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No. 42: The Justification, Consequences, and Controversy of the Directive on Copyright in the Digital Single Market's Article 17

The Directive on Copyright in the Digital Single Market is the European Union's attempt to update its copyright law for the modern internet. It proved incredibly controversial. Parties from all sides of the internet community waged an aggressive campaign against it, while a hundred thousand citizens marched and millions more signed a petition to stop it. Much of the controversy surrounded the Directive's Article 17, which seeks to hold internet platforms accountable for distributing copyright-infringing content uploaded by its users. Supporters argue it will rebalance the relationship between content creators and the platforms that profit unfairly from their work. Critics claim it will censor creative expression and break the internet as we know it.

This paper explores the motivation underlying Article 17, then considers how the final text and its implications align with the Directive's ultimate goals. Overall, Article 17 is well-intentioned in its attempt to address significant problems in the EU's copyright regime. However, inadvertent consequences of its efforts could both harm internet users and put European tech companies at a disadvantage relative to their competitors in the United States.

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