

# 2015: THE END OF COPYRIGHT?

Taking for free  
is Stealing

Richard Malka

Richard Malka

2015: THE END OF COPYRIGHT?  
TAKING FOR FREE IS STEALING

## TABLE OF CONTENTS

A reform dictated by no economic necessity .....	9
The technological transition is already well under way .....	10
A denial of democracy.....	12
Author compensation would become the exception.....	15
A road to cultural hell paved with good intentions.....	23
Taking for free is stealing.....	24
The necessary battle against a looming disaster.....	27

*Translated by Ronald Blunden*

© 2015

## 2015: THE END OF COPYRIGHT? TAKING FOR FREE IS STEALING

*“If there ever was a sacred property in the world, something that a man can call his own, is it not what Man creates between heaven and earth, something that is rooted in intelligence alone, and blossoms in the hearts of all men.”*

Honoré de Balzac, Letter to the authors

*“In order to create, one must first have something to eat.”*

Beaumarchais

*“Any harmonisation of copyright and related rights must take as a basis a high level of protection, since such rights are crucial to intellectual creation. Their protection helps to ensure the maintenance and development of creativity in the interests of authors, performers, producers, consumers, culture, industry and the public at large. Intellectual property has therefore been recognised as an integral part of property.*

*If authors or performers are to continue their creative and artistic work, they have to receive an appropriate reward for the use of their work, as must producers in order to be able to finance this work. [...] Adequate legal protection [...] of intellectual property rights is necessary in order to guarantee the availability of such a reward and provide the opportunity for satisfactory returns on this investment.*

*A rigorous, effective system for the protection of copyright and related rights is one of the main ways of ensuring that European cultural creativity and production receive the necessary resources and of safeguarding the independence and dignity of artistic creators and performers.*

*[...] Adequate protection of copyright works and subject-matter of related rights is also of great importance from a cultural standpoint. [...] Article 151 of the Treaty requires the Community to take cultural aspects into account in its action.”*

Preamble of Directive 2001/129/EC  
of the European Parliament and of the Council

ONE WOULD BE hard pressed to find a more passionate defense of copyright than the preamble to this Directive of the European Parliament and the Council of the European Union.

Hardly fourteen years have gone by, and the European Commission chaired by Mr. Jean-Claude Juncker now seems to have decided one of its top priorities is to turn its back on those principles, disrupt the delicate checks and balances that guarantee the protection of European culture, and ignore the imperatives meant to protect creative diversity and freedom of expression.

Under the joint and paradoxical influence of transatlantic multinational companies on the one hand, and of libertarian “pirate” militants on the other hand, copyright is now painted as obsolete, reactionary, a hindrance to access to knowledge, and anti-democratic.

Mr. Andrus Ansip, for instance, Vice President of the European Commission, in charge of the Digital Single Market, has gone on the record as saying that supporters of copyright “*protect the personal interests of the very few at the expense of innovation and get in the way of a clean disruption*”. According to him, copyright is no longer adequate in an era when digital has become pervasive.

Mrs. Julia Reda, a member of the German Pirate party to whom the European Parliament entrusted the mission of submitting the draft report on copyright reform, believes the French Members of European members of Parliament stand apart with respect to their colleagues “*in their hostility to change. Not*

*only was it better before, but the past is a perfect answer for the present... and the future*". She excoriates publishers, renamed "operators", who "*bury their head in the sand*".

At age 28, Mrs. Julia Reda thus disdainfully dismisses a body of legislation meant to protect authors that was born in the 16<sup>th</sup> Century in the Republic of Venice and was instrumental in the development of the Italian Renaissance. It was later established in England by a law in 1710 and in the United States as the First Article of its Constitution in 1780, and eventually, of course, in France, where it helped underpin the Enlightenment and was confirmed by the revolutionary laws of 1791 and 1793 which abolished the privileges one previously had to enjoy in order to have the right to earn a living as an author.

It would seem that in 2015, in Brussels, it was decided in a hurry, with no impact assessment to speak of, and in the absence of any request by a Member State, that the days of copyright were over, that one of Europe's most competitive industries, employing more than half a million people, could be deeply destabilized, and that cultural diversity could be sacrificed.

Meanwhile, the digital operators who – with the help of hundreds of professional lobbyists – clamor for such a reform, themselves deliberately set up multiple obstructions to the free flow of intellectual property (the lack of interoperability between Apple's iBook Store and Amazon's Kindle is a case in point) without Mr. Juncker's Commission voicing the slightest objection. The Commission sees obstacles to the

free flow of information where there are none, and no evidence of any, and looks the other way when confronted with clear evidence that obstacles actually exist.

## **A REFORM DICTATED BY NO ECONOMIC NECESSITY**

ACCORDING TO THE arguments peremptorily set forth by the Juncker Commission as expressed by Commissioner Ansip, copyright reform is urgently required in view of the profound changes brought about by the digital revolution. Such a prophecy, however, is based solely on the beliefs of those who preach it and is not borne out by facts. Thus the French publishing industry (Sales of 5 Bn €, 80,000 jobs) has experienced no decline over recent years. Comparing it with the recorded music or audiovisual industries, whose business models have been upended, makes no sense whatsoever and should not be invoked to justify changes in a sector whose situation is radically different.

Furthermore, throughout continental Europe, sales of ebooks in the categories of general fiction and non-fiction account for less than 5% of overall book sales (2.9% in France in 2014). It is therefore unclear why new legislation is deemed so urgent, especially since no Member state has expressed any concern with regard to the matter. Such an initiative does little more than disrupt a perfectly functional ecosystem in the name of a purely predictive reality. It is all the more surprising in light of the fact that in the USA, the market share of ebooks seems to have peaked at 21% in

2014. Besides, the rise of ebooks in England and the United States is closely correlated to the demise of bookstores, which is something that has not happened in continental Europe, and especially not in France.

In the final analysis, the European Commission, confronted with an individual in perfect health, has pronounced him ill in order to cure him with lethal medication.

## **THE TECHNOLOGICAL TRANSITION IS ALREADY WELL UNDER WAY**

THE FRENCH PUBLISHING industry has already migrated smoothly to digital technology, without anyone being able to pinpoint any flaws other than the traditional, hackneyed clichés about the “relentless pace of innovation” that supposedly is driven by the commoditization of everything. At best, such commoditization is synonymous with the “googlization” of culture, at worse with the restoration of privileges granted by patrons, and in any case with a massive rarefaction of the cultural offering.

It so happens that:

- 100% of new releases by French publishers are available today as ebooks across multiple platforms (and within five to ten years, 90% of their backlist will be too);
- Authors’ contracts have recently been amended to take into account the digital market;
- Digital distribution platforms have been set up in certain areas (Iznéo for instance, offers access to 90% of French language graphic novels);

- An ebook offering compatible with various kinds of handicap was gradually introduced. A portal was created (“PLATON”) to make publishers’ ebook files available to non-profit groups working on adapting them for the visually impaired; this work in progress will soon include new beneficiaries such as people suffering from a variety of psychological impairments (dyslexia for instance), as well as readers with a handicap living outside the country;
- Massive investments went to efficient digital platforms in education, (such as KNE, CNS, Edulib) and research (Elsevier is the world’s largest medical and scientific publisher; the Cairn Platform offers access to all social science journals). In the area of science, access has been offered free-of-charge to the 100 least-developed countries (Research4Life program);
- A program for the digitalization and marketing of out-of-commerce books still under copyright (the ReLIRE project run by the Sofia) has been launched;
- Likewise, a program for the lending of ebooks by libraries, under certain conditions, has been implemented, *etc.*

Thus with print and digital coexisting in harmony, the publishing industry contributes to the influence and stature of Europe (six of the world’s largest publishers are European), creates jobs, pays taxes – unlike the digital operators – and manages its technological transformation with no need of any help from a “Google-Amazon” reform concocted by the European Commission.

## A DENIAL OF DEMOCRACY

NOT ONLY DOES the reform under consideration appear to serve no economic purpose, the whole process of its development seems to be shrouded in secrecy.

Interestingly, none of the 28 Member states has requested the reopening of Directive 2001 that regulates copyright, among other things.

While European Commissioner Michel Barnier had been assigned the task of putting together a “white paper” on the subject, it would appear the idea was dropped once the Commission realized that its conclusions would not promote the much hoped-for whittling down of authors’ protection.

Better still, the report on copyright entrusted to the European Parliament as a basis for the Commission’s future reform work was assigned to the only representative of the German Pirates party, hand-picked from the Parliament’s 751 members. In other terms, the fox was appointed organizer of the chicken pen. Her report, made public in January 2015, includes proposals that are so outrageous that the Commission, by contrast, will appear conciliatory when it hands over the keys to Europe’s cultural industries and author compensation to the internet giants.

In order to window-dress the reform so as to give it a democratic spin, the Commission decided to organize an internet poll in March 2014 to question Europe’s citizens (only in English) about copyright. The poll was conducted with no methodological

input from a scientific committee, and instead was based on biased questions and led to predefined answers concocted by copyright-adverse groups.

Such a parody of a democratic consultation, without any scientific merit, is in and of itself ample evidence of how much the reform contemplated by the Commission lacks any serious support. Its methodology is more akin to that of a tele-reality show rather than to a process such as might be expected from the largest democratically elected body in the world.

Once this coat of democratic varnish was laid on to obscure the fact that no Member state had actually requested a reform, the European Commission felt free to initiate a legislative change affecting 28 countries in an area that lies at the very heart of Europe's civilization.

Such cheap subterfuges could discourage the staunchest supporters of the European Union, especially if they were made aware of the fact that:

- The petition "Copyright for Freedom" (8,000 signatures) was never taken into account. It was no more meaningful than the Commission's poll, but no less;
- Research undertaken in June 2013 in 28 countries by the European Office for Home Market Integration found that 96% of Europeans consider intellectual property important because it stimulates innovation and creativity by compensating content creators;
- The Commission stubbornly refuses to publish any serious economic impact assessment, as if it

wanted to keep from the public eye the fact that it is about to destroy Europe's cultural industries;

- Meanwhile, it has not deemed necessary to fight copyright infringement, although the protection of Europe's industries would appear to be every bit as urgent, if not more, as the adoption of measures that would be sure to weaken them.

Such a reform, applauded by the lobbyists working for Google, Apple, Facebook and Amazon, and with good reason since it fulfills all their expectations as listed in a document entitled *Copyright Manifesto*, is therefore clearly a purely technocratic initiative with no economic justification and no democratic legitimacy, and one leading to the weakening of one of Europe's prime industries. The sole beneficiaries are international corporations which not only refuse to pay their taxes in Europe, but have been evading legal responsibility for many years, arguing that only US law applies to them and rejecting any notion that they might be legally responsible for the content they distribute. It all must be seen in the context of President Obama's statement on February 17, 2015: "*We have owned the Internet. Our companies have created it, expanded it, perfected it in ways that they [the Europeans] can't compete*". Having said that, he rejected any attempt to regulate the internet.

## **AUTHOR COMPENSATION WOULD BECOME THE EXCEPTION**

THE COMMISSION'S general orientations were revealed in May.

The Copyright unit of the European Commission will make its proposals known in the autumn of 2015. Then, before the end of 2015, the Commission will present its project. It is public knowledge that it will propose the adoption of a reform that will deeply alter copyright law.

Simultaneously, since the parliamentary process was set in motion based on the Reda report, this reform's legislative process can only continue unimpeded.

It is in such a context that, on July 9, 2015, to Mrs Reda's satisfaction, the European Parliament adopted her report after expurgating it, however, of its most radical measures.

That is how, starting from an outlandish position, Parliament has settled for a solution that is merely dangerous and paves the way for the Commission which, moreover, is under no obligation to follow the Parliament's recommendation.

As things stand today, it would appear that while the Parliament is likely to uphold a certain amount of copyright protection for the audiovisual arts, the publishing industry is under serious threat.

By the looks of it, the Commission does not plan to do away with the basic principle that an author should benefit financially from the sale of his or her work, but is actively considering making as many as

21 exceptions to that rule mandatory. As a matter of fact, those exceptions would be so far-reaching and so hard to monitor that the principle of sales-related compensation would become as fictional as telepor-tation.

Here are some of the exceptions under consid-eration:

■ *The right for libraries to lend ebooks and give access to their collections*

If, by virtue of such an exception, one could, as a library subscriber, gain access to ebooks without any constraints in terms of duration of loan or number of simultaneous readers, why would anyone continue to buy ebooks, or even printed books, for that matter? Legalizing piracy would achieve the same result. What happened in Denmark is a case in point. The implementation of an ebook lending program by libraries cannibalized the sale of books in digital format to such an extent that the country had to alter the terms and conditions of the experiment.

The truth is that there is no need for a new excep-tion to make ebooks available to library subscribers. Most European countries are gradually implemen-ting such a system by contract, as a result of a nego-tiation process between authors, publishers, libra-rians and local authorities.

In France, all parties involved adopted a common resolution defining the terms and conditions of the availability of ebooks in libraries.

The PNB system (Prêt Numérique en Biblio-thèque) that has been tested since 2014, allows libra-

ries to acquire ebooks and lend them. It has become popular with subscribers.

In such a regulated framework, the lending must however be subject to certain limitations. They are the result of a tradeoff between the interests of libraries and of their subscribers on the one hand, and of the financing of creation, and hence the renewal of the libraries' inventory on the other hand.

Likewise, a library should not be granted the right to give unlimited access to the digitized works in its collections to the community at large beyond its walls on the grounds that it has a mission of public interest as a curator. It would result, for instance, in all the students and researchers of France gaining free access to the editions of La Pléiade with no compensation whatsoever for their authors.

Nullifying with the stroke of a pen all the compromises that have been reached by mutual consent would make no sense at all.

#### ■ *The text and data mining exception*

Users would be allowed to copy protected content found in digital data bases free of charge, in order to undertake research on that content and create, out of this extraction, original content.

If an investment in content could thus be legally plundered, no publisher would want to fund such tools in the future. As a matter of fact, there is not a single business in the world whose output can be legally expropriated for private use, free of charge.

There is no need whatsoever for such an exception to copyright since as it is, publishers make their data bases available to licensed users.

Such a destruction of value would in fact only benefit players such as Google, who don't make money on the sale of data, which they could upload in vast quantities at no expense, but on the advertising piggy-backing on it. Such a process would amount to granting an inordinate amount of control over human knowledge to a handful of companies, which is the opposite of the Commission's alleged goal.

And once those companies will have attained monopoly status after having eliminated all their competitors, who's to say the content they provide will remain free of charge?

It would create a situation without precedent in the history of mankind: Three or four privately owned businesses would exert total control over the world's knowledge under the pretense that it is made available at no expense to the user, at least initially. Even that promise would prove deceptive, as consumers would pay for content through other channels. Not to mention the Orwellian danger of seeing access to so much human knowledge being controlled by so few.

With no impact assessment to support it, the Commission will be hard pressed to justify an initiative that is economically absurd, detrimental to the interests of European citizens and contrary to the cultural stakes set forth in the preamble of the 2001 Directive.

What it implies is that unlike sports shoe brands, which enjoy all manner of protection, or Google's algorithms that the company wouldn't dream of disclosing for the benefit of mankind, intellectual creation would not be considered worthy of any kind of protection.

#### ■ *The educational exception*

It would authorize the free copying of portions of content for educational purposes, which would *de facto* lead to the exponential growth of unrecorded copies that would unfairly compete with publishers' offerings.

Such an exception, framed in generous terms as a means to give users universal access to knowledge, would make as much sense as forcing EDF, the French power utility, to provide free electricity to schools and colleges.

Publishers and authors would, as a result, be the only ones expected to create for free and invest at a loss.

Such an exception would devastate the text book market at a time when publishers have invested heavily in digital solutions (their production process is 100% digital since 2009), and would in all likelihood discourage them from innovating further.

Private sector textbook publishers would probably disappear for the benefit of a public sector offering that already exists (Canopé, 1,953 employees with a budget of 100 million euros per year) with a cost to taxpayers that is substantial (censorious report by the French Court of Auditors in 2013 and 2014). Thus

the consumer would be artificially favored at the taxpayer's expense.

What such a system would probably lead to is the disappearance of a diversified offering in favor of a state-controlled offering or a foreign one by virtually monopolistic companies, which would in turn lead to the revival of the simmering debate over official truths (such as gender theory, creationism, colonization and other such controversial issues). With the exception of Hungary and Poland, no Member state of the European Union has opted for such a system, least of all those that head the PISA ranking. The demise of a private sector offering would at last give a free hand to the digital giants and enable them to enrich their data bases through limitless recycling while making money by other ways such as the sale of hardware, advertising, subscriptions... For as everyone knows, there is no such thing a free lunch. *“If it's free, you are the product”*.

In a sensitive area like education, such a destruction of economic and cultural value would be not only a terrible blow, but disturbing in terms of its consequences on diversity of opinion. It would moreover be quite unnecessary as multiple agreements have been reached with the Ministry of Education, giving educators easy access to private publishers' content through high-paying licensing fees.

Such a demagogic exception would amount to a denial of the intellectual output of authors and publishers. Mid-term, it could deprive governments of their ability to define cultural policy as their limited funds lead them to surrender such responsibilities to

American players who are not only beyond their control, but have, from the outset, eschewed responsibility for the content they distribute.

Copyright is an essential tool for the protection of European intellectual content, particularly in education, inasmuch as it hinders the opening of that market with no control by or compensation to the distribution industry.

■ *Fair use*

This exception, imported from the US, is revealing as to the sources of inspiration of Mrs Julia Reda and the Commission. It enables one to use content without authorization as long as a legitimate reason justifies it (the right to inform, to create, to parody...) The courts would decide what is legitimate on a case-by-case basis. We are dealing here with a praetorian concept that is specific to US law. It would drastically change the architecture of European law which is based on a limited number of exceptions whose applications are defined by jurisprudence.

The point being made here is not that one legal system is superior to another, but that the notion that the law is something that should be unified forcibly across continents with different traditions and cultures, is simplistic and unrealistic.

Imposing a legal notion imported from the US is a baffling move, given that the French copyright system is perfectly functional, has adapted to new technologies on an on-going basis, and has enabled some French publishing companies to achieve worldwide leadership.

Such an across-the-board reset of an efficient normative system does not seem to fulfill any clear necessity, unless the objective is to fix something that isn't broken and favor new players whose dominant position is already a matter of record.

■ *The exception for transformative use*

This refers to the use of portions of existing content in order to create new content. It would allow one author, for instance, to use a character invented by another, without the latter's authorization, in the name of creative freedom, and within certain constraints (no commercial usage).

If adopted, such an exception would constitute a considerable step backwards in terms of the moral right an author exercises on his or her work.

■ *Extraterritoriality*

Its purpose would be to forbid any technical obstacle to the use of files based on geo-localization and to authorize the acquisition of content regardless of where the buyer and seller are located.

While such an exception would have a limited impact on publishing, books being available worldwide with no technical obstacles, its adoption would prevent, for instance, a French author from keeping a book on blasphemy out of certain markets or reserve the right to sell his or her work in certain countries.

It would therefore curtail, with no justification, the rights authors exercise on their work. Authors would thus become the only producers of wealth to see their work distributed worldwide without their consent.

A reduction of the duration of copyright is also being contemplated, which is something that would alter the profitability of long-selling content, thus limiting the publishers' ability to invest in young authors or in high value content with limited commercial potential. The duration of copyright is key to the funding of new talent and it is unclear how new technology could alter the balance achieved in each country whereby rights collected on past works fund the investment in editorial novelty and diversity.

Finally, an extension of the exceptions for short quotes and parody are being considered.

### **A ROAD TO CULTURAL HELL PAVED WITH GOOD INTENTIONS**

ALL THE ABOVE exceptions, amalgamated and driven in a ham-fisted fashion, would translate into millions of free downloads and pave the way to untold numbers of free copies, all under the guise of promoting the interests of consumers, brandished as puppets, with creation expected, it would seem, to be funded in the future by some divine windfall. The right to legally plunder and poach the work of publishers and authors will deal a severe blow to Europe's cultural industry. The weaker and less diverse the players who deal in knowledge, the scarcer the available knowledge. As investors disappear, knowledge will become more controlled and therefore more biased. This dystopia derives from the mistaken assumption that speedy and free flowing information implies it should be free of charge.

All these exceptions taken together would ultimately allow predators to feast on the cultural contents of the European Union. The Juncker Commission is in the process of turning Europe into a hunting ground for already dominant players and will leave the publishing industry, and more importantly the authors themselves, without a leg to stand on.

### **TAKING FOR FREE IS STEALING<sup>1</sup>**

THE REFORM under consideration would amount to forcing European publishers and authors to subsidize the American internet giants by providing them with free content that they could turn around and sell to their subscribers.

*“It is a bit as if [...] supermarkets gave away stolen CDs and DVDs in order to attract customers into the stores”<sup>2</sup>.*

The creative output of the mind would thus be handed to private business interests, in the hypothetical hope that a new and “modern” type of compensation, dubbed global licensing, would kick in.

In such a scenario, the author would no longer be compensated proportionately to his or her sales, but subsidized, which, far from being innovative, would only mimic the compensation of European farmers, which bears little relation to their output.

Such a mandatory socialization of authors’ works would open the door to arbitrary practices (who would earn how much according to which criteria?) and

---

1. Title of the book by Denis Olivennes (Grasset, 2007).

2. Ibid.

would be contrary to the very spirit of copyright: the creator would no longer be central to the protection of his or her work. Instead of being a factor of its success, his or her compensation would be granted by an economic power according to unknown criteria.

Such a compensation system would furthermore offer no guarantee to the authors, faced as they would be with the digital operators' dogged determination to pay nothing. (Even today, they have been challenging for many years the levies on IT hardware to cover private copying).

What's more, such an economic power would reserve the right to exclude, according to non-European criteria, works that it considered too confidential or morally objectionable.

For example:

- A children's book called "*T'Choupi is going on a picnic*" was censored by Apple on the grounds that the title was "pornographic"<sup>3</sup>;
- A *Lucky Luke* album uploaded through Apple's Iznéo application was censored in France because black people were represented with fleshy lips;
- Likewise, Iznéo's graphic novels catalog was censored by Apple in the spring of 2013, as was a Danish book on the hippie movement featuring nudity;
- Apple also censored the *France Musique* application because one of its programs was sexually explicit (Would have the *Satanic Verses* been put on sale on the iBooks store at the time of their publication?);

---

3. "Nique" is a dirty word in French.

- Apple withdrew from its iBook Store a book by Bénédicte Martin entitled *La Femme* because the cover art showed a black and white photograph of a naked woman;
- Facebook barred any sharing of Gustave Courbet's painting *L'origine du monde*;
- Amazon, Google and Apple have each published a charter allowing them to decide, at their discretion, not to publish certain works.

These examples, which have not given pause to Mrs. Julia Reda or the Commission, show that diversity exists only if it is financed, and that freedom prospers only in independence.

The reform under consideration would thus have a diametrically different result than the one proclaimed.

Under the guise of modernity, the Commission would in fact be recreating a system of patrons of the arts such as prevailed before the French Revolution. Much as the monarchs denied their support to works that challenged them, one can be certain that today's powers that be would refrain from subsidizing or distributing a book criticizing them.

In truth, the only modernity promoted by Mrs. Julia Reda would amount to replacing royal authority with privately held conglomerates.

Copyright, which historically set free authors and their ideas, guarantees the consumers' access to information, the diversity of knowledge and most of all, the very existence of that knowledge, for without copyright, the number of authors would dwindle dramatically.

The real beneficiaries of the reform dictated by the Juncker Commission in the absence of any serious research would not therefore be consumers, however tempted they might be by the promise of a free access to Europe's content, but private corporations.

## **THE NECESSARY BATTLE AGAINST A LOOMING DISASTER**

WHAT IS THE POINT of having a unified market with a common legal system if it dries up Europe's cultural output?

What is the point of having access to existing content if it means curtailing future creativity?

What is the point of free access if it means crushing diversity, curbing freedom of expression, killing thousands of jobs, impoverishing authors and wrecking what Europe holds dearest for the sole purpose of enriching private companies that evade taxation and legal responsibility on European soil?

What is the point of altering the subtle balances that make up the very soul of a continent without bothering to undertake any prior research?

What is the point of disrupting established cultural situations based on an ill-conceived and biased consultation?

What is the point of a unified market if it is to result in a criminal cultural uniformity?

What is the point of espousing a demagogic form of modernity such as proffered by Mr. Jean-Claude Juncker if it leads to a cultural and democratic decline?

What is the point of wiping out the Member states' secular traditions in an area partaking in Europe's sense of self if it ends up being rejected even by some of the European integration's most passionate advocates?

What is the point of brandishing the notions of free flowing information or access to knowledge when the real objective is to impose a dogmatic vision subservient to a notion of progress concocted by spin doctors and lobbyists?

What is the point of regarding material goods as sacred and intellectual goods as worthless? Is it not the shortest path to a society's loss of cultural identity?

What is the point of legalizing theft and contraband by renaming them exceptions to copyright?

No one wants to be remembered as the undertaker of European culture, Mr. Juncker no more than anyone else, one might assume.

The disappearance of authors is by no means inevitable. All it takes to save them from extinction is to decide that the internet players should, as all other businesses, abide by the law rather than try to change it to fit their needs.

Such choices have nothing to do with technology and everything to do with personal courage and the battle of ideas. French authors and publishers intend to wage that battle. Its implications go beyond any personal interests and concern every citizen, for what is at stake is the very essence of civilization. They should not be the only ones to put up such a fight.

Taking for free is stealing”. That slogan-sounding title, borrowed from Denis Olivennes, encapsulates the fear of the entire European cultural industry confronted with the end of copyright. Is that fear justified? It is indeed, as the fantasies surrounding the digital revolution are giving birth to a European directive and a French bill that, if allowed to go through, will become the law of the land. Opposing them is a matter of considerable urgency. Richard Malka, a practicing lawyer, has put pen to paper in an effort to explain why it is essential authors and creators continue to benefit from the protection of copyright, a legal principle that has been rooted in European societies since the Renaissance.



AFP / JOËL SAGET

Richard Malka has been the lawyer of the newspaper *Charlie Hebdo* since 1992. As a specialist of media law, he has been involved in many

a high profile case in France and is a well known advocate of secularism and of the right to blasphemy and an opponent of privacy invasion. He is also the author of more than twenty graphic novels, some of which have become classics, such as *L'ordre de Cicéron* (Glénat) and *La face karchée de Sarkozy* (Fayard, coll. Vents d'Ouest).