

19.2.2014

A7-0114/1

Amendment 1

Cecilia Wikström

on behalf of the ALDE Group

Report

A7-0114/2014

Françoise Castex

Private copying levies

(2013/2114(INI))

Motion for a resolution (Rule 157(4) of the Rules of Procedure) replacing non-legislative motion for a resolution A7-0114/2014

European Parliament resolution on private copying levies

The European Parliament,

- having regard to Directive 2001/29/EC of the European Parliament and of the Council on the harmonisation of certain aspects of copyright and related rights in the information society¹,
- having regard to the proposal for a directive of the European Parliament and of the Council on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market (COM(2012)0372),
- having regard to Articles 4, 6, 114 and 118 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to the judgments of the Court of Justice of the European Union, particularly of 21 October 2010 in Case C-467/08, Padawan v SGAE [2010] ECR I-10055, of 16 June 2011 in Case C-462/09, Stichting de ThuisKopie v Opus Supplies Deutschland GmbH and others [2011] ECR I-05331, of 9 February 2012 in Case C-277/10, Martin Luksan v Petrus van der Let (not yet reported), of 27 June 2013 in Joined Cases C-457/11 to C 460/11, VG Wort v Kyocera Mita and others (not yet reported), and of 11 July 2013 in Case C-521/11, Austro Mechana v Amazon (not yet reported),
- having regard to the Commission communication of 24 May 2011 entitled ‘A Single Market for Intellectual Property Rights: Boosting creativity and innovation to provide economic growth, high quality jobs and first class products and services in Europe’ (COM(2011)0287),
- having regard to the Commission communication of 18 December 2012 ‘On Content in the Digital Single Market’ (COM(2012)0789),

¹ OJ L 167, 22.6.2001, p. 10.

- having regard to António Vitorino’s recommendations of 31 January 2013 resulting from the mediation process on private copying and reprography levies,
 - having regard to the Committee on Legal Affairs working document entitled ‘Copyright in the music and audiovisual sectors’, approved on 29 June 2011,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A7-0114/2014),
- A. whereas culture and artistic creation are integral to the digital economy, and whereas cultural expression relies on equal access to Europe’s digital infrastructure;
 - B. whereas digitisation is having a huge impact on the way in which cultural identities are expressed, and whereas new distribution channels are facilitating access to culture and artistic creation and providing opportunities for creators and artists;
 - C. whereas the number of new services and businesses has increased enormously as a result of the digitisation of cultural goods produced, distributed, marketed and consumed in Europe and around the world; whereas the protection of creative works and the right to fair remuneration for creators and to fair and effective distribution of income within the cultural sector must also exist in the digital age;
 - D. whereas collective management of copyright and related rights requires a particular emphasis on transparency with regard to the flows of remuneration collected, distributed and paid to creators, and reinforces the need for collecting societies;
 - E. whereas under Directive 2001/29/EC Member States may provide for an exception to, or limitation on, the reproduction right for certain types of reproduction of certain types of cultural good, so as to allow private use without any need to seek authorisation from the rightholders;
 - F. whereas under Directive 2001/29/EC Member States may provide for levies to be calculated solely on the basis of the harm to the rightholders resulting from the private copying act in question;
 - G. whereas the sum total of private copying levies collected in 23 of the 28 Member States has more than tripled since Directive 2001/29/EC came into force and, according to the Commission’s estimates, now stands at over EUR 600 million;
 - H. whereas the private copying levy is paid by consumers when purchasing traditional and digital recording media and material, and whereas they are therefore entitled to know of its existence and amount;
 - I. whereas disparities exist between the various models and collection rates for private copying levies, including as regards their impact on consumers and the single market; whereas a European framework needs to be laid down in order to afford a high degree of transparency for rightholders, manufacturers and importers of equipment, consumers and service providers across the Union;

- J. whereas the exemption and reimbursement arrangements for professional uses which have been introduced in the Member States have to be effective;
- K. whereas, as a result of new technologies and digitisation, content can be copied without losing quality and at virtually no additional cost, leading to the development of new business models and to great potential public benefits, for example as regards access to increasingly diverse cultural content, information and education;

A system in need of modernisation and harmonisation

1. Recalls that copyright law should balance the interests of creators and consumers; considers that all European consumers should have the right to make private copies of legally acquired content;
2. Notes that private copying levies currently constitute a source of income which is of varying importance for different categories of rightholder, and that its importance varies significantly between Member States;
3. Underlines the fact that while some Member States have opted to introduce an exception for private copying with compensation for rightholders, the cultural and creative sectors also exist and contribute to growth in those Member States which have not opted to impose private copying levies;
4. Emphasises that the major disparities between national systems for the collection of levies, especially as regards the types of product subject to the levy and the levy rates, distort competition and give rise to ‘forum shopping’ within the internal market;
5. Calls, therefore, for long-term discussions to be conducted with a view to developing an efficient and up-to-date approach that need not necessarily be based on a flat-rate levy on equipment, and for a modernised European framework that guarantees the application of equivalent conditions to rightholders, consumers, manufacturers and importers of equipment and service providers across the Union;
6. Stresses that discussions need to be held to assess the effectiveness and impact of the current levy systems within the internal digital market; invites the Member States and the Commission, therefore, to explore alternatives that fulfil the objectives of a balanced copyright regime while reflecting modern consumer expectations;
7. Considers, further, that private copying of legally acquired content constitutes a normal use of the products or services acquired by consumers, which should not harm the legitimate interests of rightholders and thus should not warrant any compensation;
8. Invites the Member States and the Commission to conduct a study on the essential elements of private copying, in particular the definition and the concept of ‘fair compensation’, which at present is not explicitly regulated by Directive 2001/29/EC, and the concept of ‘harm’ to an author resulting from unauthorised reproduction of a rightholder’s work for private use;

Short-term improvements to the levy system

9. Calls on the Commission to look for common ground as regards which products may be subject to the levy and to establish common criteria for the negotiating arrangement for the rates applicable to private copying, with a view to presenting a system that is transparent, equitable and uniform for all interested parties;
10. Recommends, in the case of cross-border transactions, that private copying levies be collected in the Member State in which the end user having purchased the product resides, in line with the Court of Justice ruling in the Opus case;
11. Takes the view, therefore, that in order to preclude any double payment in the event of cross-border transactions, private copying levies for the same product should only be able to be collected once by a collective management organisation of a Member State, and that levies unduly paid in a Member State other than that of the end user should be reimbursed;
12. Takes the view that consumers must be informed of the amount, purpose and use of the levy they pay; urges the Commission and the Member States, therefore, in consultation with manufacturers, importers, retailers and consumer associations, to ensure that this information is clearly available to consumers;
13. Urges the Member States to adopt transparent exemption rules for professional uses in order to ensure that they are exempt, including in practice, from private copying levies in compliance with the case law of the Court of Justice;

Transparency regarding the allocation of revenue

14. Stresses the need for greater transparency with regard to the flow of levies collected, allocated and paid to creators by collecting societies, for example through annual publication of the amounts used for social and cultural purposes;

Technical protection measures

15. Points out that Member States may provide for an exception to copyright so as to enable citizens to copy freely their musical and audio-visual material from one medium to another without seeking authorisation from the rightholders; regrets the fact that in practice this freedom may be restricted by certain technical protection measures;
16. Calls on the Commission to assess the impact of technical protection measures on the freedom to make private copies and on fair remuneration for creators under private copying exceptions;
17. Instructs its President to forward this resolution to the Council and the Commission, and to the governments and parliaments of the Member States.

Or. en