



EUROPEAN COMMISSION

Directorate-General for Communications Networks, Content and Technology

Media Policy
Copyright

Brussels,
 CNECT/I2/CA/hz (2017) 5876330

Dear Petitioner,

Thank you for your petition addressed to President Juncker, First Vice-President Timmermans and Vice-President Ansip and for having brought to the attention of the Commission your concerns with respect to the potential impacts of Article 13 of the Proposal for a Directive on copyright in the Digital Single Market on fundamental rights and the fact that it may constitute, in your view, a general monitoring obligation. I have been asked to reply on their behalf.

One of the main goals of the Commission's Digital Single Market Strategy is to achieve a wide availability of creative content across the EU, while making sure that EU copyright rules continue to provide a high level of protection for right holders in the digital environment. Accordingly, one of the Commission's objectives pursued with the recent legislative proposals is to improve the functioning of the online market place.

In this context, the Commission believes that Article 13 of the Proposal for a Directive on copyright in the Digital Single Market strikes a fair balance between the fundamental rights of different stakeholders, that is the right to intellectual property of right holders, the freedom to conduct a business of service providers and the freedom of expression, the right of privacy and the right to protection of personal data of users. In particular, the interests of users are protected through the establishment of redress mechanisms by service providers which will allow users to challenge the blocking of legitimate uploads. In addition, the obligation set out in this provision is proportionate and is based on the cooperation of service providers with right holders since it relates to content which is identified in advance by right holders and for which they have to provide data to service providers. Finally, Article 13 of the Proposal for a Directive on copyright in the Digital Single Market applies only to services that store and provide to the public access to large amounts of works or other subject-matter uploaded by their users.

Furthermore, the Commission considers that the obligation of Article 13 of the Proposal for a Directive on copyright in the Digital Single Market cannot be assimilated to a general monitoring obligation. Since the measures set out in this provision would be applied to the content that will be identified by the right holders in advance, the service providers would not be faced with an abstract obligation to monitor and assess all the content on their servers to detect potentially unauthorised content.

The Proposal for a Directive on copyright in the Digital Single Market is currently being examined by the European Parliament and the Council in the context of the ordinary European legislative procedure for the adoption of directives.

Yours faithfully,

'e-Signed'
Marco GIORELLO
Acting Head of Unit