



Brussels, 26 April 2018

Dear Deputy Permanent Representatives,

RE: Copyright – EU creative media businesses’ concerns on text to be presented at COREPER I on April 27

The Creative Media Business Alliance writes to you in view of the COREPER I meeting on Friday 27 April. On this occasion the Council may be asked to adopt a mandate for negotiations with the European Parliament on the draft Copyright Directive.

We firmly believe this would be premature as the current drafting needs to be improved in order to achieve the primary objectives of the Proposal. Consequently, we call on you to reconsider the draft text, to ensure it complies with international law and safeguards the fundamental right to intellectual property. There are many articles and recitals that are problematic for rights holders, but in the interests of brevity we refer only to a few of the most recent changes to the Presidency text.

One major concern we have is that Article 13(4) and corresponding recitals as currently drafted risk creating a new exemption from copyright liability for online content sharing service providers. This is inconsistent with the very spirit of this Proposal. We call for Article 13.4 and corresponding recitals to be deleted, or substantially redrafted, so as not to jeopardise the solutions set out in Article 13.

Secondly, the latest Presidency’s draft compromise does not provide sufficient protection of publishers’ content with regard to the digital use of their press publications. Notably, we are concerned by the reduction of the scope of the Publishers’ Right in article 11 and other changes introduced.

The provisions were meant to provide more legal certainty and improve the position of rightholders. This is now in jeopardy despite welcome improvements in other areas of the text.

We trust a solution can be found for these issues in a way which would not negatively impact the norms of international and EU copyright law. We urge you to further work on the text to ensure legal certainty is reached. We remain of course at your disposal for any further input.

ABOUT THE CREATIVE MEDIA BUSINESS ALLIANCE (CMBA)

We are an alliance comprised of trade associations and individual companies active in the advertising, broadcasting, film, music and publishing sectors. The Creative Media Business Alliance (CMBA) represents a wide range of activities of the different content industries. Business and Trade Association Members are set out below.

Creative and media industries are key contributors to our digital society and economies, which are to the benefit of all European citizens. Our sectors have fully embraced the digital transformation and are at the forefront of building Europe’s Digital Single Market. We continue to do so every day and we wish keep on in the long-term future.

<https://cmba-alliance.eu/>