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19th June 2018

Subject: Consumer interests at risk in vote on Copyright reform

Dear Member of the JURI committee,

I am writing on behalf of BEUC, the European Consumer Organisation, in view of the upcoming vote on 20 June on the JURI report on the Directive on copyright in the Digital Single Market.

European copyright laws play a key role in consumers' digital activities. They define what consumers can or cannot do with copyrighted content online, what to access and under which conditions. It is therefore crucial that the ongoing reform of the EU's copyright framework puts consumers' interests first. Unfortunately, that is not what will happen if some problematic Compromise Amendments are adopted.

Please find below our voting recommendations regarding Article 13 for the vote on 20 June that would protect consumers' interests.

1. Article 13 - Please **reject **Compromise Amendment 14** and **support** **alternative Compromise Amendment 14bis****

Compromise Amendment 14 goes against consumers' interests

First, the obligation for online platforms to take filtering measures irrespectively of whether they provide an 'active' or 'passive' service is incompatible with a key principle of the e-Commerce Directive ('Safe Harbour exception'), thanks to which many digital services have developed enabling consumers to benefit from a vibrant online economy.

Second, a right of access to court on its own as suggested on Article 13 (2) of Compromise Amendment 14 is not sufficient to ensure that the exceptions and limitations that consumers benefit from are directly enforceable.

That is because exceptions and limitations are not qualified as users' rights and cannot be enforced by users. Only with the introduction of a right of use under an exception or limitation, which currently does not exist, will exceptions and limitations be enforceable against technical protection measures and contractual agreements.

Compromise Amendment 14bis puts consumers' interests first

The alternative Compromise Amendment 14bis puts consumers interests' first by ensuring that the proposal provides rights not only to rights holders but also to consumers who drive the growth of the cultural sector in Europe. In addition, this is the approach followed by Amendments 55 and 69 of the Opinion of the [IMCO](#) Committee (MEP Catherine Stihler, Rapporteur) and by Amendments 9 and 12 of the Opinion of the [LIBE](#) Committee (MEP Michal Boni, Rapporteur).

2. Lack of a user-generated content exception - Please **reject **Compromise Amendment 14** and **adopt alternative** **Compromise Amendment 58****

Compromise Amendment 14 also stipulates that licensing agreements shall cover the liability for works uploaded by the users. BEUC disagrees with this approach because it is not future proof and does not provide the necessary legal certainty for the users that do not have access to such agreements.

Instead, we believe that the **introduction of a mandatory user-generated content exception as proposed in Compromise Amendment 58** – in full compliance with the ‘three-step test’ – would better ensure the much-needed legal clarity and enable consumers to lawfully share their own generated content without being worrisome of facing legal troubles.

This approach to establish a user-generated content exception was also the one taken by the IMCO Committee (Amendment 55).

We kindly urge you to take these considerations into account in order to establish a copyright framework which responds to consumers’ needs and expectations, and we remain at your disposal for any questions you might have.

Yours sincerely,

Frederico da Silva
Legal Officer