



BAPLA - In Support of the Copyright Directive Proposal, 19th June 2018

#MakeInternetFair #ValueOurImages #CopyrightSupportsCreators

About BAPLA

BAPLA members provide a 'vital economic link' for many professional photographers, supporting their ability to derive income and reinvest in their creativity.

Founded in 1975, [BAPLA](#) is a major trade association for picture libraries and agencies. We have a broad and diverse membership of image rights holders and purveyors, from sole traders to major news, stock and production agencies, as well as SMEs, archives and cultural heritage institutions. Our members are the main source of licensed images you see every day in print and digital media, and as such have contributed to the European economy for over 40 years.

The images sector has always been about growth and innovation, adopting new technologies as they arise in order to meet with customer demands.

BAPLA has always championed the recognition of marketplace value of photography. **Our image licensing market is the second largest global market in the world¹**. During that time BAPLA members have invested heavily in technological innovation allowing them to move from analogue to digital, digitising millions of images of great historical and artistic value in order to offer access to digital copies.

Significant investment is made on an ongoing basis in accurate keywording and adding metadata, allowing for seamless customer experience on the one hand, and full remuneration of the creators on the other. **BAPLA members generate revenue for, and manage the interests of over 120,000 creators and rights holders, encompassing a breadth of experienced and new young image-makers across Europe.** Licensing online is the significant driver of the image industry.

Support for the Copyright Directive Proposal

In response to the final draft of the DSM proposed copyright directive, **BAPLA fully and comprehensively supports ratification of the Copyright Directive without change or compromise to the text**, which looks to provide new technical measures to encourage a modern EU copyright regime, and includes a fairer marketplace to redress the imbalance online.

The past five years creative industry rightholders have been significantly disadvantaged online as tech giants, in particular **online content sharing service providers, have taken advantage of the 'liability loophole'** featured in the E-commerce Directive hosting defence². These platforms have commercially exploited content they host with 'no remuneration' passing back to image rightholders, such as photographic agencies and photographers, whose works have been used on a mass scale. Current practices also compound the issue of copyright infringement. Therefore we welcome the changes that set to redress this imbalance.

Article 13

BAPLA fully and comprehensively supports Article 13.

¹ GSIM Report 2012 - http://www.stockimagemarket.uni-hd.de/downloads/GSIM_Survey_2012_Part_III.pdf

² E-commerce Directive, Article 14 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32000L0031&from=en>

The compromise draft of Article 13 reasserts the law in respect of online uses of copyright works. First, the works must be used with the right holders' permission. When a licensing agreement is not possible, online platforms must undertake best efforts to help right holders police infringement. These obligations are consistent with the European Union's international obligations and the objective of affording a high level of protection to right holders as set out in the recitals to the proposed Directive.

It is categorically not the case, that online platforms will be under overly burdensome obligations. The measures which they are obliged to take to help protect copyright are to be appropriate and proportionate to the operations of the platform. The financial burden of chasing infringements and providing relevant information to the platforms remains with the rightholders. From their perspective, they get very little in return: no compensation, no positive obligation on online platforms to actively - out of their own initiative - to seek to identify and license user-uploaded content belonging to third parties.

We are facing a Value Block

The value gap (or as we phrase it 'value block' as no monies return to image rightholders from 'online content sharing service providers') created by such platforms has displaced the normal economic return for rightholders to such an extent that our industry is now in demise. **This 'Value Block' affects all image rights holders who depend on commercial licensing.** We held enormous hope upon reviewing the initial proposed EU copyright directive in 2016 that at last we would see the redress of the economic impact imposed by the rise of content-rich service provider platforms that are displaying and distributing our members' images without their permission. We continue to hope that Article 13 (unamended) is supported.

Crucially, **Article 13 is a meaningful article for image rightholders** to enable them to reinforce their copyright online, with the technical support of platforms, to uphold copyright law and the rights of creators.

Many of BAPLA's members have had little recourse to challenge platforms simply because our members are deemed less significant as a consequence of having less resources and the burden of handling millions of infringements. ISPs and social media platforms acting as intermediaries are no longer 'mere conduits'; they not only curate what users see, they also drive traffic to legitimate sources down, facilitate commercial infringements, and conduct third party commercial licensing deals. **Without these full and appropriate legislative measures**, to support rights owners' abilities to enforce their rights in a fair and appropriate manner for rights owners, **it will be impossible to redress the damage inflicted.**

Balance needs to be restored to support creative micro businesses across Europe expeditiously. We therefore call on legislators to implement the new copyright directive containing the crucial Article 13 value-gap provisions without delay.

A vote to support Article 13 and the Copyright Directive, is a vote in support of image rightholders.

Yours sincerely,

Isabelle Doran
BAPLA Chair

<http://www.bapla.org.uk/>