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Committee on Legal Affairs

2009/2178(INI)

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AMENDMENTS

1 - 122

Draft report
Marielle Gallo
(PE438.164v01-00)

on enhancing the enforcement of intellectual property rights in the internal
market
(2009/2178(INI))

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United in diversity

EN

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Amendment 1
Stavros Lambrinidis

Motion for a resolution
Citation (new)

Motion for a resolution

Amendment

– having regard to its resolution of 29 March 2009 on strengthening security and fundamental freedoms on the Internet,

Or. en

Amendment 2
Christian Engström

Motion for a resolution
Citation (new)

Motion for a resolution

Amendment

– having regard to the European Convention for the Protection of Human rights and Fundamental Freedoms,

Or. en

Amendment 3
Françoise Castex

Motion for a resolution
Citation (new)

Motion for a resolution

Amendment

– having regard to its resolution of 10 April 2008 on cultural industries in Europe,

Or. en

Amendment 4

Lidia Joanna Geringer de Oedenberg, Françoise Castex, Bernhard Rapkay, Cecilia Wikström, Christian Engström

Motion for a resolution

Citation (new)

Motion for a resolution

Amendment

– having regard to the European Convention for the Protection of Human rights and Fundamental Freedoms and having regard to the legally binding character of the Charter of Fundamental Rights,

Or. en

Amendment 5

Françoise Castex

Motion for a resolution

Citation (new)

Motion for a resolution

Amendment

– having regard to the communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions of 25 June 2008 on the Small Business Act for Europe establishing the ‘Think Small First’ principle for an ambitious policy agenda for SMEs,

Amendment 6
Stavros Lambrinidis

Motion for a resolution
Recital A

Motion for a resolution

A. whereas **violations** of intellectual property rights (IPR), **defined as any violation of any IPR, such as copyright, trade marks, designs or patents**, constitute a genuine threat not only to consumer health and safety but also to our economies and societies,

Amendment

A. whereas **infringements** of intellectual property rights (IPR) **can** constitute a genuine threat not only to consumer health and safety but also to our economies and societies,

Amendment 7
Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Stavros Lambrinidis, Cecilia Wikström, Christian Engström

Motion for a resolution
Recital A

Motion for a resolution

A. whereas **violations of intellectual property rights (IPR), defined as any violation of any IPR, such as copyright, trade marks, designs or patents**, constitute a genuine threat not only to consumer health and safety but also to our economies and societies,

Amendment

A. whereas **commercial goods counterfeiting** constitutes a genuine threat not only to consumer health and safety but also to our economies and societies,

Amendment 8
Françoise Castex, Stavros Lambrinidis

Motion for a resolution
Recital A a (new)

Motion for a resolution

Amendment

Aa. whereas scientific and technical innovation, patents and the cultural industries make a decisive contribution to the competitiveness of the European economy, both through the number and diversity of the job openings they provide and through the wealth created; whereas the cultural economy, from creation through to distribution, must be supported,

Or. fr

Amendment 9
Arlene McCarthy

Motion for a resolution
Recital A a (new)

Motion for a resolution

Amendment

Aa. whereas the European Union, as a member of the World Trade Organisation, is bound by the Agreement on Trade Related Intellectual Property Rights (TRIPS); whereas EU Member States are thereby committed to the adoption and implementation of effective measures against all infringements of IPRs,

Or. en

Amendment 10

Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Stavros Lambrinidis

Motion for a resolution

Recital A b (new)

Motion for a resolution

Amendment

Ab. whereas knowledge sharing and dissemination of innovation are strong traditions in the European Union; whereas access by the greatest possible number to technological progress and cultural products continues to be the foundation of education and development policy,

Or. fr

Amendment 11

Françoise Castex, Stavros Lambrinidis, Cecilia Wikström

Motion for a resolution

Recital A c (new)

Motion for a resolution

Amendment

Ac. whereas within the current information and digital technology society new forms of production, distribution and consumption are emerging, which are generating new products and services that call for new commercial models able to provide product accessibility and diversity while guaranteeing appropriate remuneration for authors and others who take part in their creation,

Or. fr

Amendment 12

Françoise Castex, Cecilia Wikström, Christian Engström

Motion for a resolution

Recital A d (new)

Motion for a resolution

Amendment

Ad. whereas, on the other hand, the word ‘piracy’ does not relate to any recent legal reality, particularly in the cultural area, and whereas it cannot be used alone to designate an offence which has not been legally defined,

Or. fr

Amendment 13

Luis Yáñez-Barnuevo García

Motion for a resolution

Recital B a (new)

Motion for a resolution

Amendment

Ba. whereas in order properly to address the question of IPR enforcement in the internal market, it is important to take into consideration not only EU territory but also the situation at the EU's external borders and in third countries, in order to ensure compatibility between the protection of content of Community origin and the holders of rights thereto and consumer access to non-Community content,

Or. es

Amendment 14

Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Bernhard Rapkay, Christian Engström

Motion for a resolution

Recital C

Motion for a resolution

C. whereas data concerning the scale of IPR infringements are inconsistent, incomplete, insufficient and dispersed,

Amendment

C. whereas data concerning the scale of IPR infringements are inconsistent, incomplete, insufficient and dispersed, **and therefore do not provide a basis for any additional criminal legislative initiatives,**

Or. en

Amendment 15

Françoise Castex, Bernhard Rapkay

Motion for a resolution

Recital E

Motion for a resolution

E. whereas the violation of IPR is a problem across the board which affects all sectors of industry and particularly the creative and innovative industries,

Amendment

E. whereas the violation of IPR is a problem across the board which affects all sectors of industry and particularly the creative and innovative industries, **and sport,**

Or. fr

Amendment 16

Toine Manders

Motion for a resolution

Recital E a (new)

Motion for a resolution

Amendment

Ea. whereas ongoing infringements of IPR will lead to a fade-out of innovation in the EU,

Amendment 17

Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Christian Engström

Motion for a resolution**Recital F***Motion for a resolution*

F. whereas ***the phenomenon of on-line piracy has assumed very alarming proportions, particularly for the creative content industries***, and whereas the existing legal framework ***has proven incapable of effectively protecting rights-holders on the Internet and the*** balance between all the interests at stake, including those of consumers,

Amendment

F. whereas ***there are no reliable and independent data as to the impact of on-line IPR infringements***, and whereas the existing legal framework ***needs to be clarified to ensure*** the balance between all the interests at stake, including those of consumers,

Or. en

Justification

The creative industries have long been presuming significant economic losses due to the phenomenon of illegal file-sharing. However, such losses have never been endorsed by independent data. A similar presumption fails to take into consideration a number of studies that clearly point out the long-term benefits of file-sharing for the both the creative industry and the public's access to knowledge. According to a study by the Dutch Ministry for Economics conducted by the Institute for Information Law of the University of Amsterdam on the economic and cultural effects of file sharing on music, film and games, file sharing has positive economic implications both in the short and long term. In a research carried out by Ipsos Mediaz Content in the UK, it has been shown that 72 % of people who admit that they download illegally are the ones who spend the most money buying content legally, whereas the main reason for illegal downloading has been identified the lack of attractive legal offers <http://www.zeropaid.com/wp-content/uploads/2009/11/survey.pdf>. The public policy on the enforcement of intellectual property rights should be informed by creditable evidence, transparent and objective peer-reviewed analysis.

Amendment 18
Alexandra Thein, Cecilia Wikström

Motion for a resolution
Recital F

Motion for a resolution

F. whereas the phenomenon of *on-line piracy has assumed very alarming proportions, particularly for the creative content industries, and whereas the existing legal framework has proven incapable of effectively protecting rights-holders on the Internet and the balance between all the interests at stake, including those of consumers,*

Amendment

F. whereas the phenomenon of *illegal online file sharing of works protected by intellectual property rights or similar infringements of rights in a purely digital environment, although an important challenge for the creative content industries, should be addressed separately from the issue of the counterfeiting of goods,*

Or. en

Amendment 19
Stavros Lambrinidis

Motion for a resolution
Recital F

Motion for a resolution

F. whereas the phenomenon of on-line piracy has assumed *very alarming* proportions, particularly for the creative content industries, and whereas the existing legal framework *has proven incapable* of effectively protecting rights-holders on the Internet *and the* balance between all the interests at stake, including those of consumers,

Amendment

F. whereas the phenomenon of on-line piracy has assumed *worrying* proportions, particularly for the creative content industries, and whereas *it has not been established yet whether* the existing legal framework *is* capable of effectively protecting rights-holders on the Internet *while guaranteeing a* balance between all the interests at stake, including those of consumers,

Or. en

Amendment 20

Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Stavros Lambrinidis, Christian Engström

Motion for a resolution

Recital F a (new)

Motion for a resolution

Amendment

Fa. whereas efforts to tackle on-line non-commercial file sharing have created a strong and prejudicial antagonism between the creative industries and their public, and it is therefore necessary to explore new ways of creating synergy between the rights of the public and the revenues of authors and creators,

Or. en

Justification

The debate on file-sharing and the criminalisation of such practices has not led to any progress in terms of adapting the creative economy to digital technologies, and a new constructive approach regarding file-sharing and how it can contribute to the whole creative economy needs to be considered at the EU level.

Amendment 21

Cecilia Wikström

Motion for a resolution

Recital F a (new)

Motion for a resolution

Amendment

Fa. Whereas efforts to tackle online file sharing of works protected by copyright or similar infringements of rights must enjoy public support in order not to risk eroding support for intellectual property rights amongst the citizens;

Or. en

Amendment 22
Arlene McCarthy

Motion for a resolution
Recital F a (new)

Motion for a resolution

Amendment

Fa. whereas the unauthorised uploading of copyrighted material to the Internet is a clear infringement of intellectual property rights and is prohibited by the World Intellectual Property Organisation (WIPO) treaties on copyright (WCT) and performances and phonograms (WPPT), to which the European Union is a contracting party,

Or. en

Amendment 23
Jean-Marie Cavada

Motion for a resolution
Recital F a (new)

Motion for a resolution

Amendment

Fa. whereas the growth in legal online supply constitutes an essential anti-piracy tool in the digital world, given that users expect content to be made available to them on all media platforms in a way that allows them to choose the time when they will use it,

Or. fr

Amendment 24
Arlene McCarthy

Motion for a resolution
Recital F b (new)

Motion for a resolution

Amendment

Fb. whereas the creative sector should continue to develop models enabling access to creative content online which offer improved and cost-effective choices to consumers, including access to unlimited subscription services; whereas the development of these legal services is inhibited by the growth of unlawfully uploaded content online,

Or. en

Amendment 25
Jean-Marie Cavada

Motion for a resolution
Recital F b (new)

Motion for a resolution

Amendment

Fb. whereas, in order to maintain and increase the attractiveness of what they can offer their public, producers of audiovisual media must be in a position to use all the new means of distribution; whereas the current system of granting licences must be improved in such a way that the Member States have a flexible system available to them which can be adapted to the new technologies,

Or. fr

Amendment 26
Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Christian Engström

Motion for a resolution
Recital G

Motion for a resolution

G. whereas, with the exception of legislation on penalties under the criminal law, a Community legal framework already exists with regard to the phenomenon of counterfeiting and *piracy* of physical goods, but whereas lacunae persist with regard to *Internet piracy*,

Amendment

G. whereas, with the exception of legislation on penalties under the criminal law, a Community legal framework already exists with regard to the phenomenon of counterfeiting of physical goods, but whereas lacunae persist with regard to *the trade of counterfeit goods over the Internet*,

Or. en

Amendment 27
Cecilia Wikström

Motion for a resolution
Recital G

Motion for a resolution

G. whereas, with the exception of legislation on penalties under the criminal law, a Community legal framework already exists with regard to the phenomenon of counterfeiting and piracy of physical goods, *but whereas lacunae persist with regard to Internet piracy*,

Amendment

G. whereas, with the exception of legislation on penalties under the criminal law, a Community legal framework already exists with regard to the phenomenon of counterfeiting and piracy of physical goods,

Or. en

Amendment 28
Stavros Lambrinidis

Motion for a resolution
Recital G

Motion for a resolution

G. whereas, with the exception of legislation on penalties under the criminal law, a Community legal framework already exists with regard to the phenomenon of

Amendment

G. whereas, with the exception of legislation on penalties under the criminal law, a Community legal framework already exists with regard to the phenomenon of

counterfeiting and piracy *of physical goods, but whereas lacunae persist with regard to Internet piracy,*

counterfeiting and piracy,

Or. en

Amendment 29

Françoise Castex, Stavros Lambrinidis, Cecilia Wikström, Christian Engström

Motion for a resolution

Recital H

Motion for a resolution

H. whereas the measures provided for by Directive 2004/48/EC on the enforcement of intellectual property rights on the internal market have not been assessed from the point of view of the protection of rights,

Amendment

H. whereas the measures provided for by Directive 2004/48/EC on the enforcement of intellectual property rights on the internal market have not *yet* been assessed, from the point of view of the protection of rights *or from the point of view of its effects on consumers' rights,*

Or. en

Amendment 30

Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Stavros Lambrinidis, Cecilia Wikström, Christian Engström

Motion for a resolution

Recital H a (new)

Motion for a resolution

Amendment

Ha. whereas the telecoms regulatory framework has recently been amended, rejecting proposals for so-called graduated response schemes at EU level, and instead includes provisions for standardised public interest notices which can address, among other things, copyright and infringement thereof

without jeopardising data protection and privacy rights and stresses the need to respect fundamental rights in matters relating to Internet access,

Or. en

Amendment 31
Toine Manders

Motion for a resolution
Recital Ha (new)

Motion for a resolution

Amendment

Ha. whereas the possibility should be created in the European legal framework of proceeding against infringers of copyright, since international treaties are barely able to address IPR infringements,

Or. en

Amendment 32
Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Cecilia Wikström, Christian Engström

Motion for a resolution
Recital J

Motion for a resolution

Amendment

J. whereas there are proven connections between various forms of organised crime and IPR infringements, in particular counterfeiting *and piracy*,

J. whereas there are proven connections between various forms of organised crime and IPR infringements, in particular counterfeiting,

Or. en

Justification

Given that the word “piracy” is often equated with digital file-sharing it is proposed to erase the mention of piracy while making clear that it is only referred to commercial counterfeiting.

Amendment 33

Françoise Castex, Stavros Lambrinidis, Cecilia Wikström, Christian Engström

Motion for a resolution

Recital J a (new)

Motion for a resolution

Amendment

Ja. whereas the co-decision role of the European Parliament in commercial matters and its access to negotiation documents is guaranteed by the Lisbon Treaty,

Or. en

Justification

Recital related to the issue of ACTA.

Amendment 34

Francesco Enrico Speroni

Motion for a resolution

Recital K a (new)

Motion for a resolution

Amendment

Ka. whereas it is desirable that, alongside measures to prevent offences in this area, protection should be provided for consumers who legally make use of products that are covered by protection of intellectual property,

Or. it

Amendment 35

Luis Yáñez-Barnuevo García

Motion for a resolution

Recital K a (new)

Motion for a resolution

Amendment

Ka. whereas current Community law constitutes no impediment to the development of multi-territory licensing systems,

Or. es

Amendment 36
Luis Yáñez-Barnuevo García

Motion for a resolution
Recital L a (new)

Motion for a resolution

Amendment

La. whereas in various areas, including the text- and image-based sector, there are business models and channels and licensing schemes that provide broad access to works in a wide range of forms and formats, both within and across national borders,

Or. es

Amendment 37
Luis Yáñez-Barnuevo García

Motion for a resolution
Recital M a (new)

Motion for a resolution

Amendment

Ma. whereas today's intellectual property rights management systems are already highly transparent and effective,

Or. es

Amendment 38
Toine Manders

Motion for a resolution
Paragraph 1

Motion for a resolution

1. Welcomes the communication of 11 September 2009 from the Commission concerning additional non-legislative measures; regrets however that the communication does not ***deal with the completion of the legislative framework***;

Amendment

1. Welcomes the communication of 11 September 2009 from the Commission concerning additional non-legislative measures; regrets however that the communication ***did not come up with legislative proposals to address IPR infringements***;

Or. en

Amendment 39
Françoise Castex, Christian Engström

Motion for a resolution
Paragraph 1

Motion for a resolution

1. Welcomes the communication of 11 September 2009 from the Commission concerning additional non-legislative measures; ***regrets however that the communication does not deal with the completion of the legislative framework***;

Amendment

1. Welcomes the communication of 11 September 2009 from the Commission concerning additional non-legislative measures; ***welcomes the progress made in the EU in harmonising the fight against counterfeiting; encourages the Commission to step up its efforts in areas that are sensitive in terms of health and safety, including that of medicines***;

Or. fr

Justification

As made clear by the draft report and the communication, the existing legal framework is in the process of being evaluated. It is therefore premature to call for further legislation.

Amendment 40
Toine Manders

Motion for a resolution
Paragraph 1 a (new)

Motion for a resolution

Amendment

1a. In the text of the report the wording ‘piracy’ must be replaced by ‘infringement of copyrights’ and ‘counterfeit’ by ‘infringement of trademarks’ in order to have a clear and indisputable definition from a legal perspective;

Or. en

Amendment 41
Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Christian Engström

Motion for a resolution
Paragraph 1 a (new)

Motion for a resolution

Amendment

1a. Views as regrettable the fact that the Commission links the terms ‘piracy’ and ‘counterfeiting’ in its communication, thereby creating a legal grey area with regard to the offence being referred to;

Or. fr

Amendment 42
Luis Yáñez-Barnuevo García

Motion for a resolution
Paragraph 1 a (new)

Motion for a resolution

Amendment

1a. Welcomes the communication of 11 September 2009 from the Commission concerning additional non-legislative measures; regrets however that the communication does not deal with the matter of completing the legislative framework by introducing a set of measures to combat intellectual property right infringements in an effective manner;

Or. es

Amendment 43

Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Stavros Lambrinidis, Christian Engström

**Motion for a resolution
Paragraph 1 b (new)**

Motion for a resolution

Amendment

1b. Wonders about the accuracy of the word ‘piracy’ as used to designate the non-commercial exchange of content on line, which leads to a de facto criminalisation of millions of European citizens, particularly young people;

Or. fr

Amendment 44

Lidia Joanna Geringer de Oedenberg, Françoise Castex, Luigi Berlinguer, Bernhard Rapkay, Christian Engström

**Motion for a resolution
Paragraph 1 c (new)**

Motion for a resolution

Amendment

1c. Urges the Commission to distinguish,

in the above mentioned strategy between counterfeiting of goods, which is an obvious infringement of intellectual property rights and should be punished, and online file sharing, which should not be punished as long as it is of a non-commercial nature;

Or. en

Amendment 45

Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Bernhard Rapkay

**Motion for a resolution
Paragraph 1 d (new)**

Motion for a resolution

Amendment

1d. Recalls that an exception to IPRs exists in the cultural area: the ‘private copy’; calls on the Commission to retain this exception and to adapt it to new technological progress and the internet; stresses the potential usefulness of authorising sharing between individuals of copies for non-commercial use and linking them to new mutualised forms of funding for creative endeavour;

Or. fr

Amendment 46

Lidia Joanna Geringer de Oedenberg, Françoise Castex, Antonio Masip Hidalgo, Bernhard Rapkay, Stavros Lambrinidis, Cecilia Wikström, Christian Engström

**Motion for a resolution
Paragraph 2**

Motion for a resolution

Amendment

2. Calls on the Commission to ***urgently present*** a comprehensive ***IPR strategy addressing all aspects of IPRs, including***

2. Calls on the Commission to ***propose*** a ***comprehensive strategy on IPR which will remove obstacles to creating a single***

their enforcement;

market in the online environment and adapt the European legislative framework in the field of IPR to current trends in society as well as to technical developments;

Or. en

Amendment 47
Marielle Gallo

Motion for a resolution
Paragraph 2

Motion for a resolution

2. Calls on the Commission to urgently present a comprehensive IPR strategy addressing all aspects of IPRs, including their enforcement;

Amendment

2. Calls on the Commission to urgently present a comprehensive IPR strategy addressing all aspects of IPRs, including their enforcement *as well as their promotion, in particular the role of copyright as an enabler and not an obstacle, helping creators earn a living and disseminating their works;*

Or. en

Amendment 48
Toine Manders

Motion for a resolution
Paragraph 2

Motion for a resolution

2. Calls on the Commission to urgently **present** a comprehensive **IPR** strategy addressing all aspects of IPRs, **including their enforcement;**

Amendment

2. Calls on the Commission to urgently **propose** a comprehensive **legislative** strategy addressing all aspects of IPRs **by the end of 2010, in order to improve their enforcement;**

Or. en

Amendment 49

Lidia Joanna Geringer de Oedenberg, Françoise Castex, Antonio Masip Hidalgo, Bernhard Rapkay, Stavros Lambrinidis, Christian Engström

Motion for a resolution

Paragraph 2 a (new)

Motion for a resolution

Amendment

2a. Stresses that any measures taken to enforce IPR must respect the European Convention for the Protection of Human Rights and Fundamental Freedoms, including Article 10, Article 8, and Article 6, and be necessary, proportionate, and appropriate within a democratic society;

Or. en

Amendment 50

Christian Engström

Motion for a resolution

Paragraph 3

Motion for a resolution

Amendment

3. Considers that the Commission should take ***IPR aspects*** into account in all its policies or legislative initiatives and consider these aspects in all processes relating to impact assessments where a proposal would have an impact on ***intellectual property***;

3. Considers that the Commission should take ***the protection of fundamental rights*** into account in all its policies or legislative initiatives and consider these aspects in all processes relating to impact assessments where a proposal would have an impact on ***fundamental rights***;

Or. en

Amendment 51

Cecilia Wikström

Motion for a resolution

Paragraph 3

Motion for a resolution

3. Considers that the Commission should take IPR aspects into account in all *its* policies or legislative initiatives and consider these aspects in all processes relating to impact assessments where a proposal would have an impact on intellectual property;

Amendment

3. Considers that the Commission should take IPR aspects into account in all *relevant* policies or legislative initiatives and consider these aspects in all processes relating to impact assessments where a proposal would have an impact on intellectual property;

Or. en

Amendment 52

Françoise Castex, Antonio Masip Hidalgo

Motion for a resolution

Paragraph 3 a (new)

Motion for a resolution

Amendment

3a. Takes the view that the Commission should take into account the specific problems encountered by SMEs when it comes to reinforcing the intellectual property rights corresponding to the principle of ‘Think Small First’ established by the Small Business Act for Europe, inter alia by applying the principle of non-discrimination for SMEs;

Or. fr

Amendment 53

Marielle Gallo

Motion for a resolution

Paragraph 3 a (new)

Motion for a resolution

Amendment

3a. Calls on the Commission to put particular emphasis on the IPR situation

of SMEs in line with the ‘think small first’ principle adopted by the Small Business Act; SMEs should be at the forefront of the decision-making process at EU level due to their huge potential for Europe in terms of growth, employment and innovation as well as their essential role in ensuring diversity of choice, cultural diversity and diversity of entrepreneurship; at the level of industry, IPR-related initiatives such as anti-piracy and anti-counterfeiting actions should be conducted in the interests of the whole sector, including SMEs;

Or. en

Amendment 54

Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Cecilia Wikström, Christian Engström

Motion for a resolution

Paragraph 4

Motion for a resolution

4. ***Does not share*** the Commission's ***certitude*** that the current civil enforcement framework in the EU ***is effective and harmonised to the extent necessary for*** the proper functioning of the internal market and reminds the Commission that the report on the application of Directive 2004/48/EC is essential to confirm those claims;

Amendment

4. ***Takes note of*** the Commission's ***view*** that the current civil enforcement framework in the EU ***contributes to*** the proper functioning of the internal market and reminds the Commission that the report on the application of Directive 2004/48/EC is essential to confirm those claims;

Or. en

Amendment 55

Toine Manders

Motion for a resolution

Paragraph 4

Motion for a resolution

4. Does not share the Commission's certitude that the current civil enforcement framework in the EU is effective and harmonised to the extent necessary for the proper functioning of the internal market and reminds the Commission that the report on the application of Directive 2004/48/EC is essential to confirm those claims;

Amendment

4. Does not share the Commission's certitude that the current civil enforcement framework in the EU is effective and harmonised to the extent necessary for the proper functioning of the internal market; ***is of the opinion that the possibility of proceeding against infringers of IPR should be created in the European legal framework***, and reminds the Commission that the report on the application of Directive 2004/48/EC is essential to confirm those claims;

Or. en

Amendment 56

Luis Yáñez-Barnuevo García

Motion for a resolution

Paragraph 4 a (new)

Motion for a resolution

4a. In the light of the experiences undergone by rights-holders in some Member States, does not share the Commission's certitude that the current civil enforcement framework in the EU is effective and harmonised to the extent necessary for the proper functioning of the internal market and reminds the Commission that the report on the application of Directive 2004/48/EC is essential to confirm those claims;

Amendment

Or. es

Amendment 57

Françoise Castex, Antonio Masip Hidalgo, Bernhard Rapkay, Stavros Lambrinidis, Cecilia Wikström, Christian Engström

Motion for a resolution

Paragraph 5

Motion for a resolution

5. Calls on the Commission to draw up the report on the application of Directive 2004/48/EC, including an assessment of the effectiveness of the measures taken, as well as an evaluation of its impact on innovation and the development of the information society, in accordance with Article 18(1) of that Directive and, if necessary, to propose amendments; calls for that report also to include an assessment of the **ways to strengthen and upgrade the legal framework with respect to the Internet**;

Amendment

5. Calls on the Commission to draw up the report on the application of Directive 2004/48/EC, including an assessment of the effectiveness of the measures taken, **their compatibility with fundamental rights**, as well as an evaluation of its impact on innovation and the development of the information society, in accordance with Article 18(1) of that Directive and, if necessary, to propose amendments; calls for that report also to include an assessment of the **impact of the directive on the digital market of creative content and consumers' rights**;

Or. en

Justification

The transposition of the IPRED directive in Member States has led to controversies concerning the relevance of sanctions against non-commercial IPR infringements. Instead of suggesting that more enforcement is needed, the Parliament's report should call for such a report to critically evaluate such measures and discuss alternative public policies to regulate the digital market of creative content.

Amendment 58

Cecilia Wikström

Motion for a resolution

Paragraph 6

Motion for a resolution

6. **Does not share** the Commission view that the principal body of laws with respect to IPR enforcement is already in place; points out in this respect that negotiations

Amendment

6. **Notes** the Commission view that the principal body of laws with respect to IPR enforcement is already in place; points out in this respect that negotiations on the

on the directive on criminal sanctions have not been successfully concluded and calls on the Commission to put forward a new proposal on criminal sanctions under the Treaty of Lisbon;

directive on criminal sanctions have not been successfully concluded and calls on the Commission to ***withdraw its current proposal and*** put forward a new proposal on criminal sanctions under the Treaty of Lisbon ***dealing exclusively with matters relating to serious infringements by organized crime entities***;

Or. en

Amendment 59

Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Christian Engström

Motion for a resolution

Paragraph 6

Motion for a resolution

6. ***Does not share*** the Commission view that the principal body of laws with respect to IPR enforcement is already in place; points out ***in this respect*** that negotiations on the directive on criminal sanctions have not been successfully concluded and calls on the Commission to put forward a new proposal on criminal sanctions under the Treaty of Lisbon;

Amendment

6. ***Shares*** the Commission view that the principal body of laws with respect to IPR enforcement is already in place; points out that negotiations on the directive on criminal sanctions have not been successfully concluded and calls on the Commission to put forward a new proposal on criminal sanctions under the Treaty of Lisbon ***for serious infringements committed by organized crime entities***;

Or. en

Justification

Prior to the adoption of enforcement measures for IPR infringements, the European Commission should seek to adapt the substantive legal framework in the field of IPR. The copyright Directive is not adapted to the digital environment, whereas the Community Trademark Regulation is about to be reformed and negotiations about the creation of an EU patent are pending in the EU institutions. As regards criminal sanctions, these should be strictly limited to serious infringements committed by organized crime. The scope of the proposal should be clearly and strictly defined to ensure legal certainty and guarantee that individual consumers will not be criminalized for individual acts with no profit motivation.

Amendment 60

Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Stavros Lambrinidis, Cecilia Wikström, Christian Engström

Motion for a resolution

Paragraph 6 a (new)

Motion for a resolution

Amendment

6a. Calls on the Commission to ensure that the measures aimed at strengthening the application of intellectual property rights in the internal market do not impinge on the legitimate right to interoperability, this being essential to healthy competition on the digital works distribution market, inter alia for the authors and users of free software;

Or. fr

Amendment 61

Lidia Joanna Geringer de Oedenberg, Françoise Castex

Motion for a resolution

Paragraph 7

Motion for a resolution

Amendment

7. Calls on the Commission to put forward appropriate legislative proposals based on Article 118 of the TFEU which will address the issue of an effective EU patent system;

7. Calls on the Commission to put forward appropriate legislative proposals based on Article 118 of the TFEU which will address the issue of an effective EU patent system ***and will harmonise certain aspects of European Copyright Law;***

Or. en

Amendment 62

Alexandra Thein, Cecilia Wikström

Motion for a resolution

Paragraph 7

Motion for a resolution

7. Calls on the Commission to put forward appropriate legislative proposals based on Article 118 of the TFEU which will address the issue of an effective EU patent system;

Amendment

7. Calls on the Commission to put forward appropriate legislative proposals based on Article 118 of the TFEU which will address the issue of an effective EU patent system ***and welcomes in this respect the Council conclusions on an enhanced patent system in Europe of 4 December 2009 as a significant positive development;***

Or. en

Amendment 63
Piotr Borys

Motion for a resolution
Title after paragraph 7

Motion for a resolution

European Observatory on Counterfeiting and Piracy ('the Observatory')

Amendment

European Observatory on Counterfeiting, Piracy ***and Data Theft*** ('the Observatory')

Or. pl

Amendment 64
Françoise Castex, Antonio Masip Hidalgo

Motion for a resolution
Paragraph 8 a (new)

Motion for a resolution

Amendment

8a. Proposes to change the name of the Observatory to avoid the mention of 'piracy', which is often a source of confusion and is a very controversial notion;

Or. en

Amendment 65
Christian Engström

Motion for a resolution
Paragraph 8 a (new)

Motion for a resolution

Amendment

8a. Stresses that commercial goods counterfeiting on the one hand and on-line piracy on the other are two different phenomena that should each be considered in its own right;

Or. en

Amendment 66
Françoise Castex, Antonio Masip Hidalgo, Bernhard Rapkay, Cecilia Wikström,
Christian Engström

Motion for a resolution
Paragraph 8 b (new)

Motion for a resolution

Amendment

8b. Stresses the need to avoid creating new parallel bureaucratic structures for tasks that can be handled by existing institutions, such as Europol, forums for cooperation between customs authorities, and statistics-gathering bodies within the EU, in order to avoid duplication of effort;

Or. en

Amendment 67
Françoise Castex, Antonio Masip Hidalgo, Bernhard Rapkay, Cecilia Wikström,
Christian Engström

Motion for a resolution
Paragraph 9

Motion for a resolution

9. Welcomes the establishment of the Observatory as a tool for centralisation of statistics and data which will serve as a basis for proposals to be implemented to combat effectively the *phenomena* of counterfeiting *and piracy, including on-line piracy*;

Amendment

9. Urges the Commission to produce a report on how best to use Europol and existing structures for cooperation between customs authorities to combat effectively the *phenomenon* of counterfeiting;

Or. en

Amendment 68

Lidia Joanna Geringer de Oedenberg, Françoise Castex, Antonio Masip Hidalgo, Bernhard Rapkay, Stavros Lambrinidis

Motion for a resolution

Paragraph 9 a (new)

Motion for a resolution

Amendment

9a. Urges the Commission to guarantee that the Observatory obeys EU rules in the field of privacy and data protection;

Or. en

Amendment 69

Françoise Castex, Antonio Masip Hidalgo

Motion for a resolution

Paragraph 10

Motion for a resolution

Amendment

10. Wishes the Observatory to become a tool for collecting and exchanging data and information on all forms of all IPR infringements;

10. Wishes the Observatory to become a tool for collecting and exchanging data and information on all forms of all IPR infringements; ***its prime objective should be to compile scientific research regarding counterfeiting and IPR regulation;***

Justification

The accuracy of data regarding IPR violations has been strongly criticised on the grounds that methodology was extremely oriented to inflate the estimated importance of profit losses caused by counterfeiting (thus favouring a strengthening of IPR enforcement). Such criticism has been voiced in arenas such as the WIPO by experts and national authorities. With the Observatory, the EU should ensure that statistics and data regarding IPR infringements are based on credible evidence, transparent assumptions as well as objective and independent peer reviewed analysis.

Amendment 70
Christian Engström

Motion for a resolution
Paragraph 10

Motion for a resolution

10. Wishes *the Observatory to become a tool* for collecting and exchanging data and information on all forms of all IPR infringements;

Amendment

10. Wishes *existing statistics-gathering bodies to compile scientific research regarding counterfeiting and IPR regulation*;

Amendment 71
Christian Engström

Motion for a resolution
Paragraph 11

Motion for a resolution

11. Calls on the Commission to clarify the tasks which are *to be entrusted to the Observatory* and stresses that the success of *the Observatory* largely depends on the involvement and cooperation of all stakeholders, including the national authorities, rights-holders, consumers' organisations and the industries concerned, in order to increase transparency and avoid

Amendment

11. Calls on the Commission to clarify the tasks which are *envisaged in its communication* and stresses that the success of *these actions* largely depends on the involvement and cooperation of all stakeholders, including the national authorities, rights-holders, consumers' organisations and the industries concerned, in order to increase transparency and avoid

duplication of effort;

duplication of effort;

Or. en

Amendment 72

Françoise Castex, Antonio Masip Hidalgo, Stavros Lambrinidis

Motion for a resolution

Paragraph 12

Motion for a resolution

12. Calls on the Commission to inform Parliament and the Council fully and comprehensively about the results of the Observatory's activities through annual reports in which the Commission draws conclusions and proposes solutions necessary *to enhance the enforcement of IPRs*;

Amendment

12. Calls on the Commission to inform Parliament and the Council fully and comprehensively about the results of the Observatory's activities through annual reports in which the Commission draws conclusions and proposes solutions necessary *to improve IPR law*;

Or. en

Justification

The improvement of IPR enforcement is not necessarily the solution to the challenges Europe face to achieve a real knowledge society. Therefore, the solutions of the observatory should not only relate to enforcement, but consider the broader picture of the whole PR regimes.

Amendment 73

Christian Engström

Motion for a resolution

Paragraph 12

Motion for a resolution

12. Calls on the Commission to inform Parliament and the Council fully and comprehensively *about the results of the Observatory's activities* through annual reports in which the Commission draws conclusions and proposes solutions *necessary to enhance the enforcement of*

Amendment

12. Calls on the Commission to inform Parliament and the Council fully and comprehensively through annual reports in which the Commission draws conclusions and proposes solutions;

IPRs;

Or. en

Amendment 74
Marielle Gallo

Motion for a resolution
Paragraph 13

Motion for a resolution

13. *Stresses the need* to organise a campaign to raise awareness at European, national and local level of the risks to consumer health and safety arising from counterfeit products and also the adverse impact of counterfeiting and piracy on the economy and society;

Amendment

13. *Calls on the Commission and the Member States in association with the industries concerned* to organise a campaign to raise awareness at European, national and local level of the risks to consumer health and safety arising from counterfeit products and also the adverse impact of counterfeiting and piracy on the economy and society;

Or. en

Amendment 75
Françoise Castex, Antonio Masip Hidalgo, Bernhard Rapkay, Cecilia Wikström, Christian Engström

Motion for a resolution
Paragraph 13

Motion for a resolution

13. Stresses the need to organise a campaign to raise awareness at European, national and local level of the risks to consumer health and safety arising from counterfeit products and also the adverse impact of counterfeiting *and piracy* on the economy and society;

Amendment

13. Stresses the need to organise a campaign to raise awareness at European, national and local level of the risks to consumer health and safety arising from counterfeit products and also the adverse impact of counterfeiting on the economy and society;

Or. en

Amendment 76
Luis Yáñez-Barnuevo García

Motion for a resolution
Paragraph 13

Motion for a resolution

13. ***Stresses the need to organise*** a campaign to raise awareness at European, national and local level of the risks to consumer health and safety arising from counterfeit products and also the adverse impact of counterfeiting and piracy on the economy and society;

Amendment

13. ***Calls for both the Commission and the Member States and their relevant authorities to take part in organising*** a campaign to raise awareness at European, national and local level of the risks to consumer health and safety arising from counterfeit products and also the adverse impact of counterfeiting and piracy on the economy and society;

Or. es

Amendment 77
Toine Manders

Motion for a resolution
Paragraph 13

Motion for a resolution

13. Stresses the need to organise a campaign to raise awareness at European, national and local level of the risks to consumer health and safety arising from counterfeit products and also the adverse impact of counterfeiting and piracy on the economy and society;

Amendment

13. Stresses the need to organise a campaign to raise awareness at European, national and local level of the risks to consumer health and safety arising from counterfeit products and also the adverse impact of counterfeiting and piracy on the economy and society; ***emphasises the need to teach especially young European consumers that IPR concerns people's property and thus should not be infringed under any circumstances;***

Or. en

Amendment 78
Marielle Gallo

Motion for a resolution
Paragraph 14

Motion for a resolution

14. Calls on all parties concerned, including Internet service providers, on-line sales platforms, rights-holders and consumers organisations, with regard to piracy and the sale of counterfeit products on line, to ***establish a dialogue on*** practical measures ***to be adopted*** to alert people, such as brief, visible and relevant warning messages;

Amendment

14. Calls on all parties concerned, including Internet service providers, on-line sales platforms, rights-holders and consumers' organisations, with regard to piracy and the sale of counterfeit products on line, to ***adopt*** practical measures to alert ***and educate people on the value of copyright and the impact of piracy and counterfeiting on jobs and growth***, such as brief, visible and relevant ***educational and*** warning messages;

Or. en

Amendment 79
Cecilia Wikström

Motion for a resolution
Paragraph 14

Motion for a resolution

14. Calls on all parties concerned, ***including Internet service providers, on-line sales platforms, rights-holders and consumers' organisations***, with regard to ***piracy and*** the sale of counterfeit products on line, to establish a dialogue on practical measures to be adopted to ***alert*** people, ***such as brief, visible and relevant warning messages***;

Amendment

14. Calls on all parties concerned, with regard to the sale of counterfeit products on line, to establish a dialogue on practical measures to be adopted to ***inform*** people ***of the risks associated with such products***;

Or. en

Amendment 80

Françoise Castex, Antonio Masip Hidalgo, Christian Engström

Motion for a resolution

Paragraph 14

Motion for a resolution

14. Calls on *all parties concerned, including Internet service providers, on-line sales platforms, rights-holders and consumers' organisations*, with regard to *piracy and* the sale of counterfeit products on line, *to establish a dialogue on practical measures to be adopted to alert people, such as brief, visible and relevant warning messages*;

Amendment

14. Calls *on the Member States to conduct awareness campaigns* with regard to the sale of counterfeit products *on line, where applicable and appropriate by way of the public interest information mechanism provided for in the Citizens' Rights Directive*;

Or. en

Justification

Voluntary agreements for copyright enforcement are not the appropriate instrument to address the challenges of digital distribution of copyrighted content. Voluntary agreements between the content industry and Internet Service Providers have been promoted by some national governments across the EU as the most efficient tool to address the issue of file-sharing – e.g. trying to establish national “graduated response” mechanisms. Such codes of conduct go beyond the current regulatory framework to establish practices, the legality of which remains ambiguous, as has been demonstrated by the recent French Constitutional Court decision concluding to the unconstitutionality of the “Hadopi” law, which was a follow up of a code of conduct.

Amendment 81

Luis Yáñez-Barnuevo García

Motion for a resolution

Paragraph 15

Motion for a resolution

15. Stresses the need to educate young people to enable them to understand what is at stake in intellectual property and to identify clearly what is legal and what is not, by means of targeted public awareness campaigns, particularly against on-line piracy;

Amendment

15. Stresses the need to educate young people to enable them to understand what is at stake in intellectual property and to identify clearly what is legal and what is not, by means of targeted public awareness campaigns *in which national governments are more actively involved*, particularly

against on-line piracy *and with a view to raising awareness of the role played by collecting societies in protecting IPRs;*

Or. es

Amendment 82

Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Cecilia Wikström, Christian Engström

Motion for a resolution

Paragraph 15

Motion for a resolution

Amendment

15. Stresses the need to educate young people to enable them to understand what is at stake in intellectual property and to identify clearly what is legal and what is not, by means of targeted public awareness campaigns, particularly against on-line piracy;

deleted

Or. en

Justification

This whole paragraph should be deleted. As the debates taking place at the national level and at the EU and international level make clear, there are a lot of controversies regarding IPR policies in the digital environment. As long as these issues are not fully addressed at the policy-making level, public authorities should restrain from engaging in such communications campaigns.

Amendment 83

Cecilia Wikström

Motion for a resolution

Title after paragraph 15

Motion for a resolution

Amendment

Combating on-line piracy and protecting IPR on the Internet

Adapting intellectual property rights to the digital environment

Or. en

Amendment 84
Françoise Castex, Christian Engström

Motion for a resolution
Title after paragraph 15

Motion for a resolution

Combating on-line piracy and protecting IPR on the Internet

Amendment

Innovating to adapt IPR to the Internet

Or. en

Amendment 85
Cecilia Wikström

Motion for a resolution
Paragraph 16

Motion for a resolution

16. Agrees with the Commission that additional non-legislative measures ***are*** useful to improve the application of IPR, particularly measures arising from in-depth dialogue among stakeholders;

Amendment

16. Agrees with the Commission that additional non-legislative measures ***such as discussions on possible improvements to the digital market in Europe through voluntary harmonisation of procedures and standards amongst stakeholders can be*** useful to improve the application of IPR, particularly measures arising from in-depth dialogue among stakeholders;

Or. en

Amendment 86
Luis Yáñez-Barnuevo García

Motion for a resolution
Paragraph 16

Motion for a resolution

16. Agrees with the Commission that

Amendment

16. Agrees with the Commission that

additional non-legislative measures are useful to improve the application of IPR, particularly measures arising from in-depth dialogue among stakeholders;

additional non-legislative measures are useful to improve the application of IPR, particularly measures arising from in-depth dialogue among stakeholders, ***without prejudice to the establishment of secondary legislation laying down coercive measures to apply in the event of non-compliance;***

Or. es

Amendment 87

Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Stavros Lambrinidis, Christian Engström

Motion for a resolution Paragraph 16

Motion for a resolution

16. Agrees with the Commission that additional non-legislative measures are useful to improve the application of IPR, particularly measures arising from in-depth dialogue among stakeholders;

Amendment

16. Cautions against non-legislative measures regarding the application of IPR, as they may lead to the circumvention of legal safeguards, including those concerning data protection and privacy;

Or. en

Amendment 88 Marielle Gallo

Motion for a resolution Paragraph 16 a (new)

Motion for a resolution

16a. Stresses that the enormous growth of unauthorised file sharing of copyrighted works and recorded performances is an increasing problem for the European economy in terms of job opportunities and revenues for the industry as well as for government;

Amendment

Amendment 89

Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Cecilia Wikström, Christian Engström

Motion for a resolution

Paragraph 17

Motion for a resolution

Amendment

17. Regrets that the Commission has not mentioned or discussed the delicate problem of on-line piracy, which constitutes a major aspect of this worldwide phenomenon in the age of digitisation of our societies, particularly the issue of the balance between free access to the Internet and the measures to be taken to combat this scourge effectively; urges the Commission to broach this problem in its IPR strategy; ***deleted***

Justification

“Piracy” over the Internet is actually mentioned in the communication, and it has been at the centre of the debate regarding the Telecoms Package. This paragraph is far too inaccurate and should be deleted.

Amendment 90

Stavros Lambrinidis

Motion for a resolution

Paragraph 17

Motion for a resolution

Amendment

17. Regrets that the Commission has not mentioned or discussed the delicate problem of on-line piracy, which constitutes a major aspect of this

17. Regrets that the Commission has not mentioned or discussed the delicate problem of on-line piracy, which constitutes a major aspect of this

worldwide phenomenon in the age of digitisation of our societies, particularly the issue of the balance between free access to the Internet and the measures to be taken to combat this scourge effectively; urges the Commission to broach this problem in its IPR strategy;

worldwide phenomenon in the age of digitisation of our societies, particularly the issue of the balance between, *on the one hand, fundamental rights, including the right to data protection and privacy and the question of* free access to the Internet, and *on the other hand* the measures to be taken to combat this scourge effectively; urges the Commission to broach this problem in its IPR strategy;

Or. en

Amendment 91
Marielle Gallo

Motion for a resolution
Paragraph 17 a (new)

Motion for a resolution

Amendment

17a. Stresses that the fight against digital piracy does not call into question the exercise of citizens' fundamental rights such as the right to protection of privacy; recalls in this connection that protection of intellectual property constitutes a fundamental right under Article 17 of the Charter of Fundamental Rights of the European Union;

Or. fr

Amendment 92
Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Stavros Lambrinidis, Cecilia Wikström

Motion for a resolution
Paragraph 18

Motion for a resolution

Amendment

18. Stresses that a number of factors have allowed this phenomenon to develop,

18. Stresses that a number of factors have allowed this phenomenon to develop,

particularly technological advances; recalls however that this phenomenon constitutes a violation of IPR to which appropriate, urgent solutions need to be found, geared to the sector concerned;

particularly technological advances **and the lack of legitimate offers**; recalls however that this phenomenon constitutes a violation of IPR to which appropriate, urgent solutions need to be found, geared to the sector concerned **and in compliance with fundamental rights**;

Or. en

Justification

Unauthorised use of copyright-protected material is due to the lack of legitimate business models that would allow consumers to buy content online. Where business models have been developed and tried, the results have been promising. For instance, the launch of Spotify, the music streaming service, has helped curb the illegal downloading of music. Enforcement measures need to respect fundamental rights, such as the right to the presumption of innocence, the right to a fair trial, the right to privacy and the right to the confidentiality of communication. Applying the same enforcement measures to criminal gangs infringing copyright for profit and individual consumers doing it for personal use is not fair or proportionate.

Amendment 93 **Cecilia Wikström**

Motion for a resolution **Paragraph 19**

Motion for a resolution

19. Stresses that support for and development of the provision of a diversified, attractive, high-profile, legal range of goods and services for consumers may help to tackle the phenomenon, **but recognises that this is not sufficient: piracy is today the biggest** obstacle to the development of legal online offers and the EU runs the risk of condemning to failure efforts to develop the legitimate online market if it does not recognise that fact and make urgent proposals to address it;

Amendment

19. Stresses that support for and development of the provision of a diversified, attractive, high-profile, legal range of goods and services for consumers may help to tackle the phenomenon **of online file sharing of works protected by intellectual property rights, and recognises in this respect that the lack of a functioning internal European digital market constitutes an important** obstacle to the development of legal online offers and the EU runs the risk of condemning to failure efforts to develop the legitimate online market if it does not recognise that fact and make urgent proposals to address

it;

Or. en

Amendment 94

Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Christian Engström

Motion for a resolution

Paragraph 19

Motion for a resolution

19. Stresses that support for and development of the provision of a diversified, attractive, high-profile, legal range of goods and services for consumers *may help to tackle the phenomenon, but recognises that this is not sufficient: piracy is today the biggest obstacle to the development of legal online offers and the EU runs the risk of condemning to failure efforts to develop the legitimate online market if it does not recognise that fact and make urgent proposals to address it;*

Amendment

19. Stresses that support for and development of the provision of a diversified, attractive, high-profile, legal range of goods and services for consumers *will ensure the development of a dynamic market for online creative content;*

Or. en

Amendment 95

Stavros Lambrinidis

Motion for a resolution

Paragraph 19

Motion for a resolution

19. Stresses that support for and development of the provision of a diversified, attractive, high-profile, legal range of goods and services for consumers *may help to tackle the phenomenon, but recognises that this is not sufficient: piracy is today the biggest obstacle to the development of legal online offers and the*

Amendment

19. Stresses that support for and development of the provision of a diversified, attractive, high-profile, legal range of goods and services for consumers *can ensure the development of a dynamic market for online creative content;*

EU runs the risk of condemning to failure efforts to develop the legitimate online market if it does not recognise that fact and make urgent proposals to address it;

Or. en

Amendment 96
Alexandra Thein

Motion for a resolution
Paragraph 19

Motion for a resolution

19. Stresses that support for and development of the provision of a diversified, attractive, high-profile, legal range of goods and services for consumers may help to tackle the phenomenon, but recognises that this is not sufficient: ***piracy is today the biggest obstacle to the development of legal online offers and the EU runs the risk of condemning to failure efforts to develop the legitimate online market if it does not recognise that fact and make urgent proposals to address it;***

Amendment

19. Stresses that support for and development of the provision of a diversified, attractive, high-profile, legal range of goods and services for consumers may help to tackle the phenomenon, but recognises that this is not sufficient;

Or. de

Amendment 97
Toine Manders

Motion for a resolution
Paragraph 19 a (new)

Motion for a resolution

19a. Asks, therefore, the Commission to pressure the industry to come up with new payment facilities, in order to make it easier for European consumers to buy legally offered content, thereby ensuring that legal downloading will increase in

Amendment

the EU;

Or. en

Amendment 98
Francesco Enrico Speroni

Motion for a resolution
Paragraph 19 a (new)

Motion for a resolution

Amendment

19a. Calls for specific legislation providing that private consumers who have legitimately received, for their own private use, reproductions of original products which are covered by protection under intellectual property rights are not required to demonstrate the legitimacy of those reproductions, but that it should be up to interested parties to prove any violation of rules under the protection of intellectual property rights;

Or. it

Amendment 99
Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Stavros Lambrinidis

Motion for a resolution
Paragraph 20

Motion for a resolution

Amendment

20. Stresses that all parties concerned, including Internet service providers, must join in the dialogue with stakeholders in order to find the appropriate solutions in the course of 2010; calls on the Commission, failing this, to submit a legislative proposal or to amend existing legislation, particularly Directive 2004/48/EC, so as to upgrade the

20. Urges the Commission to rethink the critical issue of intellectual property and to invite all those active in the sector, including in particular telecom operators and Internet service providers, to join forces and seek solutions that are equitable for large and small stakeholders as much as for consumers, that guarantee fair, effective remuneration to all

Community legal framework in this field on the basis of national experiences;

categories of rights holders, real choice for consumers, cultural diversity and respect for fundamental rights, including the right to data protection and privacy;

Or. en

Amendment 100
Alexandra Thein

Motion for a resolution
Paragraph 20

Motion for a resolution

20. Stresses that all parties concerned, including Internet service providers, must join in the dialogue with stakeholders in order to find the appropriate solutions *in the course of 2010*; calls on the Commission, failing this, to submit a legislative proposal or to amend existing legislation, particularly Directive 2004/48/EC, so as to upgrade the Community legal framework in this field on the basis of national experiences;

Amendment

20. Stresses that all parties concerned, including Internet service providers, must join in the dialogue with stakeholders in order to find the appropriate solutions; calls on the Commission, failing this, to submit a legislative proposal or to amend existing legislation, particularly Directive 2004/48/EC, so as to upgrade the Community legal framework in this field on the basis of national experiences;

Or. de

Amendment 101
Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Bernhard Rapkay, Christian Engström

Motion for a resolution
Paragraph 20 a (new)

Motion for a resolution

20a. Asks the Commission to recognize the non-commercial file sharing associated with alternative reward systems, including the creation of a new exception or limitation to the making available and reproduction rights;

Amendment

Amendment 102
Cecilia Wikström

Motion for a resolution
Paragraph 21

Motion for a resolution

21. Calls on the Commission to think broadly about methods of facilitating industry's access to the digital market without geographical borders by addressing urgently the issue of multi-territory licences as well as an effective and transparent system for rights management, as this is a requirement for the growth in services which are legal and which meet consumer demand for ubiquitous, instant and customised access to content;

Amendment

21. Calls on the Commission to think broadly about methods of facilitating industry's access to the digital market without geographical borders by addressing urgently the issue of multi-territory licences, ***the lack of harmonised legislation with regard to copyright*** as well as an effective and transparent system for rights management, as this is a requirement for the growth in services which are legal and which meet consumer demand for ubiquitous, instant and customised access to content;

Amendment 103
Marielle Gallo

Motion for a resolution
Paragraph 21

Motion for a resolution

21. Calls on the Commission to think broadly about methods of facilitating industry's access to the digital market without geographical borders by addressing ***urgently*** the issue of multi-territory licences as well as an effective and transparent system for rights management, ***as this is a requirement for*** the growth in services which are legal and ***which*** meet consumer demand for ***ubiquitous, instant*** and customised access

Amendment

21. Calls on the Commission to think broadly about methods of facilitating industry's access to the digital market without geographical borders by addressing, ***taking account of the particular features of each sector***, the issue of multi-territory licences as well as an effective and transparent system for rights management, ***which would complement*** the ***existing*** growth in services which are legal and meet

to content;

consumer demand for *easier*, customised access to content;

Or. fr

Amendment 104

Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay

Motion for a resolution

Paragraph 21

Motion for a resolution

21. Calls on the Commission to think broadly about methods of facilitating industry's access to the digital market without geographical borders by addressing urgently the issue of multi-territory licences as well as an effective and transparent system for rights management, **as this is a requirement for** the growth in services which are legal and which meet consumer demand for ubiquitous, instant and customised access to content;

Amendment

21. Calls on the Commission to think broadly about methods of facilitating industry's access to the digital market without geographical borders by addressing urgently the issue of multi-territory licences **where there is substantial demand from consumers**, as well as an effective and transparent system for rights management, **which would complement** the **existing** growth in services which are legal and which meet consumer demand for ubiquitous, instant and customised access to content;

Or. fr

Justification

Un certain nombre d'entreprises européennes décident de vendre leurs produits et services sur des marchés individuels, guidés par des choix stratégiques, par la demande du marché et par des motifs culturels et linguistiques. La création d'un marché digital unique ne doit pas devenir une manière de forcer ces entreprises à entrer en compétition avec plus de parties dominantes, réduisant leur perspective de croissance progressive et s'effectuant au détriment de la diversité culturelle.

Par ailleurs, dans sa décision de 2003 sur la vente des droits de la Ligue des Champions UEFA (COMP/C.2-37.398), la Commission européenne a reconnu les avantages de l'exclusivité territoriale en notant que "Les droits médiatiques sur les compétitions de football

telles que la Ligue des champions de l'UEFA sont généralement vendus pays par pays. Cela tient à la nature de la distribution, qui est nationale du fait des réglementations nationales, des barrières linguistiques et des facteurs culturels. La Commission considère donc l'étendue géographique des marchés en amont des droits médiatiques comme nationale." (Point 88).

Amendment 105

Luis Yáñez-Barnuevo García

Motion for a resolution

Paragraph 21

Motion for a resolution

21. Calls on the Commission to think broadly about methods of facilitating industry's access to the digital market without geographical borders by addressing urgently ***the issue of multi-territory licences as well as an effective and transparent system for rights management***, as this is a requirement for the growth in services which are legal and which meet consumer demand for ubiquitous, instant and customised access to content;

Amendment

21. Calls on the Commission to think broadly about methods of facilitating industry's access to the digital market without geographical borders by addressing urgently the issue of ***the introduction of a compulsory collective system for the management of the right to make content available, at least for performers, granting them an inalienable right to fair remuneration, as provided for, moreover, in the aforementioned Commission document of 22 October 2009***, as this is a requirement for the growth in services which are legal and which meet consumer demand for ubiquitous, instant and customised access to content; ***takes the view that bodies representing rights-holders should be consulted on a possible approximation with the rules governing satellite broadcasting, as laid down in the 1993 Satellite and Cable Directive, which could be used as a basis for establishing a model for the management of and payment for online rights;***

Or. es

Amendment 106
Marielle Gallo

Motion for a resolution
Paragraph 21 a (new)

Motion for a resolution

Amendment

21a. Stresses that the system for granting licences should be improved on a basis of technical neutrality, in such a way that the Member States have available to them a flexible, effective and transparent system which can be adapted to the new technologies;

Or. fr

Amendment 107
Françoise Castex, Cecilia Wikström, Christian Engström

Motion for a resolution
Paragraph 21 a (new)

Motion for a resolution

Amendment

21a. Calls on the Commission to review the issue of cross-border management of rights and change the current situation of legal uncertainty created by Commission Recommendation 2005/737/EC of 18 October 2005 on collective cross-border management of copyrights, taking into account the fact that copyright is inherently territorial for cultural, traditional and linguistic reasons and ensuring a pan-European licensing system providing consumers with access to the widest possible choice of content and not at the expense of European local repertoire;

Or. en

Amendment 108

Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay

Motion for a resolution

Paragraph 21 a (new)

Motion for a resolution

Amendment

21a. Invites the Commission to adopt an open-ended approach to the proposals that have emerged regarding the recognition of online file sharing by producing comprehensive data regarding the economic aspects of mutualised funding schemes for creation based on non-market exchanges of digital content (such as the ‘creative contribution’ or ‘Kulturflatrate’);

Or. en

Justification

Policy makers must remain open in their approach of the phenomenon of file-sharing and explore all possible solutions. Increased enforcement has proven to be dissatisfactory and so alternative policies should be considered. The first step would be to properly assess the different proposals aimed at allowing non-commercial file-sharing while creating new modes of funding for creation, in order to fill the gap in this highly divisive debate over file-sharing.

Amendment 109

Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Stavros Lambrinidis, Christian Engström

Motion for a resolution

Paragraph 21 a (new)

Motion for a resolution

Amendment

21a. Stresses the need to ensure that any legislative measure should not restrict in any way the fundamental rights to data protection and privacy as recognised in EU law;

Or. en

Amendment 110
Piotr Borys

Motion for a resolution
Paragraph 21 a (new)

Motion for a resolution

Amendment

21a. Draws attention, furthermore, to the growing problem of Internet-based industrial espionage and theft of data constituting industrial property, in particular technical documentation and source code;

Or. pl

Amendment 111
Piotr Borys

Motion for a resolution
Paragraph 21 b (new)

Motion for a resolution

Amendment

21b. Proposes that the Observatory should carry out a detailed analysis of the problem of data theft and put forward proposals for combating the problem;

Or. pl

Amendment 112
Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Stavros Lambrinidis, Christian Engström

Motion for a resolution
Paragraph 22

Motion for a resolution

22. Supports steps taken by the Commission with a view to identifying the best ways to further improve the EU Customs Regulation which allows the detention of goods suspected of infringing IPRs and is, as such, one of the pillars of the Union legal framework designed to enforce IPRs;

Amendment

22. Supports steps taken by the Commission with a view to identifying the best ways to further improve the EU Customs Regulation which allows the detention of goods suspected of infringing IPRs and is, as such, one of the pillars of the Union legal framework designed to enforce IPRs, ***and calls on the Commission and Member States to ensure that the detention of goods whose illegality is not proven should be as short as possible to avoid illegitimately blocking international transfers of such goods when an overriding general interest, such as public health, is at stake in countries of destination;***

Or. en

Justification

Since November 2008, customs officials in the European Union have seized at least 18 shipments of legal generic medicines from India and China to developing countries, including medicines to treat HIV and AIDS and heart disease. The EU should address the criticisms from public health agencies, including UNITAID, the WHO and many civil society groups, by reconsidering the regulations under which these seizures have been made.

Amendment 113
Sebastian Valentin Bodu

Motion for a resolution
Paragraph 22 a (new)

Motion for a resolution

Amendment

22a. Considers that any measure barring free access to the Internet (temporary disconnection) should only be issued by a judicial body; if it is issued by an administrative authority, that authority's decision must be subject to judicial

control, within the framework of an appeal procedure;

Or. ro

Amendment 114

Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Stavros Lambrinidis

**Motion for a resolution
Paragraph 23**

Motion for a resolution

23. Calls on the Commission to pursue innovative and upgraded cooperation between administrative departments and the various sectors of industry concerned;

Amendment

23. Calls on the Commission to pursue innovative and upgraded cooperation between administrative departments and the various sectors of industry concerned, *without prejudice to the traditional and legal distinction between the roles and competences of the law enforcement and judicial authorities and of the industry;*

Or. en

Amendment 115

Sebastian Valentin Bodu

**Motion for a resolution
Paragraph 23 a (new)**

Motion for a resolution

23a. Considers that penalties should target the user and not the subscriber, which presupposes a modicum of investigation by the administrative authority responsible for applying a prospective penalty.

Or. ro

Amendment 116

Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Stavros Lambrinidis

Motion for a resolution

Paragraph 24

Motion for a resolution

24. Calls on the Commission to step up its cooperation with priority third countries with regard to intellectual property and ***continue its efforts*** in the context of the negotiations on intellectual property under the auspices of the World Trade Organisation concerning intellectual property, particularly in the framework of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS);

Amendment

24. Calls on the Commission to step up its cooperation with priority third countries with regard to intellectual property and ***promote a balanced approach*** in the context of the negotiations on intellectual property under the auspices of the World Trade Organisation concerning intellectual property, particularly in the framework of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS);

Or. en

Justification

The EU has been criticised for seeking to impose harsh IPR regimes to other areas through trade agreements with other regions, exporting EU regulation that has yet to be properly assessed. At the WIPO, the EU is also the main, if not the only, opponent to an international treaty that would foster access to books for visually impaired people, refusing any harmonisation of exceptions and limitations of copyright at the international level. This hardline in favor of IPR is increasingly contentious and could be detrimental to other EU policy objectives. And more “balanced approach” is therefore needed.

Amendment 117

Christian Engström

Motion for a resolution

Paragraph 24

Motion for a resolution

24. Calls on the Commission to step up its cooperation with priority third countries with regard to intellectual property and continue its efforts in the context of the negotiations on intellectual property under the auspices of the World Trade Organisation concerning intellectual

Amendment

deleted

property, particularly in the framework of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS);

Or. en

Amendment 118
Marielle Gallo

Motion for a resolution
Paragraph 25

Motion for a resolution

25. Calls on the Commission to continue its efforts to further the negotiations on the multilateral Anti-Counterfeiting Trade Agreement (ACTA) to improve the effectiveness of the IPR enforcement system against counterfeiting and to fully inform Parliament on the progress and outcome of the negotiations;

Amendment

25. Calls on the Commission ***to ensure that*** its efforts to further the negotiations on the multilateral Anti-Counterfeiting Trade Agreement (ACTA) ***with a view*** to improving the effectiveness of the IPR enforcement system against counterfeiting ***are continued with full account being taken of the Parliament's position, in particular as expressed in its resolution of 18 December 2008 on the impact of counterfeiting on international trade,*** and ***calls on it*** to fully inform Parliament on the progress and outcome of the negotiations;

Or. en

Justification

The European Parliament resolution of 18 December 2008 on the impact of counterfeiting on international trade gives a clear stance on the Parliament position on ACTA negotiations. This amendment aims to clarify that in its negotiations the Commission should take this position fully into account.

Amendment 119

Françoise Castex, Antonio Masip Hidalgo, Bernhard Rapkay, Stavros Lambrinidis, Cecilia Wikström, Christian Engström

Motion for a resolution

Paragraph 25

Motion for a resolution

25. Calls on the Commission to *continue its efforts to further the negotiations on the multilateral Anti-Counterfeiting Trade Agreement (ACTA) to improve the effectiveness of the IPR enforcement system against counterfeiting and to* fully inform Parliament on the progress and outcome of the negotiations

Amendment

25. Calls on the Commission to fully inform Parliament on the progress and outcome of the negotiations *on the multilateral Anti-Counterfeiting Trade Agreement (ACTA) and to ensure that the provisions of ACTA fully comply with the *acquis communautaire* on IPR and fundamental rights;*

Or. en

Justification

Unlike nearly all other multilateral and plurilateral discussions about intellectual property norms, the ACTA negotiations have been held in deep secrecy. Documents such as proposals for ACTA text should be circulated and discussed with the European Parliament. Any provisions to be agreed by the negotiating parties should fully comply with the Community framework regarding the liability of ISPs and the legislation on e-commerce and IPR enforcement. The final text of ACTA should undergo scrutiny to assess its compliance with fundamental rights.

Amendment 120

Françoise Castex, Antonio Masip Hidalgo, Bernhard Rapkay, Stavros Lambrinidis, Cecilia Wikström, Christian Engström

Motion for a resolution

Paragraph 25 a (new)

Motion for a resolution

Amendment

25a. Reiterates its calls on the Commission to ensure that ACTA only concentrates on IPR enforcement measures and not on substantive IPR issues such as the scope of protection, limitations and exceptions, secondary liability or liability of intermediaries, and that ACTA is not used as a vehicle for

modifying the existing European IPR enforcement framework;

Or. en

Amendment 121

Françoise Castex, Antonio Masip Hidalgo, Stavros Lambrinidis

Motion for a resolution

Paragraph 25 b (new)

Motion for a resolution

Amendment

25b. Calls on the Commission to refuse any provision that could allow trademark and copyright holders to intrude on the privacy of alleged infringers without due legal process, further criminalise non-commercial copyright and trademark infringements or reinforce Digital Rights Management technologies at the cost of the rights of the public;

Or. en

Justification

These two additions are entirely consistent with the stance taken by the Parliament regarding ACTA in the Susta report previously mentioned.

Amendment 122

Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Cecilia Wikström, Christian Engström

Motion for a resolution

Paragraph 27

Motion for a resolution

Amendment

27. Stresses the importance of fighting organised crime in the area of IPRs, in particular counterfeiting ***and piracy***; points out in this context the need for appropriate EU legislation on criminal sanctions and supports close strategic and operational cooperation between all the interested parties within the EU, in particular

27. Stresses the importance of fighting organised crime in the area of IPRs, in particular counterfeiting; points out in this context the need for appropriate EU legislation on criminal sanctions and supports close strategic and operational cooperation between all the interested parties within the EU, in particular

Europol, national authorities and the private sector, as well as with non-EU states and international organisations;

Europol, national authorities and the private sector, as well as with non-EU states and international organisations;

Or. en