue on various occasions such as within the report on *The harmonisation of certain aspects of copyright and related rights in the information society (2014/2256(INI))*, "{... virtually all the value generated by creative works is transferred to those digital intermediaries, which refuse to pay authors or negotiate extremely low levels of remuneration"}.

Furthermore in the report *Towards a Digital Single Market Act 2015/2147(INI)* the European Parliament called on the Commission to “consider evidence-based options to address any transfer of value from content to services that will make it possible for authors, performers and right holders to be fairly remunerated for the use of their work on the internet without hampering innovation”.

In view of the upcoming copyright reform, we would like to once again call on the Commission to create legal certainty by presenting solutions which will suit creators, right holders and consumers alike. We believe that there will not be a Digital Single Market without content. Therefore the upcoming copyright reform should make clear that liability exemptions can only apply to genuinely neutral and passive online service providers, and not to services that play an active role in distributing, promoting and monetising content at the expense of creators.

We are convinced that removing this distortion in the digital market would stimulate growth in the European digital economy.

Members of the European Parliament,

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