

COMP Art 13 (Value-gap)

Compromise by Rapporteur on Article 13 covering Am. 72 (Rapporteur), Am. 73 (Rapporteur), Am. 74 (Rapporteur), Am. 75 (Rapporteur), Am. 76 (Rapporteur), Am. 510 (Giorgos Grammatikakis, Julie Ward), Am. 515 (Sylvie Guillaume, Pervenche Berès, Virginie Rozière), Am. 516 (Robert Rochefort), Am. 517 (Stefano Maullu), Am. 518 (Dietmar Köster), Am. 519 (Emma McClarkin, John Procter), Am. 520 (Silvia Costa, Luigi Morgano), Am. 521 (Santiago Fisas Aixelà), Am. 522 (Giorgos Grammatikakis, Mary Honeyball, Julie Ward, Theresa Griffin, Elena Gentile, Monika Smolková), Am. 523 (Helga Trüpel), Am. 526 (Dietmar Köster), Am. 527 (Sylvie Guillaume, Pervenche Berès, Virginie Rozière), Am. 528 (Robert Rochefort), ~~Am. 529 (Yana Toom, Catherine Stihler, Dita Charanzová)~~, Am. 530 (Dietmar Köster), Am. 531 (Sylvie Guillaume, Pervenche Berès, Virginie Rozière), Am. 532 (Robert Rochefort), Am. 533 (Emma McClarkin, John Procter, Angel Dzhambazki), ~~Am. 534 (Yana Toom, Catherine Stihler, Dita Charanzová)~~ and Am. 535 (Giorgos Grammatikakis, Julie Ward, Elena Gentile, Monika Smolková).

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<i>Text proposed by the Commission</i>	<i>Compromise amendment</i>
<p>Use of protected content by information society service providers storing and giving access to large amounts of works and other subject-matter uploaded by their users</p>	<p>Use of protected content by information society service providers storing and/or giving access to significant (AM 510) amounts of works and other subject-matter uploaded by their users</p>
<p>1. Information society service providers that store and provide to the public access to large amounts of works or other subject-matter uploaded by their users shall, in cooperation with rightholders, take measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter or to prevent the availability on their services of works or other subject-matter identified by rightholders through the cooperation with the service providers. Those measures, such as the use of effective content recognition technologies, shall be appropriate and proportionate. The service providers shall provide rightholders with adequate</p>	<p>1. Where Information society service providers that store and/or provide to the public access to significant (AM 518, 522, 523, 72) amounts of copyright protected (AM 524, 518, 517) works or other subject-matter uploaded by their users and play an active role, thus thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, <u>they shall conclude fair and balanced licensing agreements with any requesting rightholders (AM 72, 522, 524, 516, 515, 521, 520, 517, 520, 521, 536).</u> Under the terms of the agreements, these services shall (AM 522,</p>

information on the functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the works and other subject-matter.

515, 516, 72), in cooperation with rightholders, take measures to ensure the **effective and transparent (AM 519)** functioning of the agreements concluded with rightholders for the use of their works or other subject-matter.

Where, in the absence of a request from the rightholder, -no licensing agreements are concluded pursuant to the first subparagraph (AM 523, 518), or where information society service providers **that store and/or provide to the public access to significant amounts of copyright-protected works or other subject-matter** are eligible for the liability exemption provided for in Article 14 of Directive 2000/31/EC, those providers shall take measures to prevent the availability on their services of works or other subject-matter identified by rightholders through the cooperation with the service providers.

Those measures, such as the use of effective content recognition technologies, shall be appropriate, proportionate **and compliant with the relevant industry standards (AM 518)**. The service providers shall provide rightholders with adequate **and timely (AM 519)** information on the functioning and the deployment of the measures, as well as, when relevant, adequate reporting on the recognition and use of the **rightholders' (AM 518)** works and other subject-matter. **Rightholders shall provide the platform- information society service provider with the relevant and necessary data, ~~such as the reference file or metadata,~~ to allow the effective functioning of the measures deployed by the provider in**

	<p>application of this Article. (AM 72, 518, 522, 515, 516)</p>
<p>2. Member States shall ensure that the service providers referred to in paragraph 1 put in place complaints and redress mechanisms that are available to users in case of disputes over the application of the measures referred to in paragraph 1.</p>	<p>2. Member States shall ensure that the service providers referred to in paragraph 1 put in place effective mechanism for rightholders to request licenses and (AM 529) complaints and redress mechanisms that are available to users in case of disputes over the application of the measures referred to in paragraph 1, in particular regarding the possible application of an exception or limitation to the content concerned. When such a mechanism is activated, any remuneration accruing from the disputed content during the course of the procedure shall not be distributed to either party until such time as the dispute has been resolved under the mechanism. (AM 73)</p> <p>The complaints and redress mechanism established pursuant to the first subparagraph shall ensure that users and rightholders have access to sufficient information on the relevant exceptions and limitations that may apply to content affected by the measures referred to in paragraph 1. (AM 74)</p> <p>Any complaint filed by a user under the mechanism shall be processed by the relevant rightholder within a reasonable period of time. The rightholder shall duly justify his/her decision. (AM 74, 527, 528, 530)</p>
	<p>2.a Where information society providers take the measures referred to in paragraph 1, such measures shall be in full compliance with Directive 95/46/EC, and Directive 2002/58/EC and Regulation (EU)</p>

	<p>2016/679. Measures to prevent the <u>unauthorised making available</u> of copyright protected works or other subject-matter shall be limited to specifically identified and duly notified works and shall not consist in active monitoring of all data of each user of the service. (AM 535, 526)</p>
<p>3. Member States shall facilitate, where appropriate, the cooperation between the information society service providers and rightholders through stakeholder dialogues to define best practices, such as appropriate and proportionate content recognition technologies, taking into account, among others, the nature of the services, the availability of the technologies and their effectiveness in light of technological developments.</p>	<p>3. In order to ensure proportionate and effective or implementation of paragraph 1, (AM 534) Member States shall facilitate, where appropriate, the cooperation between the information society service providers and rightholders through stakeholder dialogues to define best practices, such as appropriate and proportionate content recognition technologies, taking into account, inter alia (AM 75), the nature of the services, the availability and affordability (AM 533) of the technologies and their effectiveness in respect of the range of types of content and (AM 533) in light of technological developments. In cooperation with the Member States, the Commission shall encourage the exchange of best practices across the Union regarding the results of any cooperation established pursuant to paragraph 1 of this Article. (AM 75, 531, 532)</p> <p>Member States shall encourage industry-led solutions to address sector-specific issues and the effective enforcement of existing measures to tackle piracy, including raising awareness of legal routes to <u>copyright protected works or other subject matter</u>. (AM 519)</p>
	<p>3a. Member States shall provide that disputes between rightholders and <u>information society providers</u> concerning</p>

	<p>Member States shall create or designate an impartial body with relevant expertise to assist the parties in the resolution of their dispute under the mechanism provided for in the first subparagraph.</p> <p>No later than [date mentioned in Article 21(1)] Member States shall notify to the Commission the body referred to in subparagraph 2. (AM 76)</p>
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Compromise by Rapporteur on Article 13a covering Am. 538 (Helga Trüpel) and 540 (Giorgos Grammatikakis, Mary Honeyball, Julie Ward, Theresa Griffin)

<i>Text proposed by the Commission</i>	<i>Compromise amendment</i>
	<p align="center">Article 13a</p> <p align="center"><i>Use of protected content by automated image referencing information society services (AM 540)</i></p>
	<p>Member States shall provide that (AM 538) information society services <u>providers</u> that automatically reproduce or refer to significant amounts of <u>copyright protected</u> visual works of art and make them available to the public for the purpose of indexing and referencing shall conclude <u>fair and balanced</u> licensing agreements <u>with any requesting</u> rightholders in order to ensure <u>their</u> fair remuneration (AMs 540, 538). <u>The management of the remuneration may be managed by the collective management organisation of the rightholders² concerned</u> (AM 538).</p>