

# PROPOSAL FROM THE EUROPEAN PARLIAMENT AND COUNCIL ON COPYRIGHT FOR A DIRECTIVE IN THE SINGLE DIGITAL MARKET. REJECTION OR SUBSTANTIVE DEBATE COMING?

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**Paris, August 16<sup>th</sup>, 2018** - It has been widely reported in the press in recent weeks that a proposal for a European Copyright Directive was rejected by the European Parliament on July 5<sup>th</sup>, 2018.

What does this mean exactly?

The digital single market strategy adopted in May 2015 underlined the need to “*reduce differences between national copyright regimes and allow for wider online access to works by users across the EU*”.

The evolution of digital technologies, which allows in particular for cross-border uses, has profoundly transformed the way works are created, and above all disseminated and exploited. For many specialists, certain aspects of European law are no longer appropriate.

The European Commission therefore launched in 2016 a reflection aimed at reforming existing texts applicable to copyright law in order to better adapt them to the digital reality.

In this context, the main axes of the work undertaken were to seek a better balance between the interests of authors and other rightholders, particularly in terms of remuneration, on the one hand, and those of users who often aspire to free and unrestricted access on the other.

Two articles of the proposed Directive have been the subject of intense debate:

Article 11 aimed at promoting a right for press publishers to fair compensation for the use of their online publications.

Article 13 aimed at requiring platforms (“*information society service providers that store and provide to the public access to large amounts of works or other subject-matter*”) to put into place automated filtering to ensure that copyrighted material is not unlawfully distributed on these platforms.

The major actors in the field, including Google, Apple, Facebook and Amazon (“GAFAs”) did not hide their hostility to the proposed guidelines and undoubtedly influenced the MEPs’ vote on July 5<sup>th</sup>.

In reality, the European Parliament has not definitively rejected the proposed Directive. On July 15<sup>th</sup>, 2018, they rejected a mandate to the MEP rapporteur to negotiate with the Member States of the European Union, which had been proposed as a compromise by the Committee on Legal Affairs on June 20<sup>th</sup>, 2018.

The subject is therefore not yet closed. The draft Directive has been sent back to the European Parliament plenary session, with the reopening of possible amendments by MEPs during a session scheduled to begin on September 10<sup>th</sup>, 2018.

It is likely that this will lead to a redrafting of articles 11 and 13 mentioned above.

REGIMBEAU is closely following the debate.

See you in September to find out what follow-up the MEPs will give to this proposal.

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