



Brussels, 2nd April 2008

Report on Cultural industries in the context of the Lisbon strategy

Dear Members of the European Parliament,

The undersigned organisations represent the interests of hundreds of thousands of Europe's creative talents, including screenwriters, journalists, photographers, performers and other creators.

We would like to draw your attention to the report on "Cultural industries in the context of the Lisbon Strategy", prepared by Mr Guy Bono, which will be voted in plenary on 10th April 2008.

We welcome the ambition of the report to recognise the role of cultural industries in the fulfillment of the individual and society, as well as their importance for economic growth, employment and social cohesion.

We also welcome the place that has been given to the role of creators in fostering the cultural industry and the need for them to be fairly remunerated for their creative efforts. We also support the importance to limit concentration in the cultural industries to allow for the widest diversity of creative content.

However, we are concerned about the wording of **paragraph 17 and 21** of the report.

Paragraph 17 urges the Commission to "*rethink the critical issue of intellectual property*" "*involving notably telecom operators and internet service providers to join forces and seek solutions that are equitable to large and small stakeholders*" and stating that "*criminalizing consumers who are not seeking to make a profit is not the right solution to combat piracy*".

We believe that paragraph 17 - as it stands- could weaken the IP system in the future.

The European model, in which rights in created works are rights of the individual creator, also offers important guarantees to the "consumer" of culture of the works' authenticity and of the

authors' and performers' responsibility for it – guarantees which are missing or ineffective in the Anglo-American copyright system, under which cultural products are legally commodities. We believe this European system of "Authors' Rights" will play an important part in the clarification of "a European vision of culture" called for in point 5 of the report.

The "acquis communautaire" offers a potentially high degree of protection to authors and performers within the EU. However, this protection still lacks a sufficient level of harmonization and is still weakened by many shortfalls. The latter are a matter of concern for creators, who, in addition to this, are all too often exposed to unfair contractual arrangements with other stakeholders, and also see their current level of protection increasingly challenged by the ICT industry and the *copyleft* lobbies.

We fear that "*rethinking the critical issue of Intellectual Property*" could become quite detrimental to creators by re-opening the debate on the Anglo-American copyright system, which is clearly prejudicial to our members. The intellectual property protection of creators must be upheld and, where necessary, completed with adequate provisions to enable them to derive a full benefit from the commercial exploitation of their creations.

Criminalising "*consumers who are not seeking to make a profit*" may not be suitable for just any infringement, but legal protection – including criminal action – will ultimately be needed to secure intellectual property from extensive and repeated violations. Piracy is rampant, especially online. And our members suffer extensively from it. Of course, we fully support the fact that education, raising consumers' awareness on the benefits of intellectual property for creators and European culture as a whole should be given a much wider role in the fight against piracy.

We therefore call on the European Parliament to seize the opportunity of this debate on cultural industries to restate the importance of authors' and performers' IP rights as part of the economy of culture, and to acknowledge the necessity for copyright and related rights protection to be upheld and remain primarily creator-oriented.

We would like to propose the following amendment to Paragraph 17:

In the context of rapid technological and market evolution, and with a view to ensuring that cultural industries and creators benefit from the development of digital platforms, urges the Commission to ~~rethink the critical issue of intellectual property from the cultural and economic point of view~~ **to ensure that the "acquis communautaire" in the field of copyright and related rights be upheld and that it remains primarily creator-oriented** and to invite all those active in the sector, ~~involving notably telecom operators and Internet service providers,~~ to join forces and seek solutions that are equitable to large and small stakeholders, in the interest of a balance between the opportunities for access to cultural events and content and intellectual property that guarantee fair, effective remuneration to all categories of right holders, real choice for consumers, and cultural diversity; draws attention, on this point, to the fact that criminalising **occasional** consumers who are not seeking to make a profit ~~is not the right~~ **from the unauthorized reproduction of protected content may not be the most effective** solution to combat digital piracy.

In addition to this, we also suggest the deletion of **paragraph 21**. We believe in fact that, by calling for an undefined and rather vague “reform of intellectual property rights”, it may ultimately strengthen the claims for a less significant protection of the rights of creative right holders. Furthermore, suggesting the “Paris Accord as a framework for a fair interest balance between creators and consumers” is inappropriate and unacceptable. To the best of our knowledge, in fact, the latter is nothing more than a working document, initiated and largely drafted by consumers only, which was never finalized and does not reflect a formal - or informal - understanding between consumers and representative organizations of creators and artists that can be used as a valid reference or precedent.

Yours sincerely,

The undersigned European organisations of Creators.

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