

CICI GUEST BRIEFING

CICI Roundtable with Ms Emmanuelle Du Chalard, Head of Unit for Copyright, European Commission

Date, Time and Place

Wednesday, 17 July 2024

12:30 – 14:00 CET

Maison du Luxembourg, 37, Rue du Luxembourg, 1050 Ixelles

Host

Dominic McGonigal, C8 Associates and Chair of CICI

Format

We start with a quick welcome. Dominic McGonigal will do the introductions and set the scene, then invite our guest Ms Emmanuelle Du Chalard to speak for 5-10 minutes on the key topics of the moment. This is followed by a chaired discussion between all participants under Chatham House rules.

Key topics for discussion

Considering the fast growth of the creative industries at 1.8% per annum, accounting for 12 million jobs in the EU – equivalent to 5% of the workforce – we know the importance of required regulations and protections.

As Head of Unit for Copyright, Ms Du Chalard sits at the crossroads of many of the most important issues facing the creative industries, and is well placed to discuss the role of copyright in our changing economic and technological landscape. Specifically, she can discuss the ongoing efforts around AI and the digital agenda, and the Commission's priorities around these issues in the coming months. A number of these points are highlighted below.

The end of 2023 brought the agreement of the AI Act, after lengthy discussions with the Parliament and the Council. Among many other measures, the Act confirmed the need for AI models to gain permission from rightsholders to use copyrighted material and to disclose when they are doing so, although it does establish a text and data mining exception which allows the reproduction and extraction (including for AI training purposes) of works contained in networks or databases to which access is legitimately given for the purpose of the extraction of text and data. The legislation should protect copyright owners and their intellectual property as we enter this new phase of technological development, particularly in the face of generative AI. The AI Act was adopted by the European Parliament on 13th March with 523 votes in favour and was approved by the European Council on 21st May. The legislation now awaits formal adoption in a plenary vote expected this month and will be enforceable 24 months after its enactment, with some specific timelines for certain provisions.

The focus will now be on its implementation by national governments. On 22nd February DG CNECT launched the European AI Office. This will serve as the central hub for AI expertise within the EU, also holding the power to intervene in the market where necessary. The Commission recently announced the structure and leadership of the AI Office, which will include five specialized units: Excellence in AI and Robotics led by Cecile Huet, AI Regulation and Compliance by Kilian Gross, AI Safety with a leader yet to be announced, AI Innovation and Policy Coordination led by Malgorzata Nikowska, and AI for Good led by Martin Bailey.

Alongside this, our focus will fall on the implementation of the Digital Agenda (DSA and DMA) and the ongoing processes around the European Media Freedom Act (EMFA). These initiatives strive to eliminate barriers to the operation of the creative industries and aim to establish a common framework for safeguarding pluralism and the protection of diverse rights in the sector.

The Digital Services Act has introduced a comprehensive set of rules for online intermediary services focused on protecting users from the infringement of their rights while giving them better information and choice. The obligations of online players differ based on their size, role and the impact they have on the ecosystem – platforms with more than 45 million users in the EU have to comply with a stricter regulatory regime. The Act came into full force for all online platforms on 17th February. However, Meta and TikTok are taking legal action against the European Commission over the annual fee imposed on companies designated under the Act, while many member states are yet to designate national coordinators, posing a challenge for the effective implementation of the DSA.

Earlier this year the European Commission made the decision to establish a High-Level Group on the Digital Markets Act.

As part of the enforcement of the Digital Markets Act, the European Commission recently notified Apple of its preliminary conclusion that the company's App Store rules violate the Act. The Commission's findings indicate that Apple's policies restrict app developers from directing consumers to alternative purchasing channels and impose excessive fees. In addition, the Commission has launched a new non-compliance investigation into Apple's updated contractual terms, which include a "Core Technology Fee" of €0.50 per installed app. This investigation will assess whether Apple's fee structure and the multi-step process for downloading alternative app stores comply with the DMA's necessity and proportionality requirements. It will also review the eligibility requirements for developers to offer alternative app stores or distribute apps directly from the web on iPhones. If the Commission's preliminary views are confirmed, Apple may face significant fines and further regulatory actions within 12 months. This action, along with the official probes into Alphabet and Meta, is emblematic of the mission of the DMA to ensure greater competition in digital markets.

EU institutions will now focus on implementation and enforcement of the tech rulebooks agreed during the last mandate. Key priorities of the new EU institutions mandate will include enhancing cybersecurity measures, promoting data sovereignty, and achieving ambitious EU-wide connectivity goals, with an emphasis on consumer protection.

The EMFA goes hand in hand with actions carried out under the Media and Audiovisual Action Plan, building on the revised Audiovisual Media Services Directive and complementing the Digital Services Act package. The legislation, aiming to protect EU journalists and ensure media independence, was approved by the European Parliament concurrently with the AI Act on 13th March and came into full effect on 7th May.

Ongoing Background Items

At the centre of the debate around copyright since August 2022 are two studies published by DG RTD on EU Copyright and related rights, and access to and reuse of scientific publications (including open access). The *Study on EU copyright and related rights and access and reuse of scientific publications, including open access* and the *Study on EU copyright and related rights and access to reuse of data* are part of the European Research Area Policy Agenda, the list of actions for the period 2022- 2024 which will contribute to the priority areas defined in the “Pact for Research and Innovation in Europe” – the EU's proposal defining priorities for joint action in support of the European Research Area.

The creative industries have been identified as one of the strategically important sectors for the EU, and these initiatives are part of the ongoing work with the sector. We would very much appreciate hearing your input on the challenges you face and possible steps forward that will enable the sustainable growth of the creative and cultural sector.

With Ms Du Chalard, we can hear more about the dynamics in the European Commission as we face ongoing structural and regulatory challenges.

Guests and participants may wish to raise other issues, and are welcome to do so.

Attendance

Guest plus approximately 10-20 CICI members – senior executives from across the creative industries.

Guests

Ms Emmanuelle Du Chalard,
 Head of Unit for Copyright
European Commission

Association of European Radios	Nikolas Moschakis
CEPIC	Sylvie Fodor
European Publishers’ Council	Angela Mills Wade
IFPI	Agnieszka Horak
IMPALA	TBC
PRS for music	Yolanda Smits
RELX	Elizabeth Crossick
Springer	Annika Dirks
STM	Claudia Russo
C8 Associates	Dominic McGonigal

CICI is an informal group of major companies and trade bodies from across the creative industries – film, TV, music, books, magazines, newspapers. It holds informal roundtable discussions with ministers, senior politicians and officials in London and Brussels. Members include NBC Universal, IFPI, European Publishers Council, Discovery, NBC Universal, Wiley, Imagina TV, CEPIC, Impala, RELX, Viacom, Walt Disney, ISFE and Warner Media Europe.