

Copyright Directive: Alert for Technical Intermediaries
Is France pushing for the ban on hosting websites in Europe?

As soon as the draft Copyright Directive was presented in September 2016, digital associations warned of the risk of undermining the liability regime of hosting service providers. As work progresses at the European level, the Association of Community Internet Services (ASIC), France Digitale, Syntec Numérique and TECH IN France wish to express their deep concerns in view of the current discussions on Article 13 of draft Directive.

Article 13 of the draft Copyright Directive would force hosting service providers (whether storage providers, merchant sites, social networks or video platforms) to actively monitor and filter user-generated contents, with strong obligations in terms of detection and removal of copyright contents.

Such obligations would thus undermine the liability regime provided for hosting providers under the e-Commerce Directive in the EU and under the Law for Confidence in the Digital Economy in France. This liability regime that has proved to be fundamental for the development of the Internet in France and Europe.

In addition, the Estonian Presidency of the European Union has called on the Member States to consider measures that would openly undermine the **liability regime of hosting service providers**¹, and to decide on an extension of copyright that would automatically make intermediaries liable, in contradiction with the liability regime in the e-Commerce Directive².

The implementation of such an obligation would require a systematic pre-selection by the hosts of every single file sent by a user prior its release and would, therefore, threaten not only the functioning of these services but especially everyone's access to the free expression and to the tools supporting creativity online. Hosting services would become de facto the sole judges, ex ante, of what can or cannot be accessible on the Internet.

As a result, beyond the impact on intermediaries, the planned measures would necessarily lead to a restriction of European citizens' fundamental rights on the Internet. This analysis is shared by more than fifty European academics³ and an open letter on the issue⁴ was signed by nearly 60 NGOs across Europe who defend fundamental freedoms.

The signatories therefore call upon France to defend the **liability regime of hosting service providers**, which is compatible with implementing effective copyright protection. We ask that a proper consultation of stakeholders is launched by the Government as soon as possible.

¹ Article 14 of the e-Commerce Directive 2000/31

² Article 3(1) of the Directive on Copyright in the Information Society 2001/29

³ https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3054967

⁴ <https://www.liberties.eu/en/news/delete-article-thirteen-open-letter/13194>

About France Digitale

Founded in 2012, France Digitale brings together 700 startups and digital investors. Its mission is to create the conditions conducive to the emergence of digital champions in France. The board of directors is composed of 10 entrepreneurs and 10 investors (venture capital funds and business angels). Entrepreneurs: Patrick Amiel (MyBestPro), Eric Carreel (Withings), Nicolas Cohen (A Little Market / Etsy France), Stéphanie Delestre (Qapa), Mickaël Froger (Lengow), Jean-Daniel Guyot (Captain Train), Jérôme Lecat (Scality), Olivier Mathiot (PriceMinister-Rakuten), Thierry Petit (Showroomprivé) and Cyril Zimmermann (Hi-Media). Investors: Nicolas Céliier (Invest&+), Jean-David Chamboredon (ISAI), Philippe Collombel (Partech Ventures), Guillaume Dupont (CapHorn Invest), Marie Ekeland (Daphni), Claire Houry (Ventech), Xavier Lazarus (Elaia), Emanuele Levi (360 Capital Partners), Xavier Lorphelin (Serena Capital) and Patrick Robin (Business angel).

Press contacts: Kalima Agency - Mélissa Rancé / Tygénia Saustier - mrance@kalima-rp.fr – 0144908252 / 0610917846

About the Association of Community Internet Services (ASIC)

The Association of Community Internet Services (ASIC) is the first French organization to bring together Web 2.0 players and aims to promote the development of the "new Internet". It was founded by AOL, Dailymotion, Google, PriceMinister and Yahoo! and also brings together AirBnb, Deezer, eBay, Facebook and Microsoft. ASIC is chaired by Giuseppe de Martino.

www.lasic.fr

Press contact: presse@lasic.fr

About Syntec Numérique

Syntec Numérique is the professional syndicate for digital services companies, software publishers and technology consulting firms. It brings together more than 1,800 member companies that generate 80% of the total turnover of the sector (over 50 billion euros in turnover, 447,000 employees in the sector). It has 25 major groups, 100 ISEs, 950 SMEs, 750 startups and very small businesses; 11 Regional Delegations (Hauts de France, Grand Est, Auvergne Rhône-Alpes, Provence Alpes Côte d'Azur, Occitanie, Nouvelle Aquitaine, Pays de la Loire, Bretagne, Bourgogne-Franche-Comté, Centre Val de Loire, Normandie); 16 collective members (innovation centers, associations and clusters).

Chaired by Godefroy de Bentzmann since June 2016, Syntec Numérique contributes to the promotion and growth of the digital through the development of the digital economy and its uses, support and the development of new markets, support for employment, training, services to members and the defense of the interests of the profession. Syntec Numérique is part of Fédération Syntec which brings together in its constituent unions more than 3,000 French groups and companies specializing in the fields of engineering, digital, studies and consulting, professional training, and events.

www.syntec-numerique.fr

Press contacts: Wellcom Agency - Camille Ruols / Elise Plat - +33 (0) 1 46 34 60 60 camille.ruols@wellcom.fr - elise.plat@wellcom.fr - <http://wellcom.fr/presse/syntec-numerique>

About TECH IN France

TECH IN France now has 400 members (global turnover: 8 billion euros) throughout France: large international groups including the first French (60% of Top 100 France in turnover), SMEs and startups. TECH IN France is a member of FIEEC and CINOV and participates in the management of the Syntec-CINOV collective agreement and the branch training offer.

www.techinfrance.fr

Press contact: Contact presse : Stéphanie Muthélet - +33 (0)6 18 05 12 70 - stephanie@rumeurpublique.fr - Agence Rumeur publique