



## BAPLA Supports the Copyright Directive, 31<sup>st</sup> August 2018

[#SupportCreators](#) [#ValueOurImages](#)

Dear MEP

I write to you to ask for your support for the Copyright Directive and vote “YES” to support creators.

### 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 the UK 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 UK economy for over 40 years.

**The UK image licensing market is the second largest global market in the world<sup>1</sup>**

The images sector has always been about growth and innovation, adopting new technologies as they arise in order to meet with customer demands. For over 40 years BAPLA has championed the recognition of marketplace value of photography. During that time BAPLA members have invested heavily over the years 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.

**BAPLA members generate revenue for, and manage the interests of over 120,000 creators rights holders**

Our members support a wide breadth of experienced and new young image-makers. 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.

### Copyright is the bedrock of our industry

We heavily rely on copyright legislation to both help us thrive as creative businesses and to enable us to protect our rights from copyright infringement. Copyright law has served us well, since its inception and with periodic amendments over time, giving our UK businesses the ability to punch well above our weight. It is one reason why UK businesses in the image sector are the second largest global market leaders in the world, ahead of the USA<sup>2</sup>.

### The ‘Value Gap’ Creation

While the current EU copyright regime has supported us in the analogue world, it has become far less effective online over the last few years. We can attribute this to two issues:

- One is the correlation to the meteoric rise of the US tech giants that have used the Safe Harbor provision<sup>3</sup>, allowing them to keep responsibility for conduct on their website at arm’s length;
- The other is the perception and education of copyright, which is an essential property right, equal under EU law to freedom of expression - creators essentially require both in order to create and earn a living from their creations.

Certain commercial content sharing service platforms have altered this synergy, and redirect income generation solely to themselves while encouraging users to upload and share content they haven’t created or been permitted to share - hence the ‘Value Gap’. **94% of BAPLA members reported experiencing copyright infringement, while 81% have undertaken paid-for services to pursue infringements online<sup>4</sup>**. These infringement identification services only reach the tip of the iceberg.

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<sup>1</sup> & <sup>2</sup> GSIM Report 2012 - [http://www.stockimagemarket.uni-hd.de/downloads/GSIM\\_Survey\\_2012\\_Part\\_III.pdf](http://www.stockimagemarket.uni-hd.de/downloads/GSIM_Survey_2012_Part_III.pdf)

<sup>3</sup> US Safe harbor provision & EU E-Commerce Directive 2000/31/EC

<sup>4</sup> See Image Infringement Online, Examples from the image industry

## **A significant imbalance online**

These **two key factors have created a significant imbalance online** whereby certain tech giants have and continue to amass great fortunes off the backs of creators content with 'little or no remuneration flowing back' to them - **posing an existential threat to the image sector**. Article 13 is drafted to address this inequality. It has been proposed on behalf of creative industry representatives that include music and photography, who are most affected by the 'Value Gap'. It is specifically to establish that certain types of 'commercial' platforms actually do "communicate to the public". Tech giants have taken advantage of the current arbitrary loophole which affords them no responsibility for the activity on their platforms, but amasses them billions of dollars at the expense of creators.

## **Image industry faces a 'value block' online**

These platforms, acting as intermediaries, are no longer 'mere conduits' as 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 full and appropriate measures to support rights owners abilities to enforce their rights in a fair manner it is an impossible challenge to redress the damage inflicted. Many BAPLA members have had little recourse to challenge these commercial content sharing platforms simply because our members are deemed less significant as a consequence of having less resources and the burden of handling millions of infringements. This **'value block' affects all image creators who depend on commercial licensing. Balance needs to be restored to support our businesses and future-proof them.**

## **Article 13 isn't a censorship machine nor a threat to parodies and memes!**

The proposals apply to a narrow type of platform - a commercial content sharing service platform, it excludes encyclopaedias for example. Certain changes made to UK copyright law in 2014 modernised permitted exceptions, which includes the use of parodies, caricatures and pastiche as well as expanding the use of criticism and review, and of course includes personal use. In fact, most types of memes will be covered by these exceptions. The Copyright Directive does not place any new restrictions on internet users. The responsibility is solely on content-sharing platforms to purchase a licence, just as other commercial entities must do in the offline world.

## **Support the Copyright Directive, Support Article 13**

We fully support the Copyright Directive, and emphatically support Article 13 as we believe it forms an essential part of protecting creators and redresses the imbalance created in the wake of the rampant rise of commercial content sharing service platforms. We also believe this vote is a litmus test for future trade negotiations, which undoubtedly will include discussions about our strong and supportive UK copyright regime. Online our industry has reached a cliff-edge, and we would effectively be 'pushed' over the edge if we aren't supported. **Please vote in favour of creators, vote YES on 12th September.**

Yours sincerely,

Isabelle Doran  
BAPLA Chair

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