

The End of MEMEs and The Attack on Fundamental Rights

#censurmaskine

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Welcome



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Article 11

Article 13



Legal liability for online services with user-generated content

[A]n online content sharing service provider is performing an act of communication to the public [..] when it intervenes in full knowledge of the consequences of its action to give the public access to the copyright protected works or other protected subject matter uploaded by their users by organising these works or other subject matter with the aim of obtaining profit from their use.

tl:dr Online services with user-generated content

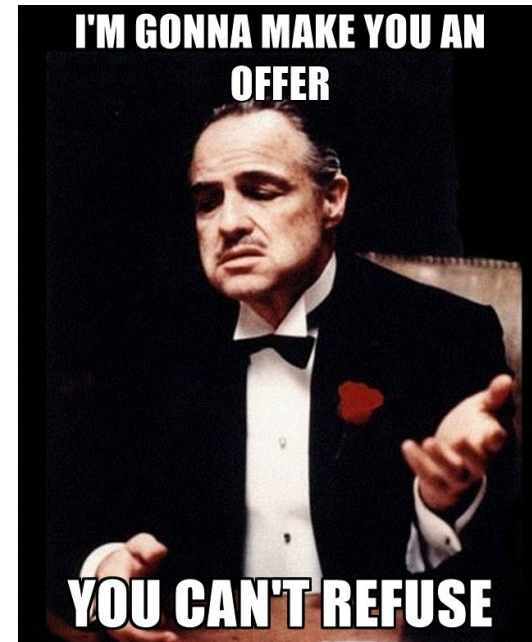
Online content sharing service provider

Article 2 - definition (5)

‘Online content sharing service provider’ within the meaning of this Directive is a provider of an information society service whose main or one of the main purposes is to store and give access to the public of a significant amount of copyright protected works or other protected subject-matter uploaded by its users who do not hold the rights in the content uploaded;

TL;DR Any user-generated content. It's impossible to know whether user uploads are protected by copyright.

Content filtering:
An offer online service
providers cannot refuse



[A]n online content sharing service provider [..] shall not be liable provided that it

- (a) takes effective measures to prevent the availability on its services of unauthorised works [..] identified by rightholders, and
- (b) upon notification [..] acts expeditiously to remove or disable access to the specific unauthorised work [..] and prevent its future availability through the measures referred to in sub-paragraph (a)

TL;DR Do what YouTube is doing

Article 13 is based on YouTube's ContentID filter.

Content filtering serves two purposes

1. Enforce license agreements for the copyrighted works that the copyright holders will allow to be uploaded by users
2. Block copyrighted works that are not covered by licence agreements

Licence the internet..
The old dream of copyright
holders

10 Hours of Low Level White Noise



You have 5 copyright claims on your video.

VIEWING RESTRICTIONS None

MONETIZATION Monetized by claimant [i](#)

If you agree with these conditions, you don't have to do anything.

[Learn more](#)

Details

CONTENT	CLAIMANT	POLICY	
White Noise (Majestic Ocean Waves) - White Noise Sleep Therapy Sound recording 6:29:53 - 6:36:17 play match	catapultdistribution On behalf of: White Noise Sleep Therapy	Monetized by copyright owner	Remove song i File a dispute i
En Modo Mudo - Mamífero Sound recording 3:51:30 - 3:52:11 play match	dig dis On behalf of: El Muelle Records	Monetized by copyright owner	Remove song i File a dispute i
White Noise (Soothing Baby Sleep) - White Noise Sleep Therapy Sound recording 8:52:32 - 8:53:37 play match	catapultdistribution On behalf of: White Noise Sleep Therapy	Monetized by copyright owner	Remove song i File a dispute i
Ruído de Brown - Céus louros Sound recording 2:50:47 - 2:52:57 play match	[Merlin] Symphonic Distribution On behalf of: Rachel Conwell	Monetized by copyright owner	Remove song i File a dispute i
White Noise Solo - White Noise Sleep Sound recording 1:00:58 - 1:05:57 play match	[Merlin] Absolute Label Services On behalf of: Silent Knights	Monetized by copyright owner	Remove song i File a dispute i

Arguments in favour of Article 13

Value gap with music creators

- YouTube pay < Spotify pay
- But.. YouTube is already complying
- Only effect: new costs for competitors

Competition: YouTube vs the market

- Licensing discount for YouTube
- But.. YouTube is already complying

Block copyright infringement

- Pirate sites will not implement filters
- But.. Filters fail: exceptions treated as violations

When Filters Fail



- Cat purrr copyrighted by EMI Music
- Harvard Law School - Class on “Copyright Law”
- NASA recording of Mars Landing
- Filters against artists
- Warner Bros Pictures reports on its own websites

Who gets the punch?

#SaveTheMeme - Internet Culture

#SaveCodeShare - FOSS

#RightCopyright - Education

#CreateRefresh - Creative Workers



The Average Internet User

- citation
- meme
- parody

I really think Jagger is right when she says that we perceive different aspects of life, according to how we feel. At some point, she states that "we remark very different features of the world when we are happy, depressed, fearful or confident".

Friends Post



COPYRIGHT LAWS

*Just when you thought it was safe to take the *****

Researchers

Open Access to
Knowledge

EU Open Access Policy

Public Funds = Public Knowledge

1250 EU Open Science repositories run as NGO

- Financial constraints/bankruptcy
- Legal risks - Intermediary liability
- Administrative difficulties

Businesses

Freedom to conduct a business

- Copyright holders set the terms: filtering
- Filtering is costly and monopolised
- Your users will hate it

Take your chances without filters? Risky..

- Copyright violations by users = your legal risk
- Copyright holders can collect info on violations
- ... and sue you when your company becomes profitable
- No venture capital on these terms!

Danish IT Startups



#CPHFTW

The tech startup community of Denmark
and the Öresund region

Subscribe to



The **GitHub** Case

Code storage

- Business, Government, NGO
- New security vulnerabilities

Code share

- collaborative software development
- endangered

/ Executive Summary

This document highlights an important aspect of the proposed Article 13 of the Copyright Directive that has so far not been sufficiently considered: namely, its likely impact on Free and Open Source Software¹ and collaborative software development, as well as on developer communities, which together underpin a software and software based services (SSBS) market which is worth EUR 229 billion in the EU (2009) and employs a workforce of 3.1 million (2013).

The proposed Copyright Directive has the clear potential to harm Europe's competitiveness and growth in this area. Importantly, it could also restrict important fundamental rights of developers and internet users, without achieving a proportionate benefit. In particular, the proposed Article 13 could create barriers for the development of source code by imposing liability on platforms used by developers, harming a sector fundamental for the Digital Single Market. Therefore, both OFE and the FSFE consider that the proposed Article 13 should be redrafted in order to be consistent with the existing legal framework around intermediary liability, as established by the e-Commerce Directive.

License infringement.. Then what?

Github

- legally responsible for users' infringement
- needs automated system that detects and removes cases of infringement.

BUT

- “permanent compliance assessment = expensive and Human judgment intensive
- whole industry around it (BlackDuck, Nexb, and Triplecheck)
- content recognition filters - not made for code!

What does this mean for programmers ?

- Software developers (individual/business) - continuous monitoring
- User = guilty by default
- “broken” build = lost business, lost productivity, less reliable software, less resilient infrastructure.
- More takedowns than necessary (whole repos) - just to be on the safeside



Art 13 + the world we live in

Privacy

Gone!

Freedom of Expression

Gone!

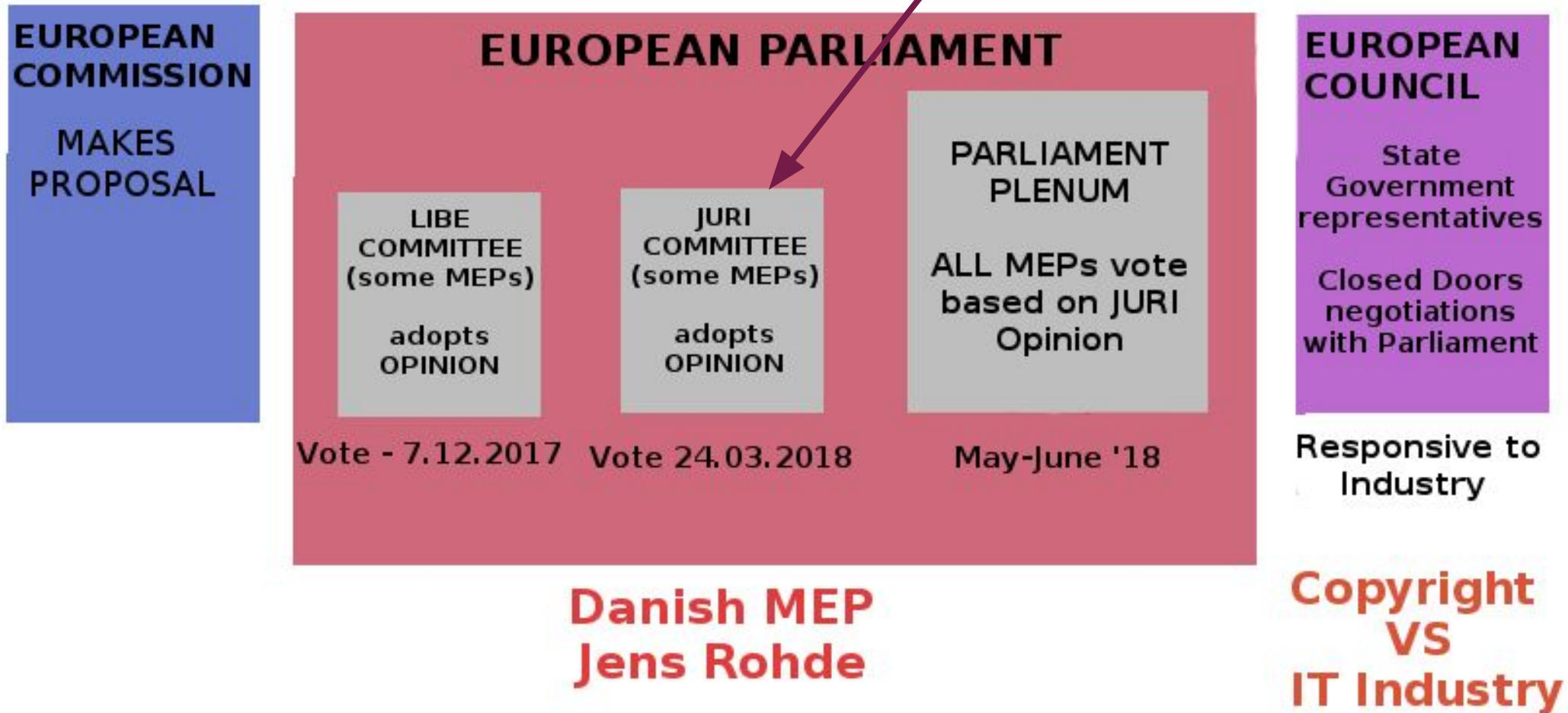
Access to Information

Gone!

Freedom to conduct a Business

G.o.n.e.!

There's still hope



What can YOU do?

- Spread the word - get more public attention
- Contact MEPs before vote in JURI
- Share your concern with Danish MPs - especially members of Kulturudvalget and Europaudvalget
- Support our Letter of Concern
- Sign up for mailing list

End of the presentation,
NOT
the end of the fight.

THANKS!

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