



EUROPEAN PARLIAMENT

2009 - 2014

---

*Committee on Legal Affairs*

---

**2010/2156(INI)**

7.2.2011

# **AMENDMENTS**

## **1 - 26**

**Draft opinion**  
**Cecilia Wikström**  
(PE454.701v01-00)

Unlocking the potential of cultural and creative industries  
(2010/2156(INI))

AM\856021EN.doc

PE458.515v01-00

**EN**

*United in diversity*

**EN**

AM\_Com\_NonLegOpinion

**Amendment 1**  
**Alajos Mészáros, Marielle Gallo**

**Draft opinion**  
**Recital -A (new)**

*Draft opinion*

*Amendment*

***-A. whereas the cultural and creative industries in Europe play an essential role in promoting cultural diversity and pluralism, but also significantly contribute to the economical recovery, to the creation of new jobs and to the sustainable development as well as to the competitiveness of the European economy; whereas small and medium sized companies are key players in the sectors;***

Or. en

**Amendment 2**  
**Alajos Mészáros**

**Draft opinion**  
**Recital B**

*Draft opinion*

*Amendment*

B. whereas the technological advances in information and communication technology in no way alter the fundamental need to protect intellectual property rights, but do call for ***substantial*** changes ***in*** the legal framework protecting these rights so that full advantage can be taken of the new possibilities offered, whilst guaranteeing a well-balanced system of rights protection which takes account of the interests of both creators and consumers,

B. whereas the technological advances in information and communication technology in no way alter the fundamental need to protect intellectual property rights, but do call for ***inevitable*** changes ***and a better respect of*** the ***existing*** legal framework protecting these rights so that full advantage can be taken of the new possibilities offered, whilst guaranteeing a well-balanced system of rights protection which takes account of the interests of both creators and consumers,

Or. en

**Amendment 3**  
**Françoise Castex**

**Draft opinion**  
**Recital B**

*Draft opinion*

B. whereas the technological advances in information and communication technology in no way alter the fundamental need to protect intellectual property rights, but do call for ***substantial changes in the legal framework protecting these rights*** so that full advantage ***can be taken*** of the new possibilities offered, whilst guaranteeing a well-balanced system of rights protection which takes account of the interests of both creators and consumers,

*Amendment*

B. whereas the technological advances in information and communication technology in no way alter the fundamental need to protect intellectual property rights, but do call for ***a renewal of cultural industries*** so that ***creators take*** full advantage of the new possibilities offered, whilst guaranteeing a well-balanced system of rights protection which takes account of the interests of both creators and consumers,

Or. en

**Amendment 4**  
**Marielle Gallo**

**Draft opinion**  
**Recital B**

*Draft opinion*

B. whereas the ***technological advances in information and communication technology in no way alter the fundamental need to protect*** intellectual property rights, ***but do call for substantial changes in the legal framework protecting these rights so that full advantage can be taken of the new possibilities offered, whilst guaranteeing a well-balanced system of rights protection which takes account of the interests of both*** creators and consumers,

*Amendment*

B. whereas ***creators and the cultural and creative industries may only benefit from new patterns of dissemination through new technologies and*** communication systems; ***whereas the infringement of*** intellectual property rights ***represents a serious threat to the development of cultural and creative industries and to the income*** of creators,

Or. en

**Amendment 5**  
**Cecilia Wikström**

**Draft opinion**  
**Recital C a (new)**

*Draft opinion*

*Amendment*

***C a. whereas territoriality poses more and more impediments to the development of online services as content providers aiming at offering creative works to the entire EU market need to clear rights in each of the 27 Member States,***

Or. en

**Amendment 6**  
**Cecilia Wikström**

**Draft opinion**  
**Recital C b (new)**

*Draft opinion*

*Amendment*

***C b. whereas territorial obstacles mean that consumers interested in a cross-border access to creative content face considerable obstacles or look for alternative, although not always legitimate, ways of access which is detrimental to the exploitation of creative works and prevents the true development of an internal digital market,***

Or. en

**Amendment 7**  
**Marielle Gallo**

**Draft opinion**  
**Paragraph 1**

*Draft opinion*

1. Emphasises the need for effective enforcement of intellectual property rights in both the offline and online environments and stresses, in that connection, ***that existing measures, as well as any new measures proposed, should be carefully evaluated in order to ensure their effectiveness and assess their implications for the fundamental rights of citizens;***

*Amendment*

1. Emphasises the need for effective enforcement of intellectual property rights in both the offline and online environments and stresses ***that any measure, in that connection, must comply with the Charter of Fundamental Rights of the European Union;***

Or. en

**Amendment 8**  
**Françoise Castex**

**Draft opinion**  
**Paragraph 1**

*Draft opinion*

1. Emphasises the need for effective enforcement of intellectual property rights in both the offline and online environments and stresses, in that connection, that existing measures, as well as any new measures proposed, should be carefully evaluated in order to ***ensure*** their ***effectiveness*** and ***assess their implications for the*** fundamental rights of citizens;

*Amendment*

1. Emphasises the need for effective enforcement of intellectual property rights in both the offline and online environments and stresses, in that connection, that existing measures, as well as any new measures proposed, should be carefully evaluated in order to ***guarantee*** their ***efficiency, proportionality*** and ***impact on*** fundamental rights of citizens;

Or. en

**Amendment 9**  
**Alajos Mészáros, Marielle Gallo**

**Draft opinion**  
**Paragraph 2**

*Draft opinion*

***2. Emphasises that efforts to tackle***

*Amendment*

***2. Calls on the European Commission and***

*infringement of copyright must enjoy public backing* in order *not* to risk eroding public support for intellectual property rights;

*member States to organise campaigns* in order to *raise awareness on the adverse impact of infringements of intellectual property rights (IPR) and ensure that there is no* risk eroding public support for intellectual property rights;

Or. en

**Amendment 10**  
**Alajos Mészáros, Marielle Gallo**

**Draft opinion**  
**Paragraph 2 a (new)**

*Draft opinion*

*Amendment*

*2 a. Notes that market fragmentation in the cultural and creative sectors is also due to cultural diversity and language preferences for consumers.*

Or. en

**Amendment 11**  
**Françoise Castex**

**Draft opinion**  
**Paragraph 2 a (new)**

*Draft opinion*

*Amendment*

*2 a. Stresses that the scale of unauthorised use of copyright protected material reported by the content industry strongly suggests that the current legal framework suffers from problems of legitimacy in the eyes of the consumer. It is therefore crucial that the roots of this problem be identified and eliminated, rather than exacerbated through repressive measures.*

Or. en

**Amendment 12**  
**Marielle Gallo**

**Draft opinion**  
**Paragraph 3**

*Draft opinion*

3. Emphasises that the *issue of the fragmented nature of European copyright law has been well known for years and, in that connection, calls on the Commission to present, as soon as possible, concrete legislative proposals on how to tackle the issue of territoriality in order to dismantle existing obstacles to the development of the internal market, in particular in the online environment;*

*Amendment*

3. Emphasises that the *current licensing practices contribute to the fragmentation of the EU internal market; notes that although progress has been made, the consumers' demand for multi-territory and multi-repertoire licenses for cross-border and online uses has not been addressed;*

Or. en

**Amendment 13**  
**Françoise Castex**

**Draft opinion**  
**Paragraph 3**

*Draft opinion*

3. Emphasises that the issue of the fragmented nature of European copyright law has been well known for years and, in that connection, calls on the Commission to present, as soon as possible, concrete legislative proposals on how to tackle the issue of territoriality in order to dismantle existing obstacles to the development of the internal market, in particular in the online environment;

*Amendment*

3. Emphasises that the issue of the fragmented nature of European copyright law has been well known for years and, in that connection, calls on the Commission to present, as soon as possible, concrete legislative proposals on how to tackle the issue of territoriality in order to dismantle existing obstacles to the development of the internal market, in particular in the online environment, *while respecting consumers demand and cultural diversity;*

Or. en

**Amendment 14**  
**Cecilia Wikström**

**Draft opinion**  
**Paragraph 3 a (new)**

*Draft opinion*

*Amendment*

**3 a. Welcomes the commitment by the Commission to present legislative proposals regarding orphan works and collective rights management in the beginning of 2011;**

Or. en

**Amendment 15**  
**Marielle Gallo**

**Draft opinion**  
**Paragraph 4**

*Draft opinion*

*Amendment*

**4. Recalls that Article 118 TFEU allows for the creation of a unified European system of copyright law which would have the advantage of removing all copyright-related territorial obstacles to the establishment of a single market for copyright and related rights, both online and offline, ensuring legal certainty and reducing licensing costs;**

**4. Emphasizes that more efficient and less costly licensing process through interoperable technological platforms may ensure a wider dissemination of cultural and creative contents and provide higher royalties to creators while, at the same time, be beneficial to intermediaries and service providers;**

Or. en

**Amendment 16**  
**Alajos Mészáros**

**Draft opinion**  
**Paragraph 4**

*Draft opinion*

*Amendment*

4. Recalls that **Article 118 TFEU allows**

4. Recalls that the **objective of the EU is to**

*for the creation of a unified European system of copyright law which would have the advantage of removing all copyright-related territorial obstacles to the establishment of a single market for copyright and related rights, both online and offline, ensuring legal certainty and reducing licensing costs;*

*promote CCIs, both online and offline; the widespread use of pan-European licences should be the final goal, if this cannot be achieved, a comprehensive assessment of all potential obstacles to the creation of an effective EU internal market, such as VAT rules, payment methods, or the principle of territoriality, should be undertaken;*

Or. en

**Amendment 17**  
**Marielle Gallo**

**Draft opinion**  
**Paragraph 4 a (new)**

*Draft opinion*

*Amendment*

*4 a. Notes that if widespread use of multi-territory and multi-repertoire licenses cannot be achieved, a comprehensive assessment of all potential obstacles to the creation of an effective EU internal market should be undertaken;*

Or. en

**Amendment 18**  
**Piotr Borys**

**Draft opinion**  
**Paragraph 4 a (new)**

*Draft opinion*

*Amendment*

*4a. Welcomes the Commission's idea to guarantee copyright holders remuneration and appropriate protection for works containing creative content in the online market;*

**Amendment 19**  
**Alajos Mészáros, Marielle Gallo**

**Draft opinion**  
**Paragraph 5**

*Draft opinion*

*Amendment*

***5. Emphasises that a short-term measure to deal with certain obstacles created by territoriality should include a reassessment of the optional nature of the exceptions and limitations introduced by Directive 2001/29/EC and that a review of that directive, as required by its provisions, is now long overdue;***

***deleted***

Or. en

**Amendment 20**  
**Françoise Castex**

**Draft opinion**  
**Paragraph 5**

*Draft opinion*

*Amendment*

5. Emphasises that a short-term measure to deal with certain obstacles created by territoriality should include a reassessment of the optional nature of the exceptions and limitations introduced by Directive 2001/29/EC and that a review of that directive, as required by its provisions, is now long overdue;

5. Emphasises that a short-term measure to deal with certain obstacles created by territoriality should include a reassessment of the optional nature of the exceptions and limitations introduced by Directive 2001/29/EC and that a review of that directive, as required by its provisions, is now long overdue, ***particularly in order to ensure that innovative European companies are not disadvantaged compared counterparts in other jurisdictions, such as in the United States where companies that can benefit from a harmonized and system of “fair use” copyright exceptions which do not interfere with the normal exploitation of***

*the work or other subject matter by the rightholder;*

Or. en

**Amendment 21**  
**Christian Engström, Eva Lichtenberger**

**Draft opinion**  
**Paragraph 5 a (new)**

*Draft opinion*

*Amendment*

*5 a. Stresses the need to finally address the "book famine" experienced by visually impaired and print disabled people; reminds the Commission and Member States of their obligations under the UN Convention on the Rights of Persons with Disabilities to take all appropriate measures to ensure that persons with disabilities enjoy access to cultural materials in accessible formats, and to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials; calls on the Commission to work actively and positively within the World Intellectual Property Organization WIPO to agree on a binding legal norm, based on the treaty proposal drafted by the World Blind Union and tabled at WIPO in 2009;*

Or. en

**Amendment 22**  
**Christian Engström, Eva Lichtenberger**

**Draft opinion**  
**Paragraph 5 b (new)**

*Draft opinion*

*Amendment*

***5 b. Stresses the need to solve the issue of orphan works; welcomes the Commission's stated intention to present proposals in this area; notes that the problem of orphan works and the "black hole of the 20th century" is not limited to printed works such as books and magazines, but extends to all kinds of works, including photographs, music, and audiovisual works.***

Or. en

**Amendment 23**  
**Christian Engström, Eva Lichtenberger**

**Draft opinion**  
**Paragraph 5 c (new)**

*Draft opinion*

*Amendment*

***5 c. Notes that many of the new and exciting developments in the cultural and creative industries are related to user generated content and remixes of previously existing works; notes that these forms of expression are often held back by today's copyright legislation and praxis; calls on the Commission to propose solutions to address this, either through a "fair use" exception on the European level or by other means;***

Or. en

**Amendment 24**  
**Cecilia Wikström**

**Draft opinion**  
**Paragraph 5 a (new)**

*Draft opinion*

*Amendment*

***5 a. Calls on the Commission to encourage financial support for private sector initiatives to create widely accessible rights and repertoire databases on musical, audiovisual and other repertoire. Such databases would increase transparency and streamline procedures for rights clearance;***

Or. en

**Amendment 25  
Cecilia Wikström**

**Draft opinion  
Paragraph 5 b (new)**

*Draft opinion*

*Amendment*

***5 b. Calls on the Commission to encourage the setting up of equitable, impartial and effective dispute-settlement mechanisms for all stakeholders;***

Or. en

**Amendment 26  
Cecilia Wikström**

**Draft opinion  
Paragraph 6 a (new)**

*Draft opinion*

*Amendment*

***6 a. Takes the view that the Commission should take into account the specific problems encountered by SMEs when it comes to reinforcing the intellectual property rights corresponding to the principle of "Think Small First" established by the Small Business Act for***

*Europe, inter alia by applying the  
principle of non-discrimination for SMEs.*

Or. en