

PARLIAMENT OF ROMANIA

CHAMBER OF DEPUTIES

DECISION

**approving the Opinion on the Commission Communication 'Towards a modern, more European copyright framework'
COM(2015) 626**

Pursuant to Articles 67 and 148 of the Romanian Constitution, republished, Law No 373/2013 on cooperation between Parliament and the Government in the area of European affairs, and Articles 160 to 185 of the Rules of Procedure of the Chamber of Deputies, republished,

the Chamber of Deputies hereby adopts this Decision.

Sole Article. Having regard to Opinion No 4 c-19/320, adopted by the Committee for European Affairs at its meeting of 23 March 2016,

1. **We welcome** the Commission's proposal, because:

- it recommends adapting copyright rules, developing the lawful supply of content and ensuring copyright protection and fair remuneration for authors, in line with the requirements set out in the Digital Single Market Strategy;
- it lays down a long-term vision for copyright in the EU and sets out a plan built on four complementary pillars regarded as equally important: (a) *wider access to content in the EU*; (b) *exceptions to copyright rules for an innovative and inclusive society*; (c) *creating a fair market*; (d) *fighting piracy*;
- the Communication responds to the need for updating and adapting European legislation on copyright and related rights so that all stakeholders can enjoy fully the opportunities that this environment provides, while also ensuring a well-functioning single market;
- it is intended to develop an environment that provides a high level of protection for rights holders to maintain a good balance with other public policy goals, like education, research, innovation, and equal access of persons with disabilities to the digital environment;
- it seeks to strengthen portability and interoperability in order to foster the free movement of lawfully acquired and available content and services as a first step towards ending unjustified geo-blocking, and to improve cross-border accessibility and operation of subscriptions;
- it launches a public consultation to identify the measures that are necessary in order to reduce discrepancies between national copyright rules, to facilitate access to works online on a broader scale across the EU, to improve access to online cultural content and to promote cultural diversity;
- EU copyright rules continue to provide a high level of protection to rights holders, and to strike a balance with other public policy goals, such as education, research and innovation, and equal access of persons with disabilities, in the digital environment.

2. **We support** the proposals put forward in the Communication, because:

- it regulates the digital market as a key prerequisite for economic growth;
- it seeks to adapt the legal framework so that licensing does not create obstacles to cross-border portability of content (cross-border portability is a stated priority of the Dutch Presidency of the EU);
- it ensures wider access to online cultural content, increases cultural diversity and creates new

opportunities for authors and the content industry, while also seeking to adopt appropriate harmonisation measures;

- it ensures that consumers staying temporarily in another EU Member State can access the content they have acquired in their country of residence;
- it calls for EU rules to be reviewed to allow researchers to use text and data mining technologies to analyse large sets of data;
- it calls for the role of online intermediaries to be re-examined in respect of the protection of copyrighted works and for enforcement measures to be tightened for commercial-scale copyright infringements;
- it proves that the territoriality principle and the added value created by exclusive rights are important for the audio-visual sector (to remain competitive and financially sustainable), taking into account the specific characteristics and interests of small and medium-sized Member States and their markets;
- portability of content that has been provided and acquired lawfully without relinquishing the territoriality principle would damage European cultural diversity;
- it will develop a European framework based on a follow-the-money approach and seeking to cut the financial flows to businesses that make money out of piracy, involving all relevant partners (rights holders, advertising and payment service providers, consumer associations, etc.) with the aim of concluding agreements.

3. **We believe that:**

- EU copyright rules must be adapted so that all market players and citizens can seize the opportunities of this new environment;
- copyright and related rights play an important part, as they protect and foster both the development and marketing of new products and the creation and use of their creative content, thereby helping to boost competitiveness, employment and innovation in several EU industries;
- it is necessary to create a European framework for online copyright licensing, as this would boost the lawful supply of protected cultural goods and services anywhere in the EU;
- differences between the laws of Member States create legal uncertainty, which hampers the creation of a digital single market and the cross-border accessibility of copyright content;
- modern licensing technologies could help to broaden the range of online services that are available cross-border or even to create services available throughout Europe;
- the new framework should contain common rules on effective governance, transparency and supervision (including for collectively managed revenue streams); clear rules on copyright licensing and revenue sharing will ultimately create a level playing field for all parties involved: rights holders, collecting societies, service providers and consumers;
- a 'single European copyright title' would restrict contractual freedom and would reduce the value of copyright in general; cross-border licensing should therefore remain an exception.

4. **We take the view that:**

- copyright rewards creativity and investment in creative content; a new framework offering a high level of protection is therefore the basis of the global competitiveness of Europe's creative industries;
- any change should be targeted and should focus on fair and appropriate remuneration for creators and other rights holders, economic growth, competitiveness and improving consumers' experience, as well as the need to ensure the protection of fundamental rights;

- any Europe-wide exception for text and data mining should apply only if the user has lawful access, and should be developed in consultation with all stakeholders following an evidence-based impact assessment;
- full harmonisation of exceptions and limitations is unjustified in view of the specific expectations and circumstances of national markets, except where there are no solutions dictated by the market itself - education or equal access for persons with disabilities.

5. We point out that:

- it is necessary to develop a single copyright code, as not all the necessary conditions are met at this stage to allow copyright rules to be fully aligned across the EU;
- a complete removal of geo-blocking might cause irreversible harm to the cultural and audiovisual sectors, and the aim pursued should not be to review the territoriality principle;
- territorial fragmentation might oblige users who wish to offer content services across the EU to obtain multiple licences;
- differences in limitations and exceptions often create additional legal costs and legal uncertainty, thereby undermining innovation and investment and contributing, in some cases, to market concentration;
- to allow Europe to make full use of the potential of the new technologies and the digital market, it is necessary to develop a European governance framework for managing the interface between creators, commercial users and consumers;
- copyright licensing services should be developed, alongside web applications and tools, so as to encourage dynamic cultural and creative industries, which allow millions of citizens to use and share information and entertainment content easily and lawfully throughout the EU, regardless of their Member State of residence;
- at international debates (within the World Intellectual Property Organization) on exceptions and limitations, the EU has reiterated its position against adopting an international treaty on this matter, noting that such a framework would be too rigid and difficult to adapt to the extremely rapid dynamics of technological developments; developing countries have urged that a binding international instrument be adopted;
- **6. We take the view** that, from Romania's perspective, the following issues need to be addressed in more detail:
 - exceptions and limitations, in respect of sensitive issues (educational activities, libraries and archives or access of people with disabilities to copyrighted material/content), must focus on facilitating and increasing access to education, culture and knowledge; those exceptions and limitations should be viewed as providing a balance between copyright rules and the need to guarantee access to culture and knowledge as a fundamental right of every individual;
 - the need to strike and keep a balance between the three categories of stakeholders in the field: holders of copyright and related rights, users, and consumers of goods and services based on copyright and related rights;
 - laying down a shortlist of exceptions and limitations at the EU level, particularly of those relating to education, research and easier access of people with disabilities, as such exceptions could have added value for all EU Member States, for instance:
 - in specific cases of reproduction of copyright works by public libraries, education providers, museums or archives for purposes other than securing direct or indirect commercial or financial advantages;
 - uses of copyright works for illustrative purposes only, for teaching or scientific research, provided that the source, including the author's name, is cited, unless this is impossible and to the

extent justified by the non-commercial purposes pursued;

- uses for public security purposes and in order to ensure correct reporting of administrative, parliamentary or judicial proceedings;
- uses for the benefit of people with disabilities, directly linked to the disability, for non-commercial purposes and to the extent required by the disability;
- ensuring a comparable standard level of online services in all EU Member States to facilitate access by the general public throughout the single market and to address market fragmentation of the field - a requirement that makes it necessary to review the regulatory framework;
- the need to improve the protection of the rights of holders of copyright and related rights at the EU level by stepping up the fight against piracy and conducting awareness raising campaigns;
- any review of the regulatory framework must be based on an in-depth analysis of its potential impact on all the categories of stakeholders in the field (rights holders, users of works and other objects protected by copyright and related rights, and final consumers of cultural goods and services, i.e. the general public);
- EU measures to increase the online availability/accessibility of content services within the single market should be accompanied by efforts to ensure an appropriate level of protection of holders of copyright and related rights;

7. **We support** the Commission proposal, because:

- the existing European legislation provides an appropriate and sufficiently flexible general framework for exceptions and limitations, which successfully keeps a balance between protecting works through copyright and relating rights and facilitating access to knowledge for all sections of society;
- it sets out a long-term vision and a plan that includes specific measures and proposals for the very short term (including a proposal on the portability of online content services presented together with this Communication);
- the proposals are intended to create a Digital Single Market and to ensure uniform and effective implementation of copyright legislation across the European Union by national courts and legislators alike.

This Decision was adopted by the Chamber of Deputies at its sitting of 6 April 2016, in compliance with Article 76(2) of the Romanian Constitution, republished.

p.p. President of the Chamber of Deputies,

Florin Iordache

Bucharest, 6 April 2016

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