

Music Managers Forum EU perspective on Article 13 in advance of the Plenary Vote on 5 July 2018

### **A level playing field for EU artists?**

International Music Managers Forum is the world's largest network of artist representatives. Our members' (often self-managed artists') job is to develop a stable long term career for artists by developing a loyal long-standing audience. **Access to audiences, access to markets is the prerequisite for success**, only after artists have an audience base can they explore opportunities to monetise.

We are pleased with the comments from the European Data Protection Supervisor (EDPS) on the proposal for a Directive on copyright. We feel they drag the debate back to market impact assessments as well as future proofing and away from oppositional simplified "user vs rights holder" narratives. Our concern on the proposal for a Directive is not in the headlines, it's in the details.

*"[#4 Clarity] Article 13... The EDPS notes arguments that this may be seen as placing an obligation on companies within a broad and amorphous sector of the economy either to enter into a licence agreement with all potential rightholders, or else to select what content may be uploaded onto their platforms 'based on information provided by rightholders'. We note that the cost and feasibility of the alternative approaches – licensing or selecting content – has been disputed. Legal certainty and clarity of this provision is therefore essential to avoid disproportionate or unnecessary limitations on the exercise of fundamental rights as well the possible impact on competition."*

**Formal comments of the EDPS on a Proposal for a Directive on copyright - - 3 July 2018**

[https://edps.europa.eu/sites/edp/files/publication/18-07-03\\_edps\\_formal\\_comments\\_copyright\\_en.pdf](https://edps.europa.eu/sites/edp/files/publication/18-07-03_edps_formal_comments_copyright_en.pdf)

Since it was published in September 2016 our EU members have consistently been concerned about Article 13's impact on competition for EU artists and their access to markets. If platforms "*select what content may be uploaded*" it could be advantageous for key rightholders. Further the cost and feasibility for platforms additionally acquiring (finding, identifying, verifying) licenses from emergent SME artists across the EU is a big issue. A move away from low barrier platforms (like the ones leveraged by US artist Chance the Rapper<sup>1</sup>) will reduce EU artists routes to market. And if all artists are funnelled onto high volume platforms which are vulnerable (in terms of user retention) to the withdrawal of key Anglo-American content, can those platforms provide a level playing field for EU artists? How does Article 13 help tomorrow's generations of digital first EU artists? What is the possible impact on competition?

### **What is working?**

The electronic music scene embraces digital innovation and has led recent EU music export success. DG Education and Culture's encouraging "[Music Moves Europe](#)" agenda seeks to support EU artists towards export success. However since digital lowered market barriers East Asian and LATAM artists (developed in markets with less Anglo-American focus than EU markets) have been succeeding in the lucrative US and global markets. Post digital disruption opportunities are crystallizing for artists, and any new policy needs to support access to markets for EU artists.

IMMF's EU members are not positioning themselves on the extremes of the polarised Article 13 narrative, we seek a middle ground and echoes of EU members concerns are heard in the comments of libraries and academics:

*"Article 13 ... what will become a filtering obligation that benefits big players."*

*"The evidence on past measures, such as the provisions accompanying the term extension directive, show that benefits go to major rightholders"*

*The Copyright Directive: Academic Statement - 29 June 2018*

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<sup>1</sup> [https://en.wikipedia.org/wiki/Chance\\_the\\_Rapper](https://en.wikipedia.org/wiki/Chance_the_Rapper)



[https://www.create.ac.uk/wp-content/uploads/2018/06/Academic\\_Statement\\_Copyright\\_Directive\\_29\\_06\\_2018.pdf](https://www.create.ac.uk/wp-content/uploads/2018/06/Academic_Statement_Copyright_Directive_29_06_2018.pdf)

So that the EU's music creators do not miss the opportunity to progress the DSM in this current parliament we would like to see the Directive honed further by MEP's. If under the sudden spike in interest in the Directive it is found lacking during the next stage of deliberations, we fear all will be lost in a political gridlock. An appreciation for future proofing will ensure that the EU delivers on it's ambition to create digitally relevant policy for artists. The reports by LIBE (Michał Boni EPP) and IMCO (Catherine Stihler S&D) committees preserve creator benefits, and are a balanced basis for parliament to create a robust proposal. We need changes of detail not of scale, in order to safeguard reform the plenary vote needs to reject the JURI report, and reopen the file to amendments.