



EUROPEAN PARLIAMENT

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Committee on Legal Affairs

2011/2313(INI)

3.5.2012

OPINION

of the Committee on Legal Affairs

for the Committee on Culture and Education

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

Rapporteur: Piotr Borys

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SUGGESTIONS

The Committee on Legal Affairs calls on the Committee on Culture and Education, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Welcomes the Commission's consultation triggered by the publication of the Green Paper and its acknowledgment of the specificities of the audiovisual sector with regard to licensing mechanisms, which are of major importance for the continued development of the sector in the context of promoting both cultural diversity and a strong European audiovisual industry in the digital single market;
2. 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;
3. 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;
4. Emphasises the need to ensure flexibility and interoperability in the distribution of audiovisual works by digital platforms, so as to expand the legal online offer of audiovisual works in response to market demand, and to foster cross-border access to content originating from other Member States while ensuring respect for copyright;
5. 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;
6. Invites the Commission to enable the industry to test innovative means of distribution in order to take advantage of the possible benefits across and between territories and of exploitation windows, notably through the implementation of the preparatory action on circulation of audiovisual works adopted by Parliament in November 2011;
7. 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, including in those unrelated to intellectual property, necessitate a flexible and complementary approach at European level in order to advance towards the digital single market;
8. Stresses that the option for territorial 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 European audiovisual and cinematographic works; in this regard, multiterritorial licensing should remain optional;

9. Takes the view that if sustainable multi-territorial licensing can be encouraged and promoted in the digital single market for audiovisual works, this should facilitate market-driven initiatives; underlines that digital technologies provide new and innovative ways to customise and enrich the offer for each market and to 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;
10. Stresses the importance of promoting digital skills and media literacy for all EU citizens, including those with disabilities such as the hard of hearing, as it plays an essential role for societal participation and democratic citizenship; recalls the important role that public service media plays in this regard as part of their public service;
11. 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 individual contractual agreements together with, in some cases, collective management of remuneration claims;
12. 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 regarding the *Premier League* case¹ and EU-wide access to audiovisual services;
13. Points out that the development of cloud-computing services for copyright-protected content can bring new challenges, in terms of, for instance, distinguishing between legal and illegal copies of a music track that consumers may upload; stresses that content should only be available to consumers who have purchased it legally, noting that individual access codes provide an efficient means of ensuring this;
14. 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;
15. Insists that in the context of online exploitation of audiovisual works, it is important that fair and proportional remuneration be granted to the authors and performers involved, for example by means of individual contracts, collective bargaining agreements or through collective management mechanisms;
16. Stresses that problems associated with online payment systems, such as the lack of interoperability and the 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;

¹ Judgment of 4 October 2011 in Joined Cases C-403/08 and C-429/08 *Football Association Premier League and Others*, not yet reported in the ECR.

17. Asks the Commission urgently to present a study to consider the disparities in the different remuneration mechanisms for authors and performers in use at the national level in order to draw up a list of best practices;
18. Stresses the need to apply the same VAT rate to cultural audiovisual works sold online and offline; takes the view 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;
19. 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;
20. 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;
21. Calls on Member States and the Commission to promote solutions to support the digitisation, preservation and educational availability of these works, including across borders;
22. Takes the view that new technologies could be used in order to facilitate the clearing of rights; welcomes in this respect the International Standard Audiovisual Number (ISAN) initiative which makes the identification of audiovisual works and of the right holders easier; calls on the Commission to consider implementing measures facilitating wider use of the ISAN system;

¹ P7_TA-PROV(2011)0513.

² P7_TA-PROV(2011)0436.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	26.4.2012
Result of final vote	+: 21 -: 0 0: 2
Members present for the final vote	Raffaele Baldassarre, Sebastian Valentin Bodu, Françoise Castex, Christian Engström, Marielle Gallo, Giuseppe Gargani, Lidia Joanna Geringer de Oedenberg, Sajjad Karim, Antonio López-Istúriz White, Jiří Maštálka, Bernhard Rapkay, Evelyn Regner, Francesco Enrico Speroni, Dimitar Stoyanov, Rebecca Taylor, Alexandra Thein, Cecilia Wikström, Tadeusz Zwiefka
Substitute(s) present for the final vote	Piotr Borys, Sergio Gaetano Cofferati, Vytautas Landsbergis, Eva Lichtenberger, Axel Voss