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# Article 17 implementation + stakeholder dialogue



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# Article 17

- draft laws in parliament (2)
- draft laws available (3)
- nothing yet (22)



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# France

- Implemented in 2 separate articles, one for copyright and one for related rights.
- **Misses the obligation on platforms and rightholders that measures must not impact legitimate uses.**
- Legislator assumes that Art 17(7) is covered by already existing exceptions.
- 2nd stage dispute resolution via a governmental body (ARCOR)

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# Netherlands

- Three new articles in the copyright act (Art. 29a-c) and two new articles in the related rights act (Art. 19a, b).
- **Misses the obligation on platforms and rightholders that measures must not impact legitimate uses.**
- Legislator assumes that Art 17(7) is covered by already existing exceptions.
- 2nd stage dispute resolution body mentioned, but not assigned.
- Opening clause: further rules can be set by administrative decree.

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# Belgium

- A new section in Book XI on copyright and related rights (Art. XI.228)
- Contains obligation on platforms and rightholders that measures must not impact legitimate uses.
- Legislator assumes that Art 17(7) is covered by already existing exceptions.
- 2nd stage dispute resolution body not mentioned.
- Opening clause: further rules can be set by royal decree.

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# Croatia (1)

- Four new articles in the copyright and related rights act (Art.43-46)
- Includes extra language from recital 62 (pirate sites) and language against repeat use of startup privileges
- Stipulates that contracts between content-sharing service providers and authors must be fair, reasonably balanced and authors should receive appropriate compensation”.
- **Higher standard (“undertake everything in their power”) for Article 17(4) measures.**

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## Croatia (2)

- Does contain obligation on platforms and rightholders that measures must not impact legitimate uses.
- Refers to existing exceptions on quotation, incidental use, satire and parody. **Exception for pastiche is missing.**
- Tasks an existing “Council of Experts for fees in the field of copyright and related rights” with 2nd level dispute resolution.

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# Hungary

- Adds a new article to the copyright act (Art. 57)
- Contains obligation that measures must not impact legitimate uses.
- Presents two options for a new general exception:
  - (a) allows “anyone to use any work for the purposes of (...) parody by evoking the original work and by expressing humour or mockery”.
  - (b) allows “anyone to use any work for the purposes of (...) creating a parody, caricature or pastiche”.
- 2nd stage dispute resolution mechanism not mentioned.



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# Stakeholder dialogue (process)

- There have been 6 meetings of the stakeholder dialogue so far (between October 2019 and February 2020)
- Has produced a lot of position statements but not a lot of empirical evidence.
- The Commission is currently processing the input received.
- **Next step is to launch a “targeted consultation” that will give a first indication of the topics to be addressed in the guidelines.**
- Intention is to launch the targeted consultation before the summer.

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# Stakeholder dialogue (issues)

- Definition of best efforts for licensing and preventing availability continues to be unclear
- How trustworthy is rightholder information and how can abuses be prevented/sanctioned
- Filters are not capable of determining context and cannot determine if a use is legitimate or not
  - Is the complaint and redress mechanism a sufficient safeguard for user's rights?
  - Is ex-ante human review required in all cases (or in cases that are not evidently infringing)?

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**Thank you!**

