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Dissecting the EU's Directive on Copyright: Implications for Creative Tools, Collaboration Sites, and End-users.

Jacob Jensen¹

Technology complicates copyright law. One of the best examples of this is the World Wide Web, which has caused debate over whether to favor copyright holders or internet hosting and distribution sites in copyright legislation. This conflict has produced disparate results in a wide variety of nations, but one consistency that transcends boundaries has been the protection of internet sites that host and distribute media from liability in copyright litigation. The European Union's (EU) new *Proposal for a Directive of the European Parliament and of the Council on Copyright in the Digital Single Market*² is the yet-to-be approved directive that will likely pass this year. It is a strikingly different example of a copyright law because it privileges rightsholders³ over hosting sites.⁴ While many view this proposal as a solution to difficulties rightsholders face in receiving compensation for their work, the EU's model creates an unjust burden on the average end-user⁵, especially in terms of online collaboration sites and creative tools.

While much of the opposition to the EU's directive has been lobbying from internet giants such as Google, many internet users would be negatively affected by this new take on copyright enforcement. Unfortunately, some of the greatest flaws in the directive are obscured by lobbying from internet giants.⁶ Due to the obscured view of the proposal's implications, advocates of the directive largely dismiss the other potential problems that might stem from the

¹ Jacob Jensen is a sophomore at Brigham Young University majoring in Art History. He would like to thank Tanner Hafen for his invaluable contributions as editor for this paper. He would also like to thank the editing board and Kris Tina Carlston for their direction and feedback on this paper.

² *Commission Proposal for a Directive of the European Parliament and of the Council on Copyright in the Digital Single Market*, at 29-30, COM (2016), 593 final, (Sep. 14, 2016) [hereinafter *Proposal*].

³ "A person or organization that owns the legal rights to something" *rightsholder*, WIKTIONARY (Nov. 28, 2018), <https://en.wiktionary.org/wiki/rightsholder>.

⁴ *Commission Proposal for a Directive of the European Parliament and of the Council on Copyright in the Digital Single Market*, *supra* note 2, at Article 13. The proposal itself calls for "measures to ensure the functioning of agreements concluded with rightsholders for the use of their works...such as the use of effective content recognition technologies." For convenience, we will refer to such technologies as "filters", "content filters", or similar.

⁵ A person who uses an item of commerce for its designed purpose; -- contrasted with those who produce or resell the item or incorporate the item into another product. *end user*, WIKTIONARY (Nov. 26, 2018), https://en.wiktionary.org/wiki/end_user.

⁶ Mike Masnik, *Legacy Copyright Industries Lobbying Hard for EU Copyright Directive... While Pretending That Only Google is Lobbying*, TECHDIRT (Dec. 12, 2018, 9:32 AM), <https://www.techdirt.com/articles/20181212/07074641205/legacy-copyright-industries-lobbying-hard-eu-copyright-directive-while-pretending-that-only-google-is-lobbying.shtml>.

directive's requiring of content recognition filters. This paper will seek to reveal some of the flaws in the proposal.

Typically, originality is seen as a good trait in legislation, but it can also lead to unintended consequences which should be avoided since the internet is such an essential part of everyday life. In seeking to update copyright law to be fairer to rightsholders, the EU should base changes on successful copyright law like the United States' Digital Millennium Copyright Act (DMCA), which is described in the next section, and should be beneficial to media creators, business and hosting site creators, and end-users. Additionally, collaboration-based sites like Dropbox, Google Drive, and Git Hub should be given exceptions to filtering requirements so that users may have instant access to the materials they are working with.

To prove this claim, this paper will set forth the fundamental aspects of copyright and moral rights in section I, investigate the different claims of parties arguing for and against the proposal in section II, demonstrate the flaws in the directive in section III, address the DMCA as a model in section IV, provide suggestions to improve the directive in sections V, VI, and VII. The suggestions in this paper are not comprehensive, nor do they all apply to the EU proposal as it now stands. Instead, this paper addresses problems that have arisen in different drafts of the directive or which may appear in other legislative courts in the future. These less-imminent problems are included since they could return to legislation in the near future.

I. Background

A. Copyright

Copyright enables the creator of an original work to control the distribution and use of their ideas, typically for a limited time. Most countries that have copyright law have very specific rules and regulations, including limitations and exceptions to the power of rightsholders, primarily through fair use.

Fair use refers to certain exceptions to copyright law permitted to individuals, businesses, and the press, aimed at preserving free speech and open discussion. Among the different categories of fair use are parody, commentary, criticism, and certain educational purposes, especially in research. Fair use can range drastically in its coverage between different countries and doesn't exist at all in many jurisdictions. Some countries, including the United Kingdom, have a different framework.

Historically, copyright law has been enforced primarily through personal copyright-holder enforcement. Owners of copyrighted material were responsible for investigating illegal uses of their media, requesting removal of that media, and pursuing litigation. Since this system does not require hosting sites to patrol user uploads, entire businesses have emerged to seek out instances of copyright infringement and sell that information to copyright holders so that they may pursue litigation against copyright infringers.⁷

The DMCA is the United States' solution to problems of content hosting site's liability. It creates provisions under which a site might be liable. For example, if the site had prior knowledge of unlicensed materials being hosted and chose not to remove them. The act also

⁷ For example, the unlicensed-copyrighted materials filtering business Digimarc.

allows rightsholder to notify a hosting site if there are unlicensed media being hosted, after which the site becomes liable if they are latent in, or fail in, removing the media.⁸

Secondary liability is a facet of common law that can make an indirect violator of copyright—for example someone who assists in or causes a direct violator to break copyright law—also liable for the infringement.⁹ Much of the discussion about the EU’s directive on copyright is about the way it extends secondary liability,¹⁰ will be covered in more depth later.

B. Moral Rights

The justifications for European and American copyright law are fundamentally different. European copyright law is intended to defend moral rights, the philosophy that copyrighted materials are owned by the creator and can only be used with permission from them.¹¹ While the moral rights of attribution and integrity are acknowledged almost everywhere, the moral right to economic interests is principal in European law, while American copyright law exists to encourage innovation and creation in the absence of economic moral rights.¹² The extent of creators’ rights differs between countries even in the European Union, ranging from having absolute control of creative use, even after selling their rights, to having no say in creative changes after they license their rights to other parties.¹³

Sections of this paper will make claims that only apply to one perspective or the other. However, the aggregate argument is intended to resolve the question of liability in copyright regardless of stance on moral rights.

C. The Internet and the Digital Age

⁸ 17 U.S.C. § 512.

<https://www.law.cornell.edu/uscode/text/17/512>

⁹ Truan Savage, *Avoiding the Next Napster: Copyright Infringement and Investor Liability in the Age of User Generated Content*, 4 Mich. Bus. & Entrepreneurial L. Rev. 261, 269 (2015) (the information that appears on this page).

¹⁰ John Schranz, *Q and A on the draft digital copyright directive*, EUROPEAN PARLIAMENT: PRESSROOM (Jan. 11, 2019), <http://www.europarl.europa.eu/news/en/press-room/20190111IPR23225/questions-and-answers-on-issues-about-the-digital-copyright-directive>. “By increasing legal liability, the draft directive will increase pressure on internet platforms/news aggregators to conclude fair remuneration deals with the creators of work through which the platforms make money.”

¹¹ *Study on the Moral Rights of Attribution and Integrity*, U.S. COPYRIGHT OFFICE, <https://www.copyright.gov/policy/moralrights/>. “Chief among these rights are the right of an author to be credited as the author of his or her work (the right of attribution) and the right to prevent prejudicial distortions of the work (the right of integrity).”

¹² U.S. CONST. art. 1, § 8.

¹³ Berne Convention for the Protection of Literary and Artistic Works art. 6b, Sept. 9, 1886-Sept. 28, 1979, 202, https://www.wipo.int/treaties/en/text.jsp?file_id=283698#P123_20726

The arguments in this article will revolve around the way that media ‘platforms’¹⁴ are viewed in legislation and litigation. Perspectives about media platforms differ drastically between and within countries. Some view a platform as a canvas that users interact with as they please—the creators having no responsibility or liability when it comes to what the users do with the platform.¹⁵ Others, including those propagating the EU proposal, view platforms as publishers—expected to make licensing deals with rightsholders and liable for any copyright infringement that takes place on their servers.¹⁶

Content Recognition Filters are software that websites employ to scan file uploads from users for similarities to copyright protected media, blocking the uploading of anything deemed too likely to be a copyrighted work. Different examples of this exist across the internet. One example of this is YouTube’s Content ID¹⁷, which was prompted not by legal requirement, but by a desire to make contracts with rightsholders for their music and TV streaming services.¹⁸ This is significant because it demonstrates that effective upload filters can be encouraged in the law using incentives different from the EU’s proposal. Content Recognition Filters can range in coverage from recognizing only text excerpts or individual images, to artificial intelligence-supported software that distinguish between copyright infringement and fair use (e.g. parody, commentary, criticism, etc.).

D. European Law and the directive

In EU law, the European Parliament can create directives, but it is up to each member country to decide upon some of the specific applications of that directive. While many countries may only barely meet the requirements in the directive, the differences between countries in the union could be large enough to affect international business over the internet.

II. The Current Debate

The current debate about digital copyright enforcement is based largely around two arguments: the free internet argument, and the protected internet argument. Those who advocate

¹⁴ Tarleton Gillespie, *The Politics of ‘Platforms,’* 12 NEW MEDIA & SOC’Y. 347. 348 (2010).

¹⁵ *Id.* at 356

¹⁶ John Schranz, *Questions and Answers on issues about the digital copyright directive after 13 February deal*, EUROPEAN PARLIAMENT: PRESSROOM (Jan. 11, 2019), <http://www.europarl.europa.eu/news/en/press-room/20190111IPR23225/q-and-a-on-the-draft-digital-copyright-directive>.

Under “Will the directive affect internet freedom or lead to internet censorship?”

¹⁷ David King, *Latest content ID tool for YouTube*, GOOGLE (Oct. 15, 2007), <https://googleblog.blogspot.com/2007/10/latest-content-id-tool-for-youtube.html>.

¹⁸ *See id.*

a free internet seek an open internet where users can post, share, and collaborate as they please.¹⁹ This model requires the copyright holder's own efforts to ensure copyright law is observed. The protected internet argument claims that the internet should be a safe place for intellectual property and that the government should interfere to ensure that creators are compensated for use of their work.²⁰ The unlicensed sharing of property, then, becomes much more difficult.

The protected internet argument is primarily concerned with compensating creators whose work is being used illegally. In the case of the EU's directive this is accomplished through upload filters and making hosting websites liable for unlicensed material on their servers.²¹ Many of those who uphold this argument are media creators whose ability to receive compensation for their original work is inhibited by current internet culture and the prevalence of websites that allow illegal streaming of music, movies, and TV shows.²² For creators, the internet often undermines the ability to make money from their copyrighted work.²³ Their pleas to governments to help enforce their legal right to an income is substantive and justified, but either do not consider the potential casualties of such a dramatic change, or do not care. Attempts to meet creators' needs must be balanced to maintain uses of the internet besides that of a media marketplace.

Proponents of the free internet argument claim that websites should continue to be free from liability²⁴ so long as they meet the basic copyright requirements like those set forth in the DMCA and other forms of copyright legislation. It argues for the unfiltered uploading of media so that users can have a free sharing platform, and so that firms that create these spaces can avoid the immense costs of developing filtering software.

¹⁹ See generally Julia Reda, *If we don't act now, Article 13 could break the internet by mistake*, WIRED (Sept. 23, 2018), <https://www.wired.co.uk/article/article-13-will-kill-the-internet-by-mistake/>.

²⁰ See generally Robert Ashcroft, *How to unlock rightsholders' money around the world*, LINKEDIN (Dec. 19, 2017), https://www.linkedin.com/pulse/how-unlock-rightsholders-money-around-world-robert-ashcroft?trk=related_article_How%20to%20unlock%20rightsholders%26amp%3Bamp%3B%2339%3B%20money%20around%20the%20world_article-card_title.

& Geoff Taylor, *BPI & BRIT Awards CEO Geoff Taylor calls on MEPs to support artists, boost creativity and back the EU copyright directive*, BPI (Jul. 3, 2018), <https://www.bpi.co.uk/news-analysis/bpi-brit-awards-ceo-geoff-taylor-calls-on-meps-to-support-artists-boost-creativity-and-back-the-eu-copyright-directive/>.

²¹ Schranz, *supra* note 10, under "Is the directive creating automatic filters on online platforms?"

²² Taylor, *supra* note 20.

²³ See Stephen Carlisle, *Copyright Piracy and the Entertainment Industries: Is the Effect Massive or Negligible?*, NOVA SOUTHEASTERN UNIVERSITY (Aug. 13, 2014), <http://copyright.nova.edu/copyright-piracy-entertainment-industries/>.

²⁴ Vint Cerf et al., *Article 13 of the EU Copyright Directive Threatens the Internet*, EFF (2018), <https://www.eff.org/files/2018/06/12/article13letter.pdf>.

"By inverting this liability model and essentially making platforms directly responsible for ensuring the legality of content in the first instance, the business models and investments of platforms large and small will be impacted."

These concerns come from internet users who are also media creators, raising the concern of favoring one type of creativity over others.²⁵

Additionally, proponents of this argument worry that increased liability of media hosting sites will prevent the growth and development of new websites. For many, the idea of a completely filtered internet threatens online collaboration, subcultures (including memes and certain forum types), and even the ability to upload original content that might not make it past imperfect filters.²⁶ It should not be a surprise that the EU's directive is seen as a threat to this vision of the internet.

Since the two sides have such varied needs, effective compromise is necessary. It is our position that the EU's proposed directive will not provide a fair compromise and is not a strong model for any future reform. If new copyright legislation follows the most effective systems currently in place—especially the DMCA—while making necessary improvements, a more balanced system can be achieved, allowing not only media creators, but also media hosting upstarts and users to benefit together. This will allow for a more sustainable internet market.

III. Weaknesses of the EU's Proposition

There are several flaws with the EU's solution to copyright reform, and these flaws could be even more detrimental if similar reforms came to other jurisdictions. They can be broken down into flaws in the directive format that will be enacted differently by various member countries, dangers of unfairness to websites that cannot maintain a sufficiently strong filter, and the discrimination toward original media creators at the expense of other creators who have an equal right to copyright law protection.

Directives do not require all member states to implement the requirement in the same way.²⁷ Additionally, the different member states' opinions on the directive differ drastically, which would imply that implementation would follow the same preferences those states already have.²⁸ If copyright enforcement law is not executed in the same way in all member countries,

²⁵ Some publications have expressed concern that the directive would have negative effects for some types of media creators, such as those making a living streaming material on sites like Twitch. See Mike Masnick, *Latest on EU Copyright Directive: No One's Happy With Article 13, So Maybe Let's Drop It?*, TECHDIRT (Dec. 4, 2018, 10:44AM), <https://www.techdirt.com/articles/20181204/06513241153/latest-eu-copyright-directive-no-ones-happy-with-article-13-so-maybe-lets-drop-it.shtml>.

“So, at this point, we have the internet platforms calling out how the Copyright Directive will harm all sorts of creators by making the platforms they use impossible.”

²⁶ See K.G. Orphanides, *The EU's bizarre war on memes is totally unwinnable*, WIRED (Jun. 18, 2018), <https://www.wired.co.uk/article/eu-meme-war-article-13-regulation>.

²⁷ *Regulations, Directives, and other acts*, EUROPEAN UNION (May 24, 2018), https://europa.eu/european-union/eu-law/legal-acts_en. (A directive in EU law is not always executed in the same way between countries, sometimes leading to drastically different practices between countries).

²⁸ See Julia Reda, *Article 13 is back on—and it got worse, not better*, JULIA REDA (FEB. 5, 2019), <https://juliareda.eu/2019/02/article-13-worse/>. For example, France wants the directive to affect

international businesses may have to build a filter that meets the requirements of all countries they serve or incorporate unique filters for each country's version of the website. This could prove extremely detrimental to international business, not only with countries around the world but also within the EU.

The application of absolute liability to hosting websites creates the danger of websites being held accountable when they shouldn't be. For example, they may be held liable for uploads to their servers by criminal hackers or other exploitations of filtering technology. Conversely, laws that require a certain level of filter strength or expense are unlikely to reach the solution of complete media removal and will lead to filters being put into place to satisfy the law rather than achieving the goals of the law.

The DMCA was enacted in large part to protect ISPs that had no knowledge of their users' involvement in criminal activity, in much the same way that a taxi service would not be held liable if a criminal used their service as a getaway from a crime scene without the taxi driver's knowledge, or that a camera manufacturer would not be held liable if someone infringed copyright law using their products.²⁹

Regardless of the specific legal field, no law should make an unknowing third party, having done its due diligence in preventing criminal activity using their product, liable. The EU's directive provides no evidence that there will be a clearly outlined standard of due diligence. This would make it nearly impossible for a business to insure they are protected from exploitation and unfair liability. In a legal world like this it would be nearly impossible to maintain a filter sophisticated enough to completely avoid becoming guilty by another's actions.

IV. Building on the DMCA's Strengths

The DMCA has been one of the most successful legal actions regarding copyright law in preventing excessive copyright infringement, simultaneously protecting innocent ISPs and Media Platforms from unfair liability³⁰. This section will demonstrate some of its strengths and some of the areas that could be changed to increase content creators' control.

Media-hosting sites, such as YouTube, use the word *platform* to indicate their desired place in the digital world. They seek to avoid accountability for what is uploaded, and to evade lawsuits, placing emphasis on the users' liability in illegal usage of copyrighted material.³¹ Due to the terms set forth in the DMCA, it is fairly easy for most websites to stay safe from liability in copyright infringement cases, largely due to extensive case law and examples of boundaries, including the 1979 case *Universal Studios v. Sony*.³²

all websites, while Germany thinks there should be exceptions for sites like Wikipedia and GitHub.

²⁹ Lital Helman, *Pull Too Hard and the Rope May Break: On the Secondary Liability of Technology Providers for Copyright Infringement*, 19 TEX. INTELL. PROP. L.J. 111, 120 (2010). (See footnote 44.)

³⁰ See David Kravets, *10 Years Later, Misunderstood DMCA is the Law That Saved the Web*, WIRED (Oct. 27, 2008), <https://www.wired.com/2008/10/ten-years-later/>.

³¹ Russ VerSteeg, *Viacom v. YouTube: Preliminary Observations*, 9 N.C. J.L. & TECH. 43, 54 (2007).

³² *Universal City Studios v. Sony Corp. of Amer.*, 480 F. Supp. 429 (C.D. Cal. 1979).

Critics are quick to point out that even media hosting sites in compliance with DMCA standards often have large amounts of unlicensed media on their servers. This is exemplified perfectly in *YouTube v. Viacom*, in which emails between the creators of YouTube demonstrated quite clearly that YouTube's creators knew about unlicensed media on their servers. Nevertheless, the court found them not guilty because the emails did not include URL-specific references to the illicit uploads.³³ Loosening the requirement so that the direct references to unlicensed media, whether in email or other communication between senior leadership in a business, could be counted as enough evidence would lead to a much more copyright-friendly internet and a fairer one as well.

By making copyright laws that build on proven examples, internet cultures like that of memes and forums can remain intact, while the easy distribution of unlicensed material is prevented. The first step in this solution would be to acknowledge the roles that websites like Facebook, the Google family of online services, and Wikipedia already play in the digital world. In the context of the EU's directive on copyright, Facebook, Google, and Wikipedia—three vastly different types of websites that serve different purposes—would all be required to maintain similar filters against copyrighted content. This could be accomplished with relative ease on Facebook, a site with massive income and resources to develop an adequate filter. On the other hand, wiki sites (independent from Wikipedia and fan-run) have fewer resources and would suffer heavily as donation-dependent sites.

As discussed above, the EU's Directive on Copyright does not consider the type of website in its requirements, only stipulating that they make reasonable (left up to the interpretation of individual countries) effort to prevent illicit uploading. Different drafts have contained various exceptions, but most have been based on the size of the site, failing to distinguish between for-profit businesses and blogs and forums that generate revenue.³⁴ By acknowledging distinctions in websites' intended purposes, the internet could remain a free place making communication and collaboration more accessible.

V. Mandated Upload Filters

Nearly every problem addressed in this paper stems from the directive's requirement to have upload filters. Our position here is that the best response to this problem is to create legislation that encourages, rather than mandates, filters. This encouragement could stem from legislation modeled on the DMCA or through incentives to make licensing agreements like those that encouraged YouTube's Content ID.

When upload filters are directly called for by law, many websites will seek only to meet the requirement of the law, not necessarily making any effort to prevent the usage of unlicensed materials. However, legal requirements that directly address specific types of unlicensed media are more likely to yield filters or alternative methods that solve the actual problem of copyright infringement.

If laws are put in place that call specifically for filters, there are two essential factors that must be accounted for: file size and immediate access. Audio, video, and image uploads of different file sizes all require different methods of filtering. Upload filters would prevent real-

³³ *Viacom Int'l v. YouTube*, Civil Nos. 07-CV-2103 (LLS), 07-CV-3582 (LLS) (S.D.N.Y. June 23, 2010).

³⁴ Reda, *supra* note 28.

time uploading on social media, but smaller files and text could still be checked for plagiarism almost instantaneously. While some might argue that real-time file access is trivial in social media, collaboration on sites like Google Drive, iCloud, Drop Box and GitHub are dependent on real-time access and necessitate exceptions to filters, at least in the case of privately shared, small-audience media.

Specifics on these two exceptions will be addressed in sections VI and VII. Following these prescriptions will help to keep the internet accessible and useful as a creative tool. These suggestions also insure that there will be fewer instances of unlicensed media uploads. Only when the following concerns are addressed can copyright law be fair to websites and internet-based businesses of all kinds.

VI. File Type Exceptions

The ubiquitous meme is under great threat by filters that would block all copyrighted material being uploaded to social media platforms. In the United States, many memes are protected under fair use, whether because they are parody, commentary, or criticism. While the EU does not have the same ideas of fair use as the United States, there are still certain provisions in copyright that protect commentary and criticism. For filters to allow legal fair use-file uploading, they would either require AI that is beyond the capacity of many hosting websites, or a special exception for certain media types that allows fair use-files to be uploaded. Providing exceptions for hosting websites in small-file uploading provides a potential solution.

Creators do not directly lose any revenue when an average internet user takes a single frame from one of their movies and uses it to convey a new idea or joke—in other words, a meme.³⁵ This works similarly when lower resolution images are used without a license. For example, a photographer's revenue for selling high resolution prints and copies is not affected when an internet user distributes pixilated copies for personal use. By making websites only liable for larger file hosting, filters will still be put in place to block the uploading of entire movies, music videos, songs, or full resolution copyrighted photographs.

Despite the distinction between collaboration websites and social media websites in this paper, the creative and cultural uses of neither platform can survive the damage of a filter that screens all file uploads regardless of file size. Either filtering requirements will be too strong, and most smaller websites with smaller revenue will be unable to create exemptions, or filters will fail to achieve their original purpose and the law will result only in unnecessary expenses to build ineffective filters.

Filters with file size exemptions will not prevent copyright infringement in the area of text-based media, such as stories, lyrics, or poems. As such, any filter that allows small file upload exceptions should also require text screeners like those used as plagiarism checkers in order to prevent the uploading of poems, lyrics, or other short form media through small images.

While small file uploads by individual users should not be filtered, harsh copyright filter is fitting for files being uploaded to larger entities' official pages on social media. This is because it is easier for unhappy copyright owners to suffer significant damages when a profitable business or social media personality posts their media for all followers to see. This can be easily noted in Facebook's existing distinction of user accounts and business accounts. Casual

³⁵ Memes might arguably have a negative effect on perceptions of media they borrow, having an indirect effect on revenue, but this requires further study.

Facebook users have a limit of 5000 connections, not only including friends but also pages being 'liked' or followed, meaning an upload to a private user's account can only reach as many as 5000 people on Facebook. Similarly, Twitter and Instagram have methods whereby businesses or famous people can be certified, proving that the account is official and not run by someone else.

VII. Instant Access

Collaborative web tools like Google Drive, iCloud, and Dropbox are extremely important collaboration tools for original media creators who use their file sharing functions to work together on files stored on the site, but they are also commonly used to share illegally uploaded files. Filters sophisticated enough to prevent the uploading of large files in diverse formats would not only be extremely expensive for the companies owning them but would also likely inhibit the ability of collaborators to have fast access to files being uploaded. To meet the new laws of all the EU countries affected by the new directive, the websites would probably have to slow down access to uploaded files dramatically. This could compromise the website's usefulness to online creators, an equally important part of the creative community the EU's proposal seeks to aid.

No matter how lenient the legal requirements for a filter may be, negative effects will threaten creators who collaborate using these sites. Because of this unique need, exceptions are necessary for uploads to online media-development tools. To prevent the abuse of these exceptions, the simplest legal distinctions should focus on file uploads that have limited viewership or allow editing on the site's services. To enforce copyright in these areas a window of immunity after file upload could be followed by licensing audits. This would enable collaborators to retain access to large files but prevent internet aided sharing of illicit uploads.

Admittedly, a window of immunity may be enough time for users to upload a file without a license, distribute it, then remove it. This could be solved by requiring these sites to retain files that are deleted before receiving an audit, and screen these for unlicensed use as well. These suggestions make up only a fraction of the possible solutions to problems in the EU's proposal.

VIII. Conclusion

Dramatic changes like those being developed in the European Union will decrease innovation and creativity among collaborators who use internet services in their work, create financial barriers to many business upstarts, and prevent the free end-user purposes of the internet. Smaller changes, based on demonstrably-successful models like the DMCA, can bring about more predictably beneficial results. The EU's proposal has too many flaws that would negatively affect creators who use the internet as a tool and end-users who do not intentionally infringe copyright. Instead, the EU should abandon their proposed directive, or else should amend it so that the internet may continue as a tool in innovation and creation. Copyright law should not call directly for upload filters unless there are clearly outlined exceptions that allow collaboration through media-storing websites.