

Amendments proposed by France on the presidency compromise on the proposal for a Directive of the European Parliament and of the Council on copyright in the Digital Single Market

(document 5893/19 and ADD1)

Article 13 para 7 and recital 38b) :

- deletion of 1st sub-paragraph which refers to article 15 of e-Commerce directive (for coherence, correct recital 38b as well) :

“ ~~The application of the provisions in this article shall not lead to any general monitoring obligation as defined in Article 15 of Directive 2000/31/EC~~”.

- or amend the recital 38b : *“The obligations established in Article 13 should also not lead to Member States imposing a general any monitoring obligation not based on content identified by rightholders”.*

Rationale : The reference to article 15 of e-Commerce directive is not consistent with article 13 para 3 which entails that the eCommerce directive, for the purpose of this copyright directive, never applies the services. In addition, this sentence is not justified by the Council and the EP mandates. The suggested edit aims at taking into account the concern expressed (no abstracto monitoring), while, at the same time, remaining consistent with the logic of the text as reflected by both mandates.

Recital 38d, 2nd para : licencing agreements concluded between users and rightholders

- deletion of 2nd para
- or complete it : « When the users demonstrate that they have explicitly been authorised by the rightholders to upload (...)... ».

Rationale : the recital should not jeopardize one of the main objective of the article 13 which is to oblige services which communicate to the public to conclude licensing agreements with rightholders.

Recital 37 : contractual freedom

"However, as contractual freedom is not affected by these provisions, the rightholders should not be obliged to give an auhorization or to conclude licensing agreements nor to propose an offer or to enter into any negotiation".

Rationale : it should be clarify that rightholders do not have an obligation neither to conclude agreement, nor to enter into negotiation with platforms.