



VvA 12 June 2020

Best practices for cooperation of
rightholders and OCSSPs under article 17
of Directive (EU) 2019/790



Welcome speakers and attendees!

Vereniging voor Auteursrecht
(Dutch Copyright Association)

www.verenigingvoorauteursrecht.nl

- 3 (physical) scientific meetings per year
- AGM postponed to 30 October 2020
- ALAI Barcelona 17-20 June 2020 cancelled, to be rescheduled



13.30 - 13.40	Introduction
13.40 - 14.50	Presentations by the panelists
14:50 – 15:30	Panelists to comment on other panelists and answer questions from the audience



Questions?

Use the chat and state which panelist you would like to respond to your question:

Question for Kristina: What would be a best effort to prevent future uploads?



Need a certificate of attendance for permanent education points?

- enter your full name and email address in the chat at the beginning of the webinar (now) and at the end of the webinar, followed by “PO”

Jacqueline Seignette
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Article 17

Use of protected content by online content-sharing service providers (OCSSPs)

purpose: ensure that rightholders are appropriately remunerated and (so that) users can continue to upload content

means:

- require OCSSPs to obtain licenses, also on behalf of non commercial uploaders and commercial uploaders who do not generate significant revenues; Article 17(2))
- clarify OCSSP liability in the absence of license agreement (Article 17(4))



17(4):

absent licensing agreement OCSSP is not liable for unauthorized content provided he

- 1) made **best efforts to enter into agreement**
- 2) makes best efforts to make content for which rightholders provided the relevant and necessary information unavailable (*filtering*)
- 3) acts expeditiously to **block or remove upon notice** (*take down*)
- 4) makes **best efforts to prevent future uploads** (*stay down*)



17(7):

cooperation between rightholders and OCSSPs under Article 17(4) may not result in the prevention of the unavailability of content that is not infringing or exempted

17(8):

no general monitoring obligation

17(9):

effective and expeditious complaint and redress mechanism for users in the event of disputes

- complaints processed without undue delay
- impartial out of court redress



*Member States to implement Directive by 7 June 2021
Proposal introduced in Dutch Parliament on May 12*

17(10):

- *EC to organize stakeholder dialogues to discuss **best practices for cooperation between OCSSPs and rightholders***
- *EC to issue **guidance on the application of Article 17, in particular regarding the cooperation referred to in 17(4).***
- *when discussing best practices, special account shall be taken, among other things, of the need to balance fundamental rights and of the use of exceptions and limitations.*



Many questions, e.g.

- *what is a best effort to obtain an authorization? What is the role of CMOs?*
- *what kind of information does the rightholder have to provide to the OCSSP?*
- *what automated content recognition software should the OCSSP use? Should it be standardized, self-learning? Should the matching database be managed locally at the OCSSP or centrally?*
- *what is a best effort to prevent future uploads?*
- *how to deal with non-infringing partial copies and exempted uses if automated content recognition technology is not yet capable of recognizing them as such?*
- *what protocol should OCSSPs apply to respond to users complaining that their content is blocked unnecessarily?*



- Kristina Janušauskaitė – Director of European Legal Affairs, IFPI (representing the recording industry worldwide)
- Aedín Conboy – Senior Policy Officer EDiMA (trade association for online platforms and other innovative tech companies)
- Hanneke Holthuis – General Counsel Pictoright (CMO for visual artists in the Netherlands)
- Frederico Oliveira da Silva – Legal Officer BEUC (European Consumer Organisation)
- Charlotte Lund Thomsen – Legal Counsel to FIAPF (International Federation of Film Producers Associations) and to IVF (International Video Federation, Publishers of Audiovisual Content on Digital Media and Online)
- João Pedro Quintais – Postdoctoral researcher and lecturer Institute for Information Law, Amsterdam
- Marco Giorello – Head of Copyright Unit (I.2), European Commission