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## REPORT

on new frontiers in book production: electronic publishing and printing on demand  
(2000/2037(INI))

Committee on Culture, Youth, Education, the Media and Sport

Rapporteur: Barbara O'Toole



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## PROCEDURAL PAGE

At the sitting of 14 April 2000 the President of Parliament announced that the Committee on Culture, Youth, Education, the Media and Sport had been authorised to draw up an own-initiative report, pursuant to Rule 163 of the Rules of Procedure, on new frontiers in book production: electronic publishing and printing on demand and the Committee on Industry, External Trade, Research and Energy had been asked for its opinion (2000/2037(INI)).

The Committee on Culture, Youth, Education, the Media and Sport appointed Barbara O'Toole rapporteur at its meeting of 29 February 2000.

The committee considered the draft report at its meetings of 22 November 2000 and 8-9 January 2001.

At the latter meeting it adopted the motion for a resolution unanimously with one abstention.

The following were present for the vote: Vasco Graça Moura, acting chairman; Ulpu Iivari, vice-chairman; Barbara O'Toole, rapporteur; Ole Andreasen, Pedro Aparicio Sánchez, Raina A. Mercedes Echerer, Robert J.E. Evans (for Lissy Gröner), Geneviève Fraisse, Cristina Gutiérrez Cortines (for Mario Walter Mauro), Ruth Hieronymi, Karin Junker (for Martine Roure), Lucio Manisco, Maria Martens, Pietro-Paolo Mennea, Jens Dyhr Okking, Doris Pack, Roy James Perry, Christa Prets, Dana Rosemary Scallon (for Teresa Zabell), Peter Sichrovsky, Kathleen Van Brempt, Luckas Vander Taelen, Gianni Vattimo (for Valter Veltroni), Christine de Veyrac and Eurig Wyn.

The Committee on Industry, External Trade, Research and Energy decided on 25 May 2000 not to deliver an opinion.

The report was tabled on 10 January 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

## MOTION FOR A RESOLUTION

### **European Parliament resolution on new frontiers in book production: electronic publishing and printing on demand (2000/2037(INI))**

*The European Parliament,*

- having regard to Article 151 of the EC Treaty,
- having regard to its resolution of 7 April 1995 on the establishment of a support programme in the field of books and reading (Ariane) <sup>1</sup>,
- having regard to its resolution of 21 June 1996 on the adoption of a multiannual programme to promote the linguistic diversity of the Community in the information society <sup>2</sup>,
- having regard to its resolution of 30 January 1997 on the first European Commission report on the consideration of cultural aspects in European Community action <sup>3</sup>,
- having regard to its resolution of 13 March 1997 on the information society, culture and education <sup>4</sup>,
- having regard to its resolution of 24 October 1997 on the impact of new technologies on the press in Europe <sup>5</sup>,
- having regard to its resolution of 14 May 1998 on the Commission Communication "A European initiative in Electronic Commerce" <sup>6</sup>,
- having regard to its resolution of 23 October 1998 on the role of libraries in modern society <sup>7</sup>,
- having regard to its resolution of 9 October 1998 on a support programme, including translation in the field of books and reading (Ariane) <sup>8</sup>,
- having regard to its resolution of 5 November 1998 on a single financing and programming instrument for cultural co-operation (Culture 2000) programme <sup>9</sup>,
- having regard to its resolution of 20 November 1998 on common book price fixing across borders <sup>10</sup>,

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<sup>1</sup> OJ C 109, 1.5.1995, p.289

<sup>2</sup> OJ C 198, 8.7.1996, p.248

<sup>3</sup> OJ C 55, 24.2.97, p.37

<sup>4</sup> OJ C 115, 14.4.1997, p.151

<sup>5</sup> OJ C 339, 10.11.1997, p.415

<sup>6</sup> OJ C 167, 1.6.1998, p. 175

<sup>7</sup> OJ C 341, 9.11.1998, p.373

<sup>8</sup> OJ C 328, 26.10.1998, p. 237

<sup>9</sup> OJ C 359, 23.11.1998, p.28

<sup>10</sup> OJ C 379, 7.12.1998, p. 391

- having regard to its resolution of 10 February 1999 on the harmonisation of certain aspects of copyright and related rights in the Information Society <sup>1</sup> ,
  - having regard to its resolution of 16 December 1999 on the fixing of book prices <sup>2</sup> ,
  - having regard to its resolution of 16 March 2000 on the Commission communication 'e-Europe – An Information Society for All' <sup>3</sup> , and the Commission's e-Europe Action Plan of 20 June 2000 <sup>4</sup> ,
  - having regard to its resolution of 4 May 2000 on certain legal aspects of electronic commerce in the internal market <sup>5</sup> ,
  - having regard to the Commission proposal for amendments to the 6<sup>th</sup> VAT directive to take account of services supplied by electronic means <sup>6</sup> ,
  - having regard to the work of the Council of Europe in the field of electronic publishing, including the documents produced in preparation of the Colloquy of Ministers responsible for Cultural Affairs in Frankfurt on 16-17 October 2000, organised by the Council of Europe in collaboration with the German Federal Commissioner for Culture and Media,
  - having regard to Rule 163 of its Rules of Procedure,
  - having regard to the report of the Committee on Culture, Youth, Education, the Media and Sport (A5-0005/2001),
- A. whereas linguistic and cultural diversity are essential and valuable features of the European Union,
- B. whereas the written word and book production are important vehicles for the expression of such diversity and the consolidation of knowledge and citizenship,
- C. whereas, recognising these facts, the Member States have commonly sought, through protection of intellectual property rights, preferential tax regimes, regulation of demand, grants for translation, reduced postal charges for printed matter and so on, to protect the printed word from the untrammelled operation of the market,
- D. whereas the Community has acknowledged that, in the interest of cultural and linguistic diversity, such treatment is not contrary to Community competition law,
- E. whereas the advent of the Internet and electronic publishing makes possible wider and potentially cheaper access to a larger range of publications than hitherto; whereas electronic publishing and print-on demand therefore constitute an opportunity rather

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<sup>1</sup> OJ C 150, 28.5.1999, p. 154

<sup>2</sup> OJ C 296, 18.10.00, p. 210

<sup>3</sup> Not yet published in OJ

<sup>4</sup> Not yet published in OJ

<sup>5</sup> Not yet published in OJ

<sup>6</sup> COM(00) 349 fin.

than a threat; whereas, if this opportunity is to be exploited to the full, steps must be taken to improve European households' access to the Internet,

- F. whereas the republication of books which are out of print offers authors and thus the public great opportunities through the use of new technologies,
- G. whereas, although the printed book remains an indispensable vehicle of culture, the various forms of electronic publishing could play an important role in maintaining and strengthening cultural and linguistic diversity, promoting reading, and consolidating knowledge and citizenship,
- H. whereas the Internet and electronic publishing must operate in such a way as to promote information and reading among vulnerable population groups (farming regions, young people, disadvantaged groups) with the aim of overcoming disparities and avoiding the creation of a new class of technologically illiterate citizens who would join the significant number of people who are illiterate in the more traditional sense,
- I. whereas in the case of unavoidable exceptions to authors' moral rights and copyright in the Information Society, authors and publishers should have the right to fair and equitable remuneration,
- J. whereas the various forms of electronic publishing could play an important role in ensuring broad access to Europe's classical cultural heritage and to works of reference,
- K. whereas if 2003 were designated European Year of Books and Literacy this would help highlight the role of books and electronic publishing in promoting knowledge and personal development and would enable measures to be taken against illiteracy,
- L. whereas, in the interest of social inclusivity, freedom of access, pluralism and cultural diversity, Member States have implemented cultural policies to support the printed word; and whereas these should be extended to cover electronic publishing,
- M. whereas reading is an important skill in the effective use of the new media and the Lisbon Council on 23 and 24 March 2000 stressed the need to reinforce the fight against illiteracy;
- N. whereas electronic publications should not be taxed as services, but rather at the same rate at which non-electronic publications are taxed by the different Member States,
- O. whereas the cross border sale of books via the Internet, especially in cross-border linguistic zones, will affect national book retail price maintenance mechanisms,
- P. whereas the resolution of the Council of Cultural and Audiovisual Affairs Ministers of 23 November 2000 on the application of national fixed book-price systems calls on the Commission when examining national rules and agreements on fixed book prices to pay particular attention to the risk of the development of evasion and the consequences of the development of e-commerce,

- Q. whereas the Community is currently seeking to establish a legal framework for copyright and related rights in the Information Age and for e-commerce; whereas legislative actions and measures taken within the framework of the 'new economy' engendered by the Information Society must be developed as part of a coherent and co-ordinated policy,
  - R. whereas technologies such as watermarking and encryption techniques are being developed to protect the authenticity of electronic publications, and copyright protection is hence facilitated,
  - S. whereas the protection of European right holders is essential to achieving the aim of increasing European content on the web and all instruments must therefore be used to keep abreast of the USA,
  - T. whereas licenses should be promoted which leave the right holders the choice of how their works should be exploited and open up the possibility of 'à la carte' agreements between users of works and their right holders,
  - U. whereas electronic publishing businesses must be able to take advantage of new licensing models which both further their commercial success and allow the widest possible access to information by the citizen,
  - V. whereas the holders of the rights to a publication in the case of print on demand should be the publisher, the author, or someone licensed by the publisher,
  - W. whereas the promotion of printing on demand is especially important for books with a limited market such as academic books and the reproduction of published material,
  - X. whereas to rise to the challenge of the deposit of electronic publications in national libraries and of the increased volume of publications due to new technologies, European Publishers and National Libraries have recently agreed guidelines which encourage voluntary deposit of electronic publications, access to these being confined, in the absence of special licensing arrangements, to one reader at a time on the premises of the national library in question,
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- 1. Underlines the importance of encouraging literary and linguistic creation, maintaining and improving Europe's cultural and linguistic diversity, safeguarding universal access to the written and spoken word, and the consolidation of knowledge and citizenship;
  - 2. Calls on the Commission to subsidize a large number of small electronic providers of publications in order to maintain linguistic and cultural diversity so as to create a counterweight to the media conglomerates;
  - 3. Believes that the cultural policies of the European Union and the Member States towards the printed word have hitherto played an important role not only in maintaining such diversity and in safeguarding access but also as regards cultural creation and innovation;
  - 4. Calls for such cultural policies to take into account the specific nature of electronic publishing in making the necessary adjustments and in ensuring coordination with the



actions and measures taken as part of existing and future policies;

5. Calls on the Commission to co-ordinate and stimulate cultural policies for combating illiteracy and functional illiteracy and help create a world of engaged readers proficient in both electronic and paper means of publication;
6. Believes that a cultural policy towards electronic publishing should respect the principles of: separation of the regulatory regime for the provider and infrastructure from that for the content provided; neutrality between different means of delivering the same content; proportionality; and the pursuit of general interest objectives;
7. Calls on the Commission to propose a legislative framework for e-publishing;
8. Calls on the Commission to support technological developments to improve authenticity protection and the rights of right holders etc. in order to take maximum advantage of electronic publishing and the opportunities it provides;
9. Calls on the Commission to ensure that this framework respects the freedom of each Member State in its policy on books and reading to choose whether it wants to adopt a national book price system in legislative or contractual form;
10. Calls on the Commission to ensure that this framework is sufficiently flexible with regard to permitted methods of remunerating authors, in order that the greatest variety of books may be published and to encourage, and adequately finance, emerging authors;
11. Calls on the Commission to ensure that when e-publishing is well established within the Union funds should be made available to encourage the publishing of e-books in addition to supporting traditional forms of publishing, and to safeguard a competitive market structure so that the additional costs of new technologies are not too onerous for small publishers;
12. Calls on the Member States to consider applying specific VAT arrangements to publications downloaded from the Internet;
13. Calls on the Member States to ensure that whatever VAT exemptions or reductions are granted to educational and cultural institutions in respect of the purchase of non-electronic publications are extended to their purchase of electronic publications;
14. Calls on the Commission to include in its follow-up programmes to 'Info 2000' and 'Multilingualism in the Information Society' and in its 'e-content' programme measures to foster creative European content in e-publishing in all languages;
15. Calls on the Commission to designate 2003 'European Year of Books and Literacy' in order to step up the fight against illiteracy and functional illiteracy and to increase public awareness of the importance of books and electronic publishing in the knowledge-based economy;
16. Calls on the Commission to ensure that EU vocational training programmes and provisions for EU supported training schemes address the need to offer opportunities for

workers in the publishing and book retailing industries as well as to creators, in this case authors, to adapt their skills to new technologies, while ensuring that traditional publishing skills and occupations are not forgotten;

17. Calls on the Commission and the Member States, as part of education policies, to facilitate access to reading and encourage young people, who represent the future of the European Union, to read;
18. Instructs its President to forward this resolution to the Council, the Commission and the Member States.

## **EXPLANATORY STATEMENT**

1. This report calls on the Commission and Member States to develop a cultural policy towards electronic publishing. It seeks to promote the following aims:
  - the development of the European electronic media industries and subsequent widespread use of electronic media in Europe,
  - affordable access to these media for all Europeans and educational provision to enable them to make use of this access,
  - linguistic and cultural diversity,
  - the extension to electronic publishing of policies intended to promote the written word as a principal vehicle for expressing the cultural identities of nations and regions,
  - facilitation of an easy transformation of traditional publishing into e-publishing where it takes place, for the people affected by it.

## **CULTURAL POLICIES TOWARDS PRINTED BOOKS**

2. The printed book is an example of the use of technology to transport ideas, information and knowledge over long distances. The audio-visual media have supplemented, but not supplanted, the book. Publishing remains an important industry. For example, the number of titles published in Britain has more than doubled in the past twenty years and exceeded 100 000 for the first time in 1997. Sales of books were worth about £ 4.08 billion in 1999 (€ 6.65 billion), i.e. book sales in one Member State alone were equivalent to about 7% of the EU budget. Leaving aside the Russian Federation, some 800 000 new titles in fifty or so languages are published annually in Europe. But books are not just commodities like any other. The written word has been the principal vehicle for expressing the cultural identities of nations and regions; a free and pluralistic press is both a precondition and a manifestation of freedom of speech; access to the written word is a vital prerequisite of democratic citizenship.

3. This explains why almost all European states have long-standing and generally successful policies which favour the production and distribution of the written word. Such policies have generally used one or more of the following means: legal measures (especially protection of intellectual property); fiscal measures (e.g. reduced rate of VAT); regulation of demand (through fixed book prices, a system of library lending rights, large-scale acquisition by public libraries, etc); quality support (e.g. grants for translations); subsidies for publishing houses and booksellers (e.g. reduced postal charges for printed matter). Three models have emerged:

- the British model, which does not levy VAT on books and compensates publishers and authors for the fact that their works may be borrowed free of charge from public libraries;
- the Scandinavian model, which subsidises the production, the distribution and the sale of books, but generally does not reduce the rate of VAT levied on books;
- the continental model, which reduces the rate of VAT levied, subsidises particular publishing projects and generally supports a fixed book price regime.

Whatever the mix of instruments chosen, the aim is to ensure that, in the interest of cultural pluralism and quality, a wider range of books, and in a wider variety of languages, is published. Can and should such policies now be extended to cover one of the biggest growth

areas in publishing at present – electronic publishing?

4. Four principles should inform any cultural policy for electronic publication:
  - the regulatory regime for the provider and the infrastructure should be kept separate from that for the content provided;
  - it should not discriminate between different means of delivering the same content (the "neutrality principle" e.g. in countries where fixed book prices exist, an electronic publication should not be available more cheaply than its conventional printed counterpart; where reduced rates of VAT apply to books, electronic publications should not pay a higher rate);
  - it should be proportional i.e. the degree of regulatory intervention should not exceed that necessary to achieve the objectives of the policy;
  - it should aim to realise general interest objectives (e.g. promotion of linguistic and cultural diversity).

## ELECTRONIC PUBLISHING

5. The term "electronic publishing" covers a number of areas: Internet bookshops, electronic books, print-on-demand, and publishing on the Internet. While they offer different products, all four areas of e-publishing centre on the Internet. The temptation is to distinguish between the use of the Internet as a production, a distribution or a marketing tool. In practice, however, electronic publishing overlaps with electronic commerce. Electronic publishing is not a pure means by which the producer can work directly with the end user. Electronic book retailers have also been getting involved in marketing electronic publications besides selling traditional books via the Internet.

6. **Internet bookshops:** In most European countries, there is now at least one company which offers a much wider range of books than could be stocked by even the biggest conventional bookshops. The customer chooses the books s/he wishes to buy from an Internet website, pays with a credit card, and has them post to his/her home. In addition, the would-be reader might also benefit from price reductions, since the on-line retailer is able to avoid distribution costs, which must be paid by conventional wholesalers (up to 40% of the cover price of books). However, this might not be the case where on-line retailers respect fixed book prices, and the advantage can in certain cases be outweighed by postage costs. Some Internet bookshops are also involved in selling electronic versions of books. Book clubs are also increasingly populating the Internet. While Internet booksellers such as Amazon or Barnes and Noble might overwhelm their customer with the choice of books on a particular topic, book clubs define special interest groups: they create small 'customer communities' whose reading is pre-selected by experts and whose members can meet authors for virtual chats.

7. What is the future for books online? Some Internet retailers – Amazon.com, for example – have become household names, but buying books on the Internet remains a minority taste. In the UK, for example, only 2% of books were sold on-line in 1998. In the longer term, however, it seems likely that the combination of convenience and a vast stock will increase the market share of Internet retailers. Competition in Internet book retailing (especially between pioneers and start-ups) is such that many try the 'GetBigFast' strategy: Foregoing profit for several years, they attempt to ensure their long-term survival by investing

aggressively in new product categories and new business branches, by spending money on brand awareness and cultivating new customers.

8. **Electronic books:** While Internet retailers are new, companies like Amazon have so far been selling traditionally produced books. Electronic books, by contrast, are a new product, available in two principal versions: Ordinary PC-format and e-book readers. Electronic book readers have a screen the size of a laptop computer and a cable port to receive books downloaded from the Internet via a PC. Like an ordinary book, readers can flick from one page to another, write comments on the touchscreen with a pen, underline text, put in a bookmark, and so on. Electronic books, however, make it possible for a reader to carry around the equivalent of a bookcase full of ordinary books – up to 40 000 pages of text and illustrations. The 'rocket e-book', for example, manufactured by NovoMedia, on the market in the US since November 1998, is now available for about \$270. RocketEditions of books, i.e. digital versions exclusively for reading on the Rocket eBook are available from Internet bookshops at prices not lower than for traditional books (although they are much cheaper to produce). A key challenge to e-Book manufacturers and online booksellers has been to make a critical mass of digital books and texts available for eBooks. At the first European launch of the Rocket e-Book in Germany in summer 2000, for example, 500 titles were available (compared to 3 760 US titles). While digital book sales currently only account for a tiny fraction of total book sales, deals such as that between Microsoft and Amazon (announced 28 August 2000) could soon make 100 000 digital titles available. Microsoft will supply Amazon with a customised version of its Reader software of which the latest version was only announced on 17 August 2000, that allows consumers to down-load and display text on personal computers or handheld devices. The US are leading the way. Some titles are being published in electronic format there long before they get onto the UK market in conventional form. Publishers (and authors) are faced with the choice of switching to electronic publication entirely or of offering e-books alongside printed books. For publishers the question of the digitisation of their back catalogues arises. While the sale of e-books is still targeted at 'mobile professionals' and 'early adopters', the 'e-book for everyone' is in the making.

9. **Print-on-demand:** This hybrid form of Internet publishing involves storing texts in virtual form until they are printed by special digital printing machines. Print-on demand can fulfil three different purposes and varies accordingly in its economic potential:

- As 'just-in-time' print, small print-runs or even individual copies of books are produced at short notice.
- As decentralised print-on-demand, books are transmitted electronically and printed as closely as possible to the point of supply.
- As personalised print-on-demand, it allows for books to be tailor-made to the needs of the individual reader.

10. Personalised print-on-demand is still very much in its infancy, and the combination of content from different rights holders into one book poses a challenge. Decentralised print-on-demand only holds potential in markets like the US where the density of bookshops is relatively low and the delivery of individual titles takes a minimum of several days. In countries with a distribution network like Germany, for example, where every title can be available in any bookshop within 24 hours, print-on-demand machines will not be economically viable for the foreseeable future. Just-in-time print-on-demand is currently the only significant form of print-on-demand in Europe: It suits the production of titles of which less than 1000 copies per year are expected to be sold – publishers can even just 'test the

market' -, and it allows for reprints of titles of which the first edition was produced through conventional off-set print. Just-in-time print-on-demand is, however, not just practised by publishers, but also by authors in co-operation with (Internet) book wholesalers. That way authors forego the service of a publisher (e.g. editing, designing, and marketing), but also circumvent the hurdle of acceptance by a publisher. The economic viability of any form of print-on-demand varies from case to case and depends on many factors such as costs and workflow. Moreover, the technology still faces challenges especially where colour print and book binding are concerned. So, offset printing with limited print runs will continue. However, as it develops, print on demand will affect the structure of publishing houses. Their division into editing and production, for example, will not remain. Publishing will increasingly become an integrated workflow, requiring skills' adaptation from its workforce.

11. **Publishing on the Internet:** This is the most obvious form of electronic publishing. A good example of how this might develop is provided by the launch of the Encyclopaedia Britannica on the Internet. The Encyclopaedia Britannica was put on the Internet in 1994 as the Britannica Online: for a small monthly fee, subscribers gained online access to what had hitherto been available only as thirty or more large (and expensive) volumes. In 1999, Britannica Online became available for free: its publishers now earn income from payments by advertisers. It is significant that the publishers of Encyclopaedia Britannica were responding to an earlier initiative by Microsoft, which had made the Encarta encyclopaedia available for free in promotional packages for those buying Microsoft programmes. Competition between large content providers offering similar products seems likely to drive down or eliminate subscription fees. The success of publishing on the Internet will depend on the type of publication: to read an encyclopaedia article on screen or to download an academic paper and print it onto sheets of paper might well be a spreading practice, but that this will hold mass appeal for reading fiction is doubtful. Stephen King's experiment of serialising his novel 'The Plant' on his own website with an 'honesty system' for payment is not as promising an option for lesser known authors.

## **ELECTRONIC PUBLICATION OF STM JOURNALS**

12. Direct sale on the Internet is commonest among the publishers of scientific, technical and medical journals (STM publishers). The main purchasers of such publications are universities and research institutes.

13. Journals are the principal vehicles by which academics make their work known to colleagues and grant-givers alike: they are, therefore, indispensable to universities and research institutes. Yet, increases in the price of academic journals way above the rate of inflation have recently had a profoundly damaging effect on the acquisitions policies of university libraries during a period in which state funding for higher education has commonly been cut back.

14. University librarians hoped that journal publishers would pass on the savings of electronic publishing by cutting their subscription prices. This might have enabled libraries of all universities to subscribe to more journals thereby improving access to academic journals. However, the availability of electronic versions of journals alongside printed versions has usually produced no savings for libraries. In part this may be because, typically, publishers of STM journals in electronic format have adopted one of three pricing policies:

- some have combined the subscription of print and electronic versions, offering the latter as a free supplement;
- some have combined the two and charged 10-20% more than for the print version alone;
- some have made the electronic version available separately, typically charging the same or slightly less for it than for the printed journal.

15. In addition, unlike with printed journals, access to back issues and their indexes depends on continuing subscription. This is a consequence of the licensing arrangements, which govern access to electronic journals:

- the copyright owner and licensor can sell the copyright work to the licensee outright, but more commonly;
- the licensee, i.e. a library, pays a subscription fee for unlimited access by individual users during a given period or
- the licensee pays each time the copyright work is consulted.

16. Moreover, if university libraries are to offer access to electronic journals to their users, they must invest in the necessary IT hardware and operating systems, which need constant updating as publishers develop the technology of electronic journals. Enormous costs arise and these must be weighed against the savings on the physical storage of printed journals.

## A CULTURAL POLICY FOR ELECTRONIC PUBLICATIONS

17. **The backdrop to a cultural policy for electronic publishing:** The development of electronic publishing could pose a major threat to cultural publishing policies which Member States have hitherto pursued. First, because while convergence will create vast content databases it seems unlikely that this content will be available in the range of languages hitherto in print. While the new technologies certainly have the potential to facilitate publishing in a multitude of languages, concentrations of the control of the global publishing industry are a force in the opposite direction. Second, because it seems very likely that pressure for the full liberalisation of trade in cultural products and services will grow as a consequence of the economic importance of electronic commerce. Europe should not simply mask its economic problems by deploring the cultural dominance of the US (stemming from its economic dominance), but defend its cultural identities vis-à-vis the US by overcoming the fragmentation of the European market and getting the critical mass for the creation of globally competitive products.

18. **Copyright provisions:** In the context of cultural policy, a balance has to be struck between protecting the rights of copyright holders and those of users. As a result of several years' work, the EU has come up with a new draft copyright law, which might achieve this aim and would be binding throughout Europe. The draft Directive on 'Copyright and related rights in the information society' gives authors and producers the exclusive right to authorise diffusion of their work on communication networks and provides for their remuneration where copies of their work are made for individual use. On the other hand, however, the draft Directive provides for limited application of authors' and producers' exclusive rights in the case of non-commercial establishments providing public access: Member states are left to decide whether and how to set up exemptions from producer rights for educational and

cultural institutions.

19. The draft Directive is intended to address the need to legislate as a result of technological innovation. The focus of the discussion over the draft Directive has been the issue of digitalisation – the encoding of text, illustration and other material in digital form for its transfer over electronic networks and the need for some form of control by the original copyright holder over his/her work after its digital release which effectively puts it into the public domain. The controversy surrounding the issue centres on the degree of absolute control the new regulation would give the copyright holder, and on the idea of 'fair compensation', i.e. the question whether copyright holders have to be compensated every time their material is copied, even if this is carried out by academic institutions and libraries.

**20. Legal deposit and copyright:** The establishment of national collections of published work dates back to the nineteenth century: in some countries, the obligation to deposit copies of a publication in a national library has been a condition of copyright (hence "copyright library"). While a number of countries have attempted to extend this principle to digital publications, electronic publishers have resisted depositing their publications in national libraries out of fear that free access would compromise the collection of fees due under copyright. In an attempt to preserve the completeness of national collections in the face of these difficulties, guidelines for the voluntary deposit of electronic publications which can be adapted locally have been drawn up between National Libraries and European Publishers. While not yet offering the ultimate solution for the deposit of all kinds of electronic publications (dynamic on-line publications, for example, still pose challenges), these guidelines centre on access to deposited electronic works by one user at a time on the premises of a national library. Therefore, access is not universal, but the question of the compensation of rights holders does not pose itself either in connection with national library deposit, and national libraries are not pushed into taking up the role of one-stop copyright clearing centres.

**21. Indirect Taxation:** Taxation of electronic publications supplied to final customers (as opposed to transactions between VAT registered traders) is fraught with difficulties. For example, while current VAT regimes tax services according to where the supplier has established his business (the "place of supply" rule), services provided by Internet are taxable at the place of consumption. The Commission proposed in its "Communication on indirect taxation and electronic commerce" (COM(98)374 final, adopted by Council on 6 July 1998), that products supplied in digital form via an electronic network be treated as a supply of services for VAT purposes: printed books will therefore be subject to a reduced or a zero rate of VAT while the same publication in electronic form is subject to the standard rate of VAT for services (e.g. a book bought in a shop in the UK will be zero rated for VAT, but a book downloaded from the Internet in the UK will be rated at 17.5% VAT).

**22.** More recently, the European Commission (Proposal for a Council Directive amending Directive 77/388/EEC, COM(2000)349 final) has been aiming at creating a level playing field between EU and foreign providers of electronic services. So far, foreign firms have not been paying VAT on Internet sales in the EU, whereas EU-based firms selling outside the EU have in some cases paid VAT twice. Should the Commission's proposals become law, foreign firms would have to register for VAT paying purposes in the EU (at a 'single place of



establishment') if their annual sales exceed a certain threshold, and EU companies selling outside the EU would escape VAT payments in the EU. There are several problems with these proposals. Compliance by foreign firms would be difficult to enforce. Moreover, VAT rates vary across the EU, and foreign firms are likely to register in the EU country with the lowest VAT rate for services. To take an example, a US publisher supplying a customer in Sweden digitally with a publication might be able to charge Luxembourg's 15% VAT rate, while a British publisher doing the same would have to charge Sweden's 25% VAT rate. Opposition of Member States with higher VAT rates is likely. Also, educational publications, such as long distance learning materials, are not exempt from the Commission's proposed rules for the taxation of electronically delivered services.

23. **Book price support mechanisms:** Fixed book prices effectively cross-subsidise from more to less economically viable titles. As a result, a greater variety of books is available, and minority interests are also safeguarded. Fixed book prices are hence a mechanism for safeguarding pluralism in book production and fulfil a 'public interest' mission. Fixed book prices come in various forms. In some cases, they are the result of trade agreements between publishers and booksellers, such as in Germany, Denmark, Italy, the Netherlands. This means that there are also books on the market, which are not covered by any such agreements. In other cases, fixed book prices are prescribed by a law such as in France (also Austria, Greece, Portugal and until recently Spain). Here the rules for discounting book prices, for example, are fixed for universal application. Internet booksellers are in a position to undermine fixed book price agreements, and in some cases have done so: Belgian Internet bookseller Proxis has sold discounted books into France undermining the French fixed book price; Austrian Internet bookseller Libro has sold discounted books into Germany, which it sourced in Germany.

24. **Social implications of change in the publishing industry:** Over the past two decades, the publishing and printing industries have been transformed by new technology and changes in patterns of ownership. This innovation has often made redundant the skills of workers; combined with such innovation, concentration of media ownership has commonly resulted in a more combative style of industrial relations, often entailing large-scale redundancies. Where appropriate, EU vocational training and other social policies and programmes should help employees in the publishing industry to keep their skills up to date so that they are better able to meet the challenges posed by continuing technological change.

## CONCLUSION

25. Article 151§1 of the Treaty specifically enjoins the Community to respect the national and regional diversity of the cultures of the Member States. As a general principle, the Community should take action only where this is necessary and such action must be proportionate to the ends to which it is directed. Article 151§4 states "the Community shall take cultural aspects into account in its actions under other provisions of this Treaty, in particular in order to respect and to promote the diversity of its cultures."
26. While respecting these constraints, this report has called on the Commission to explore, in collaboration with the Member States, the possibility of extending to electronic publishing cultural policies which have hitherto been deployed to promote the publication and distribution of books.