



# **The EU copyright Directive**

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# The EU copyright Directive

*The Directive was published in OJ of 17 May 2019*

*Transposition deadline is 7 June 2021.*

# Directive on Copyright in the DSM Objectives

- 1. Facilitating cross-border access to copyright protected content online*
- 2. Modernising the EU rules on key exceptions and limitations in the areas of research, education, and preservation of cultural heritage*
- 3. Introducing fairer rules of the game for a better functioning copyright marketplace*

# Fairer rules of the game

## Article 15. The press publisher right

*Introduction of a new related right for press publishers to:*

- **Strengthen the bargaining power of the press industry with the news aggregators**
- **Facilitate enforcement of rights in publications**

*The duration of the right is 2 years*

# Fairer rules of the game

## Article 15-The press publisher right

*The right does not apply to non-commercial uses.*

*Impact on freedom to share: hyperlinks and snippets*

*ECJ C-5/08 **Infopaq** International A/S v Danske Dagblades Forening - 16 July 2009*

# Fairer rules of the game

## Article 15-The press publisher right

*The right must not affect the rights of the authors of the press publications and other rightholders*

*The authors of the works must receive an appropriate share of the revenues*

# Fairer rules of the game

## Article 17. Value Gap

*Art. 2(5) define online content sharing providers as providers which store and give the public access to a large amount of copyright protected Works uploaded by users, which it organises and promotes for profit-making purposes.*

*Non profit online encyclopedias, educational and scientific repositories, on line market places are not covered.*

# Fairer rules of the game

## Article 17. Value Gap

- **Platforms perform an act of communication to the public by giving the public access to protected works uploaded by the user.**
- **Platforms must obtain a license. The license covers private uses.**
- **Platforms cannot benefit from the limitation of liability under Article 14 of the eCommerce Directive.**



# Fairer rules of the game

## Article 17. Value Gap

**If no authorisation is granted the platform is not liable if:**

- **Best efforts to obtain license**
- **Best efforts to ensure unavailability of specific works (Cooperation)**
- **Acted expeditiously to remove or disable access to protected works on sufficiently substantiated notice and made best efforts to prevent future uploads**

# Fairer rules of the game

## Article 17. Value Gap

*Principle of proportionality: type, audience and size of the service, type of works, suitable and effective means and cost to providers.*

*Rule on start ups (turnover below EUR 10m and up to 5m monthly unique viewers), no stay down*

# Fairer rules of the game

## Article 17. Value Gap

*Fair use (US) v exceptions and limitations*

*The UGC rules. Mandatory exceptions for:  
Quotation, criticism, review,  
caricature, parody or pastiche*

*Platforms to put in place complaint and redress  
mechanisms for users*

# The stakeholder dialogue

*Art 17(1) requires the Commission to organise a stakeholder dialogue in cooperation with Member States*

*Best practices for cooperation between platforms and rightholders*

*Guidance in Spring 2020.*

# The stakeholder dialogue

*Call for expression of interest (80 invitees)*

*Webstream, 5 meetings planned until end  
January*

*First two meetings (15 October and 5  
November): information gathering on existing  
practices on licensing and copyright management*