

The Role of Creative Works Dissemination Model in EU Copyright Law Modernization

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Abstract : In online content-sharing service platforms, the ability of creators to restrict illicit use of audiovisual creative works has effectively been abolished, largely due to specific infrastructure where a huge volume of copyrighted audiovisual content can be made available to the public. The European Union legislator has attempted to strengthen the positions of creators in the realm of online content-sharing services. Article 17 of the new Digital Single Market Directive considers online content-sharing service providers to carry out acts of communication to the public of any creative content uploaded to their platforms by users and posits requirements to obtain licensing agreements. While such regulation intends to assert authors' ability to effectively control the dissemination of their creative works, it also creates threats of parody content overblocking through automated content monitoring. Such potentially paradoxical outcome of the efforts of the EU legislator to deliver economic safeguards for the creators in the online content-sharing service platforms leads to presume lack of informity on legislator's part regarding creative works' economic exploitation opportunities provided to creators in the online content-sharing infrastructure. Analysis conducted in this scientific research discloses that the aforementioned irregularities of parody and other creative content dissemination are caused by EU legislators' lack of assessment of value extraction conditions for parody creators in the online content-sharing service platforms. Historical and modeling research method application reveals the existence of two creative content dissemination models and their unique mechanisms of commercial value creation. Obligations to obtain licenses and liability over creative content uploaded to their platforms by users set in Article 17 of the Digital Single Market Directive represent technological replication of the proprietary dissemination model where the creator is able to restrict access to creative content apart from licensed retail channels. The online content-sharing service platforms represent an open dissemination model where the economic potential of creative content is based on the infrastructure of unrestricted access by users and partnership with advertising services offered by the platform. Balanced modeling of proprietary dissemination models in such infrastructure requires not only automated content monitoring measures but also additional regulatory monitoring solutions to separate parody and other types of creative content. An example of the Digital Single Market Directive proves that regulation can dictate not only the technological establishment of a proprietary dissemination model but also a partial reduction of the open dissemination model and cause a disbalance between the economic interests of creators relying on such models. The results of this scientific research conclude an informative role of the creative works dissemination model in the EU copyright law modernization process. A thorough understanding of the commercial prospects of the open dissemination model intrinsic to the online content-sharing service platform structure requires and encourages EU legislators to regulate safeguards for parody content dissemination. Implementing such safeguards would result in a common application of proprietary and open dissemination models in the online content-sharing service platforms and balanced protection of creators' economic interests explicitly based on those creative content dissemination models.

Keywords : copyright law, creative works dissemination model, digital single market directive, online content-sharing services

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