



EC consultation on the Digital Services Act package

EFAD Contribution

8 September 2020

About EFAD

EFAD (European Film Agency Directors association) is the voice of national European Film Agencies, bringing together the national film and audiovisual agencies across Europe. The 35 EFAD members are government or government-associated public bodies, in charge of national funding for the audiovisual sector and with the responsibility to advise or regulate on all aspects of audiovisual policies.

EFAD and its members have been following the Digital Single Market strategy and the copyright reform very closely. Our objective is to seize the opportunity of the digital environment to improve legal access to European works (availability and visibility) while continuing to preserve the fundamentals of European film financing and distribution models (territorial exploitation and the fight against online piracy, copyright theft and infringement).

Film funds support the creation and circulation of European works. Their money is spent most effectively when creating and distributing European works is understood as a real business model, remunerating authors, producers and distributors for their financial and creative investments to the benefit of audiences and cultural diversity. A fair, balanced and transparent relationship between video sharing platforms and all other market players is key to that business model. That is why film funds care about the practical conditions for implementing platform liability. Film funds are also involved in anti-piracy policies and the development of a broader and more attractive legal offer and education initiatives designed to inform people about what copyright regimes do and do not permit. Some of our members join legal actions brought by rights holders to combat pirate sites. They also support national anti-piracy associations and initiatives.

Main messages

Regarding preparation of the Digital Services Act package, EFAD would like to insist on some main guiding principles:

- the introduction of clear transparency obligations is necessary so that online audiovisual platforms share information about the performance of audiovisual works (number of views by country, demographics in particular) with creators and public authorities;

- the EU objective to promote cultural diversity to the benefit of citizens should be integrated in the EU regulation, in particular in the way algorithms function;
- a harmonised and improved liability regime for online platforms (active in sorting, filtering, removing, moderating, speeding up or slowing down content) is needed to ensure efficient fight against piracy of audiovisual works with clearer EU rules applicable to services operating in and outside the EU. This objective could be achieved by, for example :
 - reinforcing existing obligations, due diligence and best efforts, and introduction of new guarantees, notably to protect consumers and users rights;
 - strengthening the “notice and takedown” mechanism to compel platforms to promptly remove manifestly illegal content reported to them.
- rules for identifying the infringing website owners should be improved (“know your customer”);
- easy access to content ID tools that are currently not affordable or not open to small right holders should be facilitated.

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