



EUROPEAN PARLIAMENT

2014 - 2019

Committee on Industry, Research and Energy

2014/2256(INI)

20.4.2015

OPINION

of the Committee on Industry, Research and Energy

for the Committee on Legal Affairs

on the implementation of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (2014/2256(INI))

Rapporteur: José Blanco López

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SUGGESTIONS

The Committee on Industry, Research and Energy calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Notes the importance of European cultural and linguistic diversity, which provides opportunities for rather than obstacles to the single market, and stresses that the European cultural and creative industries are an engine for economic growth, innovation and job creation in the EU, as they employ more than 7 million people and generate more than 4.2 % of EU GDP; emphasises that cultural and creative industries continued to create jobs during the economic crisis of 2008-2012 and have played an important role in boosting the Union's competitiveness; highlights the fact that new business models and innovative services in the online context have been created;
2. Stresses that cultural and creative content online is a key driver for the development of the information society, information technologies and investment in digital infrastructure and services, which thus foster innovation, growth and creativity;
3. Underlines that copyright and related rights constitute the legal framework for the European cultural and creative industries (CCIs) and form the basis for their ability to generate economic activity, competitiveness, employment, creativity and innovation; highlights that the productivity of the sector continues to grow, and stresses that the current fragmented and outdated system is hindering the full development and functioning of the European digital single market;
4. Welcomes the great interest shown in, as well as the contributions made by EU citizens to, the Commission's public consultation round on the review of the EU copyright rules;
5. Underlines that copyright and related rights should constitute a balanced legal framework for the European cultural and creative industries to generate economic activity and employment; stresses, however, that the current fragmented and outdated levy system causes major problems for the development of the European digital single market and is therefore a threat to growth and economic development;
6. Underlines that copyright and related rights constitute the legal framework for the European CCI sector and form the basis for its ability to generate economic activity and employment; stresses that while the productivity of the CCI sector continues to grow, the earnings of rightholders in the sector are decreasing;
7. Underlines that copyright and related rights constitute the legal framework for the European cultural and creative industries, as also for the educational and research sector and for the sector benefiting from exceptions to and limitations on those rights, and form their basis for activity and employment;
8. Stresses that copyright and related rights are the rights on which all of the creative industries and the associated value chain are founded; calls on the Commission, therefore, to support and protect creators' intellectual property rights so as to enable creative

industries in Europe to flourish;

9. Welcomes the Commission's commitment to further developing the EU digital agenda, including the objective of modernising copyright rules; acknowledges the need to review Directive 2001/29/EC in order to ensure appropriate remuneration for authors, performers, and other copyright holders and appropriate protection of these rights, as well as a fair balance in the European cultural economy between all parties involved (SMEs, consumers, users, creators and rightholders) in a digital era which implies a changing and constantly evolving technological environment and brings about changes in user behaviour, along with opportunities and challenges; considers that such a review should provide the necessary legal clarity, stability and certainty, as well as the flexibility needed to foster investment and growth in the creative and cultural sector whilst removing legal uncertainties and inconsistencies which adversely affect the functioning of the digital single market; also asks for a strong engagement on the principle of reopening, as soon as possible in the interests of consistency, Directive 2000/31/EC on electronic commerce; believes that one of the main aims of this review should be copyright modernisation with the aim of facilitating cross-border access to services and content while preserving a high level of protection of intellectual property rights and serving development and cultural diversity;
10. Underlines that the modernisation of the existing copyright rules is an integral part of the digital economy;
11. Stresses that innovation in creativity and technological advances can have a significant impact on people's lives by enabling different groups to communicate creatively and work collaboratively, thereby both improving the existing skills of creative people and creating added value; considers that this contributes to improved competitiveness, employment and innovation across Europe;
12. Recognises that commercial copyright-infringing activities pose a serious threat to the functioning of the digital single market and to the development of the legal offer of diversified cultural and creative content online;
13. Calls on the Commission to carry out an assessment of the different private copying mechanisms in Europe, taking into account the effectiveness and transparency of levies and the changes in use of private copying ; considers that the Commission should address the divergences of private copying mechanisms in order to ensure the free movement of goods and services in the internal market and the fair remuneration of creative and cultural content and facilitate the development of new and innovative business models;
14. Emphasises that a reform of the EU's copyright acquis should continue to strengthen Europe's cultural and creative industries by improving legal certainty in the digital sphere for all involved parties, including rightholders, businesses and users, and by setting incentives for innovative licensing schemes online and new business models for online distribution of content, thus allowing the sector to benefit from the digital revolution while safeguarding a balanced value chain;
15. Recalls that exceptions from and limitations to copyright are a key aspect of the copyright system and that a notable contribution to economic growth, innovation, and job creation in

the EU is generated by institutions relying on such exceptions and limitations; calls on the Commission to propose a harmonised framework for exceptions and limitations in order to address the fragmented market, improve legal security and foster cross-border accessibility of copyright content, to allow equal access to cultural diversity across the EU, and to conform to consumer expectations; recalls that when Member States provide for exceptions and limitations, they should ensure that they do not conflict with a normal exploitation of the work or subject-matter and do not unreasonably prejudice the legitimate interests of the rightholder; calls for a reassessment of exceptions for research and education purposes, which should cover educational and research activities linked to an educational establishment or institution recognised by national authorities or legislation or within the purview of an educational or research programme; urges the Commission to identify ways in which public and research libraries can lend books to the public in digital formats for personal use, irrespective of place of access and ensuring a fair remuneration for rightholders;

- 16. *Calls for the adoption of a mandatory exception allowing public and research libraries to lend books to the public in digital formats for personal use, irrespective of the place of access;***
17. Recognises that an appropriate adaptation of Directive 2001/29/EC to the digital era may give rise to entrepreneurship and new business models, thus fostering innovation and employment;
18. Calls on the Commission to explore the possibility of significantly shortening the duration of the harmonised terms of copyright protection in the framework of a modern trade policy agenda;
19. Underlines the importance of contractual freedom for all rightholders, who should be able to freely exercise their rights; considers it necessary to develop a legal framework that will be evidence-based, taking into account the experience of all relevant stakeholders, while also strengthening the negotiating and contractual position of all creators in relation to other rightholders and intermediaries;
20. Suggests a review of the liability of service providers and intermediaries in order to clarify their legal status and liability with regard to copyrights, guarantee that due diligence is exercised throughout the creative process and supply chain, and ensure a fair remuneration for creators and rightholders within the Union;
21. Considers it necessary, as part of an overall reform of copyright, also to introduce measures apt to increase the cross-border supply and availability of digital content, such as new rules on consumer protection, the development of e-commerce, the approximation of VAT rates and the expansion of digital networks;
22. Considers it necessary to provide a clear updated framework for cultural institutions that will allow libraries to conduct e-lending and enable libraries, archives and museums to make available online protected works that are no longer in commercial circulation;
23. Believes that citizens should be able to access and buy online content from another Member State, and considers that the practice of restricting access to online content on the

grounds of users' location hinders the development of the digital single market; welcomes the multi-territorial licensing of rights under Directive 2014/26/EU as an example and means of overcoming the fragmented internal market; encourages the development of balanced, flexible and market-driven solutions that help overcome any existing barriers to cross-border access and availability of products and services while respecting cultural diversity, including the development of mechanisms enhancing the cross-border portability within the EU of content that has been lawfully acquired and made available;

24. Considers that the practice of restricting access to online content based on the location of users who have previously paid to access that content is harmful to the functioning of the networks and hinders the development of the digital single market;
25. Points out that the rapid rate of technological development and change of business models in the digital market calls for a technologically neutral legal and legislative framework for copyright; stresses that the protection of copyright and related rights must be respected both online and offline, but also notes that the digital environment is not the same as the analogue world and stresses the need to closely examine the list of exceptions and limitations and consider whether additional or alternative forms of copyright protection are needed to address the matter and to contribute to economic growth, competitiveness and the full development of the digital single market;
26. Takes note of the importance of territorial licenses in the EU, particularly with regard to audiovisual and film production, which is primarily based on broadcasters' pre-purchase or pre-financing systems;
27. Stresses that digital levies should be made more transparent and optimised to safeguard rightholders' and consumers' rights, also by taking into account Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market;
28. Calls on the Commission to examine and propose solutions for automated analytical techniques for text and data ('text and data mining') for scientific research purposes, especially for non-commercial purposes, provided that permission to read the work has been obtained and taking into account options such as the licensing model, as already developed in some Member States, aimed at enabling researchers to maintain Europe's competitive edge in a global environment;
29. Highlights the need to promote greater interoperability, in particular for software and terminals, as lack of interoperability hampers innovation, reduces competition and harms the consumer; believes that lack of interoperability leads to market dominance of one particular product or service, which in turn stifles competition and limits consumer choice in the EU;
30. Acknowledges that the wide roll-out of internet coverage has given rise to the development of new forms of use of works, and calls for adequate compensation solutions for rightholders in the digital environment which also ensure citizens' access to cultural goods and knowledge;

31. Calls, in a framework of full respect for the principle of subsidiarity, on the Commission to explore whether the measures existing to ensure the fair compensation of rightholders in respect of reproductions made by natural persons for private use, such as private copying levies, are up-to-date and efficient solutions;
32. Encourages libraries and archives to engage in voluntary agreements with rightholders which would enable them to fulfil their public mission in the digital society while respecting the rights of rightholders;
33. Stresses that any legislative change in this area should ensure accessibility for all, and especially for people with disabilities, to products and services protected by copyright and related rights and should accordingly ensure adaptation to the digital environment; recognises that inability on the part of users with disabilities to purchase content in an appropriate format may create a barrier to trade for enterprises, as well as reducing the cultural output and content offer available across the Member States; urges the EU to ratify the Marrakesh Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities, which requires a mandatory exception for non-commercial uses to the benefit of persons with a disability which are directly related to the disability and to the extent required by the specific disability;
34. Considers that, as copyright protection is only as effective as the enforcement measures which protect it, if it is to ensure that the CCI sector in Europe can flourish and protect innovation it must be robust;
35. Urges the Commission to take into account the rapidly growing use of creative works in user-generated content and social media platforms on the internet and to enhance user information concerning obligations with regard to anyone who knowingly provides hyperlinks to unauthorised content or links that circumvent paywalls, when reviewing the copyright framework; believes that any new proposal should aim to find a way to protect IPRs and end-users while also fostering a dynamic internet where technology and internet access can continue to empower individuals to be innovative and creative; considers that, in addition, the Commission could propose a legal definition of ‘public domain’ works and ensure that such works are protected against private appropriation through digitisation or other means;
36. Notes with concern that the value generated in the digital economy from the exploitation of copyright-protected works is not fairly shared, inter alia because of the taxation regime for service providers, with the rightholders; calls on the Commission to investigate the extent and impact of this transfer of value to internet intermediaries;
37. Encourages the Commission to continue dialogue and collaboration with the US on the respective copyright legislative frameworks, within the Transatlantic Trade and Investment Partnership negotiations, in order to address potential market access barriers and trade obstacles;
38. Calls on the Commission to adapt and standardise the exceptions and limitations permitted in the regulatory framework of the analogue world in the context of the new scenario represented by the digital paradigm, and in particular by cloud computing technologies;

39. Believes that a common effort should be made to combat copyright infringement in the EU in order to ensure the protection of copyright and fair remuneration; stresses the need to raise consumer awareness of the consequence of infringement of copyright and related rights, and urges a proper solution to ensure that no-one makes a profit out of copyright infringement;
40. Draws attention to Directive 2013/37/EU of 26 June 2013 on the re-use of public sector information, which provides a common legal framework for an EU market for government-held data (public sector information) and also includes provisions on transparency and competition.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	14.4.2015
Result of final vote	+: 47 -: 11 0: 0
Members present for the final vote	Jerzy Buzek, Soledad Cabezón Ruiz, Philippe De Backer, Christian Ehler, Peter Eriksson, Fredrick Federley, Adam Gierek, Theresa Griffin, András Gyürk, Roger Helmer, Hans-Olaf Henkel, Dawid Bohdan Jackiewicz, Kaja Kallas, Barbara Kappel, Seán Kelly, Jeppe Kofod, Miapetra Kumpula-Natri, Janusz Lewandowski, Ernest Maragall, Edouard Martin, Csaba Molnár, Nadine Morano, Dan Nica, Aldo Patriciello, Morten Helveg Petersen, Miroslav Poche, Miloslav Ransdorf, Michel Reimon, Herbert Reul, Paul Rübig, Algirdas Saudargas, Jean-Luc Schaffhauser, Neoklis Sylikiotis, Antonio Tajani, Dario Tamburrano, Patrizia Toia, Evžen Tošenovský, Claude Turmes, Miguel Urbán Crespo, Vladimir Urutchev, Adina-Ioana Vălean, Kathleen Van Brempt, Henna Virkkunen, Martina Werner, Hermann Winkler, Anna Záborská, Flavio Zanonato
Substitutes present for the final vote	Pascal Arimont, José Blanco López, Simona Bonafè, Lefteris Christoforou, Cornelia Ernst, Eugen Freund, Michèle Rivasi, Pavel Telička, Marco Zullo
Substitutes under Rule 200(2) present for the final vote	Daniela Aiuto, Stanisław Ożóg