



Directive Proposal Copyright in the DSM / JURI CAM Article -14a

Brussels, 11 June 2018

Dear Members of the JURI Committee,

Following up on the discussions regarding article 14 to 16 of the Copyright Directive proposal, we would like to express our grave concern regarding version 2 of the draft compromise amendment on Article -14a.

As evidenced by the EU Commission impact assessment of the Copyright Directive proposal Chapter 3, and flagged regularly by the European Parliament in various recent reports and studies Europeans authors, whose creativity is at the very origin of copyright in the Cultural and Creative Industries, are afflicted with a systemic weak contractual position when they grant licences or transfer their rights to their contractual counterparts.

In the vast majority, they are freelancers with little to no social benefits, irregular workflow, no job security and unstable careers. Today, their ability to negotiate fair contracts is close to zero: **contractual freedom is meaningless to them**. This results in practice in poor contractual terms and low income.

The general principle of proportionate remuneration is therefore absolutely essential for European authors' ability to make ends meet.

The provisions outlined in Chapter 3 articles 14 to 16 are an important first step to rebalance this situation and bring more fairness in contracts of authors and performers through three specific tools to improve the systemic unbalance in contract negotiation between authors and their contractual counterparts.

In its version 2 dated from 07.06.2018, the compromise amendment proposal on article -14a actually **takes a reverse approach to Chapter 3 by stating that fairness shall be defined through the contractual relationship**, and only provides for a weak approach to collective negotiations, which is actually redundant with the compromise amendments on article 15 and 16. Such a compromise amendment would in fact defeat the purpose of Articles 14 to 16 and represent a missed opportunity for the improvement of the social and economic situation of European authors. Last but not least, it would contradict the long standing EP position in support of fair remuneration of creators in the EU.

We therefore urge you to:

- to re-introduce the **notion of proportionate remuneration** in outline a general principle for fair remuneration ;
- to **delete the mention “where possible”** in paragraph 3: such an amendment would only be misused and defeat the purpose of fair, proportionate and appropriate remuneration in contracts.
- to **oppose the inclusion of the term ‘rightholders’** (instead of ‘authors and performers’) in paragraph 1 which only brings confusion to articles 14 to 16 that should only deal with the relationship between authors and performers on one hand, and their contractual counterparts on the other hand. This legislative Proposal provides others provisions regarding the relationship between rightholders and their contractual counterparts.
- to delete paragraph 4

Instead, we urge MEPs to come back to the following and former version of Article -14:

Article -14

Member States shall ensure that contracts with authors and performers provide for fair, proportionate and appropriate remuneration of the revenues derived from the exploitation and every use of their works.

Contracts shall specify the remuneration attached to each mode of exploitation.

The European creative community is looking at the EU Parliament to support and improve the EU Commission approach to achieve a well-functioning marketplace for copyright and provide for fair remuneration in contracts of authors and performers.

With kind regards,

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European Composer & Songwriter Alliance

Mogens Blicher Bjerregård
European Federation of Journalists

Myriam Diocaretz
European Writers Council

Pauline Durand-Vialle
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