

Creative Content Online - Political and legal questions for the consultation

It is significant that in the Communication from the Commission on Creative Content Online in the Single Market the term 'cultural diversity' appears just once, specifically when it is claimed that “the new services need the dual advantages of economies of scale and cultural diversity that the EU internal market provides”.

It is significant that the commission appears to take account of the UNESCO convention on the protection and promotion of the diversity of cultural expressions, which came into effect in 2007 and to which the European Union is also a signatory, only in the external relations of the EU but has not yet implemented it internally, such that it appears to be possible for a communication to be published on an issue of such pivotal importance as that of creative online content which fails to consider the fundamental issues affecting the preservation of cultural diversity as covered by the UNESCO Convention.

It is significant that while the Communication from the Commission on Creative Content Online in the Single Market cites the Recommendation on Online Management of Music Rights published in 2005, it fails to mention its emphatic rejection by the European Parliament following the report by MEP Katalin Lévai, which states, inter alia: “Contrary to the avowed objective on the Recommendation of promoting fair competition, such action is potentially anti-competitive, as it is likely to lead to a de facto oligopoly, with market power concentrated in the hands of a few major rightsholders and a similar number of big CRMs [collective rights management societies]. It also constitutes a severe threat to the health and vibrancy of cultural diversity in Europe because the removal of international repertoire from the network of national CRMs is likely to cause many national CRMs to cease to operate, to the detriment of local and minority repertoires”. With this new Communication, the Commission is continuing unswervingly down this dangerous path.

It is significant that the questionnaire provided by the Commission, interlarded as it is with suggestive formulations, offers no opportunity to discuss the fundamental concerns reflected in the objections of the European Parliament regarding the segment of creative content utilisation as so eloquently demonstrated by the Lévai report and the rejection by the European Parliament. The competition predicated as an absolute given in the questions of the Communication from the Commission on Creative Content Online in the Single Market must be weighed, in the light of the provisions of the UNESCO Convention on Cultural Diversity, against the consequences of its realisation, insofar as ‘creative content’ denotes those goods and services of a cultural and artistic nature that possess a dual character, i.e., are not merely commodities but also carriers of identities, values and meanings. This requirement should have been met.

For all the reasons set out above, the IG Autorinnen Autoren feels compelled to call upon the European Commission to support the European Parliament, the institutions of civil society and the UNESCO itself in their efforts to achieve a balance between the various interests and not only to speak for the ruthless demands of commercial interests, but to recognise the promotion and protection of cultural diversity as a good of equal importance and to this end to observe the obligations, binding by international law, of the UNESCO Convention on the Protection and Promotion of the Diversity of

Cultural Expressions, to which the European Union is a signatory. The Communication from the Commission on Creative Content Online in the Single Market does not meet these standards in any respect. It can therefore only be rejected as a matter of principle.

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