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Sent: 26 June 2018 11:45
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Subject: False Spam Campaign on Copyrights

Dear colleagues,

In light of the unprecedented spam campaign flooding our inboxes regarding the Copyright Reform, we thought it wise to explain why all these spam emails are factually incorrect and do not reflect the actual text on Articles 11 and 13 that were voted for in JURI Committee.

It is unfortunately worth noting that the campaign we are under does not originate from genuinely concerned citizens, but is primarily orchestrated and funded by the technology sector. For example, the [CREATE.REFRESH](#) campaign is primarily coordinated by technology giants to get individuals to lobby against the Copyright Directive.

So let us debunk the spam claims on Article 13 and on Article 11 one by one based on the actual legal text.

- Myth Number 1: Article 13 will censor users – FALSE

To begin with, **Article 13 imposes no obligation on users**

On the contrary, the Article actually **enhances the legal certainty for users to post and share** things on these platform as it obliges the platforms to get licenses from artists that will cover the acts of all individual users acting in a non-commercial capacity.

See compromise 14 Article 13, Paragraph -1a.

- Myth Number 2: Article 13 will filter the internet – FALSE

The measures will not filter the internet. They only concern active platforms that share copyright protected content. This specific copyright protected content will be identified on the basis of information provided by the artists to the platforms (digital fingerprint).

See compromise 14, Article 13, Paragraph 1a.

This is also clearly stated in the Council Legal Service opinion for the Working Party on Intellectual Property issued on 11 October 2017, point 12.

Also worth noting that this is not something new and will not affect how the internet works. **Such measures are already being deployed** by major platforms, such as YouTube with content identification, and are key in ensuring that creators are paid when their content is used online.

Article 13 clearly states that Member States shall ensure that the **implementation of such measures shall be proportionate and strike a balance between fundamental rights of users and right holders and shall** in accordance with Article 15 of Directive 2000/31/EC, where applicable, **not impose a general monitoring obligation**.

See compromise 14, Article 13, Paragraph 1b.

- Myth Number 3: Article 13 will breach consumer privacy / fundamental rights – FALSE

The protection of intellectual property rights is a fundamental right enshrined in Article 17 of the Charter of Fundamental Rights of the European Union.

The Council Legal Service opinion for the Working Party on Intellectual Property issued on 11 October 2017 concluded in point 22 that

"Article 13 responds to the Court's requirement of ensuring a fair balance between the competing fundamental rights which must be reconciled, and that the limitations to those fundamental rights do not appear to be disproportionate."

Moreover, Article 13 specifically clarifies that **the measures should not require the identification of individual users** and the processing of their personal data and **should be in full compliance with the General Data Protection Regulation**.

See compromise 14 Article 13, Paragraph 2.

See also Council Legal Service opinion for the Working Party on Intellectual Property issued on 11 October 2017, point 20.

- Myth Number 4: In the case of a wrongful deletion, users will have no right to complain – FALSE

On the contrary, Article 13 specifically provides that if any content is wrongfully removed by the platforms, **consumers have access to effective and expeditious complaints and redress mechanisms**, at a much higher standard compared to what is already currently available for consumers.

See compromise 14 Article 13, Paragraph 2.

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- Myth Number 5: Article 13 will affect the entire internet (including Wikipedia and Open Source Software) – FALSE

Article 13 actually only concerns platforms that host artistic and creative content protected by copyright and that optimise, categorise and curate creative works and specifically **excludes services acting in a non-commercial purpose such as online encyclopaedias** -so no impact on Wikipedia(!)- as well as **educational and scientific repositories**, providers of **cloud services (DropBox), open source developing platforms, online market places** and all services where content is uploaded with the authorisation of all concerned right holders.

See compromise amendment 2, Article 2, point 4a new of the JURI text

- Myth Number 6: Article 13 will kill memes – FALSE

Again, Article 13 only creates an obligation at the level of the services and not on the consumers. People will still be able to access and post their content freely on 9GAG, Facebook or other platforms.

It must be noted that in most cases memes and mash-up are and will continue to be covered by existing copyright exceptions (i.e. parody, criticism, citation, etc.). Therefore, they by definition can be created and posted by citizens on the basis of such exceptions.

- Myth number 7: The proposal would impose a link tax – FALSE

Users sharing links to news publications on social media are not affected.

All acts of hyperlinking are clearly excluded from the scope of Article 11.

See compromise 12 on Article 11 Paragraph 2a new

What Article 13 actually does is ensure that artists and creators have more power in determining the conditions under which their work is exploited online and that they are fairly remunerated by online platforms for the digital use of their works.

We are attaching the actual text concerning Articles 11 and 13 as was approved and would invite you all to read it and formulate an informed opinion without caving in to spam campaigns and misinformation funded by the US tech giants.

Best Regards and we remain at your disposal should you require any further information.

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