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Committee on Legal Affairs

2011/2313(INI)

3.4.2012

AMENDMENTS

1 - 36

Draft opinion
Piotr Borys
(PE485.840v01-00)

Online distribution of audiovisual works in the EU
(2011/2313(INI))

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EN

United in diversity

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Amendment 1
Piotr Borys, Jean-Marie Cavada

Draft opinion
Paragraph 1 a (new)

Draft opinion

Amendment

1 a. Stresses that online use can represent a real opportunity for better diffusion and distribution of European works, particularly audiovisual works, in conditions where legal supply can develop in an environment of healthy competition which effectively tackles the illegal supply of protected works;

Or. en

Amendment 2
Piotr Borys

Draft opinion
Paragraph 1 b (new)

Draft opinion

Amendment

1 b. Recalls that the commercial exploitation of the exclusive rights of communication to the public and of making available to the public aims at generating financial resources, in case of commercial success, in order to finance the future production and distribution of projects, thus promoting the availability of a diversified and permanent offer of new films;

Or. en

Amendment 3
Christian Engström
on behalf of the Verts/ALE Group

**Draft opinion
Paragraph 2**

Draft opinion

2. Emphasises the need to ensure flexibility in the distribution of audiovisual works by digital platforms, so as to provide legal forms of supply in response to market demand while ensuring respect for copyright;

Amendment

2. Emphasises the need to ensure flexibility **and interoperability** in the distribution of audiovisual works by digital platforms, so as to provide legal forms of supply in response to market demand while ensuring respect for copyright **and consumer rights**;

Or. en

**Amendment 4
Françoise Castex**

**Draft opinion
Paragraph 2**

Draft opinion

2. Emphasises the need to ensure flexibility in the distribution of audiovisual works by digital platforms, so as to provide legal forms of supply in response to market demand while ensuring respect for copyright;

Amendment

2. Emphasises the need to ensure flexibility in the distribution of audiovisual works by digital platforms, so as to provide legal forms of supply in response to market demand **and to foster cross-border access to content originating from other Member States** while ensuring respect for copyright;

Or. en

**Amendment 5
Cristian Silviu Buşoi**

**Draft opinion
Paragraph 2**

Draft opinion

2. Emphasises the need to ensure flexibility in the distribution of audiovisual works by digital platforms, so as to **provide** legal

Amendment

2. Emphasises the need to ensure flexibility in the distribution of audiovisual works by digital platforms, so as to **expand the** legal

forms of supply in response to market demand *while ensuring respect for copyright*;

online offer of audiovisual works in response to market demand;

Or. en

Amendment 6
Cristian Silviu Buşoi

Draft opinion
Paragraph 2 a (new)

Draft opinion

Amendment

2 a. Highlights the need for European and national education campaigns to raise awareness on the importance of intellectual property rights, as well as on the available legal channels through which audiovisual works are distributed online; points out that consumers should be properly informed about any IPR-related questions that may arise when using file-sharing under cloud computing services;

Or. en

Amendment 7
Piotr Borys, Jean-Marie Cavada

Draft opinion
Paragraph 2 a (new)

Draft opinion

Amendment

2 a. Invites the Commission to enable the industry to test innovative means of distribution seeking to exploit the possible benefits across and between territories and exploitation windows notably through the implementation of the preparatory action on circulation of audiovisual works adopted by Parliament in November 2011;

Amendment 8
Lidia Joanna Geringer de Oedenberg

Draft opinion
Paragraph 2 a (new)

Draft opinion

Amendment

2 a. Points out that the European copyright "acquis communautaire" does not per se preclude voluntary multi-territorial or pan-European licensing mechanisms but that cultural and language differences between Member States, as well as variations in national rules unrelated to intellectual property, necessitate a flexible and complementary approach at European level in order to advance towards the digital single market;

Or. en

Amendment 9
Christian Engström
on behalf of the Verts/ALE Group

Draft opinion
Paragraph 3

Draft opinion

Amendment

3. Stresses that territorial distribution schemes should ***continue to*** apply to the digital environment, since this form of organisation of the audiovisual market appears to ***guarantee*** the prefinancing of European audiovisual and cinematographic works; in this regard, multiterritorial licensing should remain ***optional***;

3. Stresses that territorial distribution schemes should ***not*** apply to the digital environment, since this form of organisation of the audiovisual market appears to ***hamper*** the prefinancing of European audiovisual and cinematographic works; in this regard, multiterritorial licensing should remain ***the ultimate policy goal***;

Or. en

Amendment 10
Cristian Silviu Buşoi

Draft opinion
Paragraph 3

Draft opinion

3. **Stresses** that territorial **distribution schemes should continue to apply to** the digital environment, since this form of organisation of the audiovisual market appears to guarantee the prefinancing of European audiovisual and cinematographic works; in this regard, multiterritorial licensing should remain optional;

Amendment

3. **Recalls** that **the European acquis communautaire in the field of copyright does not per se preclude multi-territorial or pan-European licensing mechanisms in the audiovisual sector; stresses, however, that territorial licensing remains relevant** to the digital environment, since this form of organisation of the audiovisual market appears to guarantee the prefinancing of European audiovisual and cinematographic works; in this regard, multiterritorial licensing should remain optional; **points out that obstacles to multi-territorial licensing stem mainly from cultural and linguistic specificities rather than the IPR legal framework; considers, however, that pan-European licensing could be encouraged in the music sector;**

Or. en

Amendment 11
Piotr Borys

Draft opinion
Paragraph 3

Draft opinion

3. Stresses that territorial distribution schemes should continue to apply to the digital environment, since this form of organisation of the audiovisual market appears to **guarantee the prefinancing** of European audiovisual and cinematographic

Amendment

3. Stresses that **the option for production and** distribution schemes should continue to apply to the digital environment, since this form of organisation of the audiovisual market appears to **form the basis of financing of**

works; in this regard, multiterritorial licensing should remain optional;

European audiovisual and cinematographic works; in this regard, multiterritorial licensing should remain optional;

Or. en

Amendment 12
Françoise Castex

Draft opinion
Paragraph 3 a (new)

Draft opinion

Amendment

3 a. Stresses the need to ensure legal certainty with regard to the law applicable to collective licensing for the online multi-territorial use of audiovisual content; believes that this could be achieved by providing for a system where the law in which the media service provider is established should be applied, while preserving the interests of all right holders, granting them fair remuneration for the service and taking account of all aspects for the service concerned and leaving intact the right for the audiovisual and cinema producers to conclude agreements with the media service providers on an individual basis;

Or. en

Amendment 13
Cristian Silviu Buşoi

Draft opinion
Paragraph 3 a (new)

Draft opinion

Amendment

3 a. Calls on the Commission to carry out a study gathering data on the actual consumer cross-border demand for

audiovisual content; considers such data necessary to assess the added value of multi-territorial licensing;

Or. en

Amendment 14
Piotr Borys

Draft opinion
Paragraph 3 a (new)

Draft opinion

Amendment

3 a. Considers that the encouragement, promotion and sustainability of multi-territorial licensing in the digital single market for audiovisual works should facilitate market-driven initiatives; underlines that digital technologies provide new and innovative ways to customise and enrich the offer for each market and meet consumers' demand, including for tailored cross-border services; calls for better exploitation of digital technologies which should constitute a springboard for both differentiation and multiplication of legitimate offers;

Or. en

Amendment 15
Lidia Joanna Geringer de Oedenberg

Draft opinion
Paragraph 3 a (new)

Draft opinion

Amendment

3 a. Stresses the importance of promoting digital skills and media literacy for all EU citizens including those with disabilities

such as those who are hard of hearing, as it plays an essential role for societal participation and democratic citizenship; recalls the important role of public service media plays in this regard as part of their public service;

Or. en

Amendment 16
Françoise Castex

Draft opinion
Paragraph 4

Draft opinion

4. Calls on the Commission to present a legislative initiative for the collective management of copyright, aimed at ensuring better accountability, transparency and governance on the part of collective rights management societies and at clarifying and simplifying licensing systems in the music sector; stresses, in this regard, the need to operate a clear distinction between licensing practices for different types of content, notably between audiovisual/cinematographic and musical works; recalls that the licensing of audiovisual works is *mainly* conducted on the basis of contractual agreements, and *that* collective management *is rare*;

Amendment

4. Calls on the Commission to present a legislative initiative for the collective management of copyright, aimed at ensuring better accountability, transparency and governance on the part of collective rights management societies, *as well as efficient dispute resolution mechanisms*, and at clarifying and simplifying licensing systems in the music sector; stresses, in this regard, the need to operate a clear distinction between licensing practices for different types of content, notably between audiovisual/cinematographic and musical works; recalls that the licensing of audiovisual works is conducted on the basis of *both* contractual agreements and collective management;

Or. en

Amendment 17
Piotr Borys, Jean-Marie Cavada

Draft opinion
Paragraph 4

Draft opinion

4. Calls on the Commission to present a legislative initiative for the collective management of copyright, aimed at ensuring better accountability, transparency and governance on the part of collective rights management societies and at clarifying and simplifying licensing systems in the music sector; stresses, in this regard, the need to operate a clear distinction between licensing practices for different types of content, notably between audiovisual/cinematographic and musical works; recalls that the licensing of audiovisual works is mainly conducted on the basis of contractual agreements, and that collective management is rare;

Amendment

4. Calls on the Commission to present a legislative initiative for the collective management of copyright, aimed at ensuring better accountability, transparency and governance on the part of collective rights management societies, ***as well as efficient dispute resolution mechanisms***, and at clarifying and simplifying licensing systems in the music sector; stresses, in this regard, the need to operate a clear distinction between licensing practices for different types of content, notably between audiovisual/cinematographic and musical works; recalls that the licensing of audiovisual works is mainly conducted on the basis of contractual agreements, and that collective management is rare;

Or. en

Amendment 18
Françoise Castex

Draft opinion
Paragraph 4 a (new)

Draft opinion

Amendment

4 a. Emphasises that collective rights management is an essential tool for broadcasters, given the high number of rights they need to clear daily; stresses that, where for some types of content and use (e.g. mass-use of music by broadcasters) collective licensing already takes place, an efficient framework guaranteeing one-stop shop should be ensured to help stimulate the EU-wide availability of audiovisual services of which music is an integrated part; recalls that such a framework has been repeatedly demanded by the European

Parliament and has already proven useful for transfrontier traditional audiovisual services (e.g. for cable and satellite services);

Or. en

Amendment 19
Cristian Silviu Buşoi

Draft opinion
Paragraph 4 a (new)

Draft opinion

Amendment

4 a. Takes the view that new technologies could be used in order to facilitate the clearing of rights; welcomes in this respect the ISAN standard initiative which makes the identification of audiovisual works and of the right holders easier; calls on the Commission to consider the opportunity of implementing the ISAN throughout the EU;

Or. en

Amendment 20
Françoise Castex

Draft opinion
Paragraph 4 b (new)

Draft opinion

Amendment

4 b. Recalls that, where relevant, collective rights management solutions (such as extended collective licensing where appropriate) should be found for making broadcasters' archives available to the public on the Internet throughout Europe; considers that this would ultimately benefit all citizens interested in viewing or listening to a vast part of

Europe's cultural heritage;

Or. en

Amendment 21
Françoise Castex

Draft opinion
Paragraph 5

Draft opinion

5. Calls on the Commission to evaluate the application of the current *acquis* in the field of copyright;

Amendment

5. Calls on the Commission to evaluate the application of the current *acquis* in the field of copyright ***and take into account the implications of the recent decision of the Court of Justice of the EU in the Premier League case on EU-wide access to audiovisual services;***

Or. en

Amendment 22
Cristian Silviu Buşoi

Draft opinion
Paragraph 5 a (new)

Draft opinion

Amendment

5 a. Points out that the development of cloud computing services for copyright protected content can bring new challenges, such as the distinction between legal and illegal copies of a music track that consumers may upload; stresses that the content should be available only to the consumer who has legally purchased it and that individual access codes are an efficient solution in this respect;

Or. en

Amendment 23
Christian Engström
on behalf of the Verts/ALE Group

Draft opinion
Paragraph 6

Draft opinion

6. Stresses the need to find **a solution** allowing authors and performers to secure fair economic returns from the online exploitation of their works;

Amendment

6. Stresses the need to find **solutions** allowing authors and performers to secure fair **and effective distribution of** economic returns from the online exploitation of their works;

Or. en

(See JURI Working Group on Copyright, Final Version, approved on 29.06.2011, page 27, point 6, last paragraph: "And last, but not least, it should also deliver on the promises of effective distribution of fair remuneration to creators and of fair and effective distribution of income within the cultural sector in general.")

Amendment 24
Françoise Castex

Draft opinion
Paragraph 6

Draft opinion

6. Stresses the need to find a solution allowing **authors and** performers to secure fair economic returns from the **online exploitation** of their works;

Amendment

6. Stresses the need to find a solution allowing performers to secure fair economic returns from the **making available on demand** of their works; **in this regard calls for the introduction to the EU acquis of an unwaivable remuneration right for performers paid by the users to performers' collecting societies and thereby permitting them to effectively benefit from the growing digital market place with regard to on demand services;**

Or. en

Amendment 25
Françoise Castex

Draft opinion
Paragraph 6 a (new)

Draft opinion

Amendment

6 a. Supports, as far as authors are concerned, European legislation which would provide audiovisual authors with an unwaivable right to remuneration for online uses of their works when they have transferred their making available right to a producer; considers that such a remuneration right should be entrusted to collective management societies representing audiovisual authors, unless unions' contracts or extended collective licences already guarantee such remuneration; also considers that the remuneration should be collected from audiovisual media services making audiovisual works available to the public;

Or. en

Amendment 26
Piotr Borys, Jean-Marie Cavada, Marielle Gallo, Cristian Silviu Buşoi

Draft opinion
Paragraph 6 a (new)

Draft opinion

Amendment

6a. Stresses that it is essential, in the online distribution of audiovisual works, to guarantee equitable remuneration for all authors, artists and performers involved, for example by setting up collective agreements through contractual clauses or, in the absence of an agreement between the parties, through voluntary collective administration;

Amendment 27
Lidia Joanna Geringer de Oedenberg

Draft opinion
Paragraph 6 a (new)

Draft opinion

Amendment

6 a. Stresses that problems associated with online payment systems, such as lack of interoperability and high costs of micro-payment for consumers, should be tackled with a view to developing simple, innovative and cost-effective solutions of benefit to consumers and digital platforms;

Or. en

Amendment 28
Piotr Borys, Jean-Marie Cavada, Marielle Gallo, Cristian Silviu Buşoi

Draft opinion
Paragraph 6 b (new)

Draft opinion

Amendment

6b. Calls for the Commission to urgently carry out a study on the different remuneration options for authors, artists and performers in the audiovisual sector, so that best practice in Member States can be used to set up an EU model;

Or. fr

Amendment 29
Christian Engström
on behalf of the Verts/ALE Group

**Draft opinion
Paragraph 7**

Draft opinion

Amendment

7. Considers that the application of reduced VAT rates for online cultural content would boost the attractiveness of digital platforms;

deleted

Or. en

**Amendment 30
Cristian Silviu Buşoi**

**Draft opinion
Paragraph 7**

Draft opinion

Amendment

7. Considers that the application of reduced VAT rates for online cultural content would boost the attractiveness of digital platforms;

7. Stresses the need to apply the same VAT rate to cultural audiovisual works sold online and offline; Considers that the application of reduced VAT rates for online cultural content ***sold by a provider established in the EU to a consumer resident in the EU*** would boost the attractiveness of digital platforms; ***recalls in this respect its resolutions of 17 November 2011 on the modernisation of VAT legislation in order to boost the digital single market¹ and of 13 October 2011 on the future of VAT²***;

Or. en

**Amendment 31
Françoise Castex**

**Draft opinion
Paragraph 7 a (new)**

¹ P7_TA-PROV(2011)0513

² P7_TA-PROV(2011)0436

Draft opinion

Amendment

7 a. Stresses the importance of promoting digital skills and media literacy for all EU citizens as it plays an essential role for societal participation and democratic citizenship; recalls the important role of public service media plays in this regard as part of their public service missions;

Or. en

**Amendment 32
Cristian Silviu Buşoi**

**Draft opinion
Paragraph 7 a (new)**

Draft opinion

Amendment

7 a. Stresses the importance of net neutrality in order to guarantee equal access to high speed networks, which is crucial for the quality of legitimate online audiovisual services;

Or. en

**Amendment 33
Piotr Borys, Jean-Marie Cavada**

**Draft opinion
Paragraph 7 a (new)**

Draft opinion

Amendment

7 a. Calls on the Commission to find mechanisms to encourage access to archived audiovisual material held in Europe's film heritage institutions; for reasons often linked to diminishing consumer appeal and limited shelf life, a substantial share of European

audiovisual material is unavailable commercially;

Or. en

Amendment 34
Françoise Castex

Draft opinion
Paragraph 7 b (new)

Draft opinion

Amendment

7 b. Considers that, in a context of technological convergence, rights licensing arrangements should apply a technologically-neutral approach; recalls that today, the same TV set can offer both on demand Internet-based services such as catch-up services and traditional broadcast of the same programme; considers therefore that the licensing scheme for the simultaneous, unchanged and unabridged retransmission of audiovisual broadcasting content originating in a Member State over any platform should follow the same regime as is applied to cable retransmission, irrespective of the platform and the transmission method used;

Or. en

Amendment 35
Piotr Borys, Jean-Marie Cavada

Draft opinion
Paragraph 7 b (new)

Draft opinion

Amendment

7 b. Calls on Member States and the Commission to promote solutions to support the digitization, preservation and

*educational availability of these works,
including across borders;*

Or. en

Amendment 36
Piotr Borys, Jean-Marie Cavada

Draft opinion
Paragraph 7 c (new)

Draft opinion

Amendment

*7 c. Calls on the Commission, with regard
to the impact of standardized practices on
the free movement and free provision of
audiovisual works, to implement measures
facilitating wider use of the ISAN system;*

Or. en