


Procedure file

| Basic information | | |
|--|--------------------------------|---------------------|
| INI - Own-initiative procedure | 2011/2313(INI) | Procedure completed |
| Online distribution of audiovisual works in the European Union | | |
| Subject | | |
| 3.30.01 Audiovisual industry and services | | |
| 3.30.06 Information and communication technologies, digital technologies | | |
| 3.30.25 International information networks and society, internet | | |

| Key players | | | |
|---------------------|---|---|------------|
| European Parliament | Committee responsible | Rapporteur | Appointed |
| | CULT Culture and Education | | 12/09/2011 |
| | | PPE CAVADA Jean-Marie | |
| | | Shadow rapporteur | |
| | | S&D KAMMEREVERT Petra | |
| | | ALDE LØKKEGAARD Morten | |
| | | Verts/ALE TRÜPEL Helga | |
| | Committee for opinion | Rapporteur for opinion | Appointed |
| | ITRE Industry, Research and Energy | | 08/02/2012 |
| | | S&D BADIA I CUTCHET Maria | |
| | JURI Legal Affairs | | 19/12/2011 |
| | | PPE BORYS Piotr | |
| European Commission | Commission DG | Commissioner | |
| | Financial Stability, Financial Services and Capital Markets Union | BARNIER Michel | |

| Key events | | | |
|------------|--|---|---------|
| 15/12/2011 | Committee referral announced in Parliament | | |
| 10/07/2012 | Vote in committee | | |
| 25/07/2012 | Committee report tabled for plenary | A7-0262/2012 | Summary |
| 11/09/2012 | Results of vote in Parliament |  | |
| 11/09/2012 | Decision by Parliament | T7-0324/2012 | Summary |
| 11/09/2012 | End of procedure in Parliament | | |

| Technical information | |
|----------------------------|--------------------------------|
| Procedure reference | 2011/2313(INI) |
| Procedure type | INI - Own-initiative procedure |
| Procedure subtype | Initiative |
| Legal basis | Rules of Procedure EP 54 |
| Other legal basis | Rules of Procedure EP 159 |
| Stage reached in procedure | Procedure completed |
| Committee dossier | CULT/7/08155 |

| Documentation gateway | | | | | |
|---|------|------------------------------|------------|----|---------|
| Committee draft report | | PE480.505 | 06/03/2012 | EP | |
| Amendments tabled in committee | | PE487.679 | 13/04/2012 | EP | |
| Committee opinion | ITRE | PE478.423 | 26/04/2012 | EP | |
| Committee opinion | JURI | PE485.840 | 03/05/2012 | EP | |
| Committee report tabled for plenary, single reading | | A7-0262/2012 | 25/07/2012 | EP | Summary |
| Text adopted by Parliament, single reading | | T7-0324/2012 | 11/09/2012 | EP | Summary |
| Commission response to text adopted in plenary | | SP(2012)766/2 | 19/12/2012 | EC | |

Online distribution of audiovisual works in the European Union

The Committee on Culture and Education adopted the own-initiative report by Jean-Marie CAVADA (EPP, FR) on the online distribution of audiovisual works in the European Union.

Legal content, accessibility and collective rights management: the committee stresses the need to make legal content more attractive, and to improve the online availability of audiovisual works, including both subtitled works and works in all the official languages of the EU. Digital services, such as video streaming, should be made available to all EU citizens irrespective of the Member State in which they are located. Members call on the Commission to request that European digital companies remove geographical controls (e.g. IP address blocking) across the Union and allow the purchase of digital services from outside the consumers Member State of origin. It asks the Commission to draft an analysis of the application of the [Cable and Satellite Directive](#) to digital distribution.

The committee suggests adopting a comprehensive approach at EU level which should involve greater cooperation between rights holders, online distribution platforms and internet service providers, so as to facilitate user-friendly and competitive access to audiovisual content. It stresses the importance of net neutrality in order to guarantee equal access to high-speed networks, which is crucial to the quality of legitimate online audiovisual services.

Members emphasise that the digital divide between Member States or regions of the EU represents a serious barrier to the development of the digital single market. They call, therefore, for the expansion of broadband internet access throughout the EU with a view to stimulating access to online services and new technologies.

On collective management, Members call on the Commission to present a legislative initiative for the collective management of copyright, aimed at ensuring better accountability, transparency and governance on the part of collective rights management societies, along with efficient dispute resolution mechanisms, and at clarifying and simplifying licensing systems in the music sector. They stress the need to operate a clear distinction between licensing practices for different types of content, notably between audiovisual/cinematographic and musical works.

On the question of convergence of the media, Members call for new solutions to be found, not only in terms of authors rights, but also in terms of entertainment law and urge the European Commission to check to what extent various regulations for linear and non-linear services in [Directive 2010/13/EU](#) on audiovisual media services are still up-to-date, taking the latest technological developments into consideration. They suggests that consideration be given to new forms of cross-programme and cross-platform clearing systems, with the aid of which interest could be awoken in high-quality content, which would also increase the linear programme quality and the online variety without burdening the revenue of private broadcasters.

The report calls for an analysis of whether the principle of mutual recognition could be applied to digital goods in the same manner as to physical goods.

Unauthorised use: the committee calls on the Commission to afford internet users legal certainty when they are using streamed services and to consider, in particular, ways to prevent the use of payment systems and the funding of such services through advertising on pay platforms

offering unauthorised downloading and streaming services. It calls on Member States to promote respect for authors' and neighbouring rights and to combat the provision of unauthorised content.

Where legal alternatives do exist, online copyright infringement remains an issue and therefore the legal online availability of copyrighted cultural material needs to be supplemented with smarter online enforcement of copyright.

Remuneration: Members maintain that it is essential to guarantee authors and performers remuneration that is fair and proportional to all forms of exploitation of their works, especially online exploitation, and therefore calls upon the Member States to ban buyout contracts, which contradict this principle. They call on the Commission urgently to present a study considering disparities in the different remuneration mechanisms for authors and performers which are in use at the national level, in order to draw up a list of best practices. Furthermore, they want the bargaining position of authors and performers vis-à-vis producers to be rebalanced by providing authors and performers with an unwaivable right to remuneration for all forms of exploitation of their works, including ongoing remuneration where they have transferred their exclusive 'making available' right to a producer. Members maintain that the best means of guaranteeing decent remuneration for rights holders is by offering a choice, as preferred, among collective bargaining agreements (including agreed standard contracts), extended collective licences and collective management organisations.

Licensing: the report points out that multi-territorial or pan-European licensing mechanisms should remain voluntary and that linguistic and cultural differences between Member States, along with variations in national rules unrelated to copyright law, carry their own specific challenges. Members believe, therefore, that a flexible approach regarding pan-European licensing must be adopted, while protecting rights holders and progressing towards the digital single market. They take the view that, if sustainable multi-territorial licensing can be encouraged in the digital single market for audiovisual works, this should facilitate market-driven initiatives.

Interoperability: the committee calls on Member States to ensure that collective rights management is based on effective, functional and interoperable systems. It calls on the Commission to consider ways to encourage network operators to standardise their technical tools and reverse the current trend of removing responsibility from these operators regarding consumer protection, implementation of intellectual property rights and ensuring Internet privacy.

Furthermore, Members stress that consideration should be given to applying a reduced rate of VAT to the digital distribution of cultural goods and services in order to eliminate the discrepancies between online and offline services. They take the view that the application of reduced VAT rates for online cultural content sold by a provider established in the EU to a consumer resident in the EU would boost the attractiveness of digital platforms, as they indicated in their resolutions of 17 November 2011 on the [modernisation of VAT legislation](#) in order to boost the digital single market and of 13 October 2011 on the [future of VAT](#).

Protection and promotion of audiovisual works: the report calls on the Commission:

- to find mechanisms for encouraging access to archived audiovisual material held by Europe's film heritage institutions;
- to promote solutions aimed at supporting the digitisation, preservation and educational availability of these works, including across borders.

Education: Members stress the importance of promoting digital skills and media literacy for all EU citizens, and also that consumers should be properly informed about any issues relating to intellectual property rights that may arise when using file-sharing services in the context of cloud-computing services.

MEDIA 2014-2020: lastly, the committee stresses that it is vital for MEDIA to continue to exist as a specific programme focusing solely on the audiovisual sector.

Online distribution of audiovisual works in the European Union

The European Parliament adopted a resolution on the online distribution of audiovisual works in the European Union.

Legal content, accessibility and collective rights management: Parliament stresses the need to make legal content more attractive, and to improve the online availability of audiovisual works, including both subtitled works and works in all the official languages of the EU. Digital services, such as video streaming, should be made available to all EU citizens irrespective of the Member State in which they are located. Members call on the Commission to request that European digital companies remove geographical controls (e.g. IP address blocking) across the Union and allow the purchase of digital services from outside the consumers Member State of origin. It asks the Commission to draft an analysis of the application of the [Cable and Satellite Directive](#) to digital distribution.

Parliament suggests adopting a comprehensive approach at EU level which should involve greater cooperation between rights holders, online distribution platforms and internet service providers, so as to facilitate user-friendly and competitive access to audiovisual content. It stresses the importance of net neutrality in order to guarantee equal access to high-speed networks, which is crucial to the quality of legitimate online audiovisual services.

Members emphasise that the digital divide between Member States or regions of the EU represents a serious barrier to the development of the digital single market. They call, therefore, for the expansion of broadband internet access throughout the EU with a view to stimulating access to online services and new technologies. Members observe that the development of cross-border services is entirely possible, provided that business platforms are prepared to acquire, by contractual means, the rights to exploit one or more territories, since it must be remembered that territorial systems are natural markets in the audiovisual sector.

On collective management, Members call on the Commission to present a legislative initiative for the collective management of copyright, aimed at ensuring better accountability, transparency and governance on the part of collective rights management societies, along with efficient dispute resolution mechanisms, and at clarifying and simplifying licensing systems in the music sector. They stress the need to operate a clear distinction between licensing practices for different types of content, notably between audiovisual/cinematographic and musical works. The report requires an analysis of whether the principle of mutual recognition could be applied to digital goods in the same manner as to physical goods.

Unauthorised use: Parliament calls on the Commission to afford internet users legal certainty when they are using streamed services and to consider, in particular, ways to prevent the use of payment systems and the funding of such services through advertising on pay platforms

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Where legal alternatives do exist, online copyright infringement remains an issue and therefore the legal online availability of copyrighted cultural material needs to be supplemented with smarter online enforcement of copyright.

Remuneration: Members maintain that it is essential to guarantee authors and performers remuneration that is fair and proportional to all forms of exploitation of their works, especially online exploitation, and therefore calls upon the Member States to ban buyout contracts, which contradict this principle. They call on the Commission urgently to present a study considering disparities in the different remuneration mechanisms for authors and performers which are in use at the national level, in order to draw up a list of best practices. Furthermore, they want the bargaining position of authors and performers vis-à-vis producers to be rebalanced by providing authors and performers with an unwaivable right to remuneration for all forms of exploitation of their works, including ongoing remuneration where they have transferred their exclusive 'making available' right to a producer. Members maintain that the best means of guaranteeing decent remuneration for rights holders is by offering a choice, as preferred, among collective bargaining agreements (including agreed standard contracts), extended collective licences and collective management organisations.

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