The lull before the copyright storm?

THE FREELANCE once more went to press holding its breadth: this time waiting for the civil service of the EU, the European Commission, to publish a “Communication” setting out its plans for your rights as authors.

In the meantime, the European Parliament’s legal committee has commissioned a report that suggests that our campaigns for fair contracts are gaining traction. As the report puts it: “the balance of power between authors and performers on the one hand, and distributors on the other, is such that reliance on market forces for the determination of a fair remuneration and compensation is likely to be satisfactory only for a limited number of very successful creators.”

That’s really clearly put. We could have written it ourselves. We suspected we had — but have not managed yet to relocate it.

That’s the plus side. The minus side is that the report is very likely also making use of exceptions to copyright for the purposes of research, et cetera, to quote verbatim from briefings by Google – for example in their rote support for the idea of wider “exceptions” to authors’ rights to allow companies to use your work without permission, such as extending the exception for “Text and data mining” that was introduced into UK law in October 2014.

As Pamela Morinière of the International Federation of Journalists summarises it, the study says that existing EU law “has provided ‘very limited impact on fair remuneration and compensation for creators’ and little benefits to end-users.” It points at the emergence of powerful online intermediaries that can impose terms on everyone else – professional creators including journalistic writers and photographers, on would-be professionals and strictly non-professional users of Snapchat an’ t’ing.

What is to be done? The report – like the leaked draft of the Commission Communication that we have seen – does not come down firmly in favour of laws to deal with unfair contracts; neither does it rule them out. European legislators are also being told how important so-called “freedom of contract” is and even that any law to level the playing field is somehow “paternalistic”.

And in the UK…

Meanwhile, back in the UK, the Creators’ Rights Alliance has followed up on its meeting with Minister Ed Vaizey with the detailed list of things that can be done about unfair contracts that he requested. We await his response with interest.

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Very long headline that will shock you with one way YouTube will spend up to $1 million to defend ‘borrowers’

YOUTUBE IS taking initial steps to defend a handful of creators who are embroiled in copyright disputes by pledging up to $1 million (in each case) to defend “some of the best examples of fair use” on its platform, wrote the company’s copyright legal director Fred von Lohmann.

Fair use is the repurposing of copyright-protected material in instances including criticism, remixes and commentary – or, as von Lohmann puts it, “in new and transformative ways that have social value beyond the original.”

Not us, guv

If the above text falls below the standards you expect of the Freelance, it’s not our fault. We came across a website called “Article Creator” that claims that it “will automatically grab fresh new article, blog or news which then will be rewritten, written, written better” – for the purposes of attracting search engines to your website. So, naturally, we asked it to create us an article about “Article Creator copyright”. That’s what it produced.

We were planning to write about that story anyway. What’s actually going on is that Alphabet, the corporation formerly known as Wind-scale, we mean Google, put out a press release to encourage an idea that copyright – your legal right to determine who uses your work, at what price – is an obstacle to “free expression”. It was lapped up by, among others, the Guardian and Fox News – on whose report the above announcement from the European Commission (see above).

Don’t try this at home...

If you are engaged in the dark arts of “Search Engine Optimisation,” the Freelance recommends strongly that you stay away from this “generator”. The above extract is word-for-word from Fox (and reproduced here for the purposes of reporting meta-news and current affairs). When we asked Article Creator to tell it about itself alone, one of the results was word-for-word from an interview with XKCD comic creator Randall Munroe, behind New Scientist’s paywall. Their lawyers are be...