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on the implementation of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (2014/2256(INI))

Committee on Legal Affairs

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**on the implementation of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society
(2014/2256(INI))**

The European Parliament,

- having regard to Articles 4, 26, 34, 114, 118 and 167 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to Article 27 of the Universal Declaration of Human Rights;
- having regard to the 1994 Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS),
- having regard to the UNESCO Convention of 20 October 2005 on the Protection and Promotion of the Diversity of Cultural Expressions,
- having regard to Articles 11, 13, 14, 16, 17, 22 and 52 of the Charter of Fundamental Rights of the European Union,
- having regard to Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society¹,
- having regard to the Berne Convention for the Protection of Literary and Artistic Works, and expressly to the Three Step Test,
- having regard to the World Intellectual Property Organisation (WIPO) Copyright Treaty of 20 December 1996,
- having regard to the WIPO Performances and Phonograms Treaty of 20 December 1996,
- having regard to the WIPO Treaty on Audiovisual Performances, adopted by the WIPO Diplomatic Conference on the Protection of Audiovisual Performances in Beijing on 24 June 2012,
- having regard to the September 2013 intellectual property rights study carried out jointly by the European Patent Office (EPO) and the office for Harmonisation in the Internal Market (OHIM), entitled 'Intellectual property rights intensive industries: contribution to economic performance and employment in the European Union', ,
- having regard to the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled,

¹ OJ L 167, 22.6.2001, p. 10.

- having regard to Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market²,
- having regard to Directive 2013/37/EU of the European Parliament and of the Council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information³,
- having regard to Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works⁴, – having regard to Directive 2006/116/EC of the European Parliament and of the Council of 12 December 2006 on the term of protection of copyright and certain related rights⁵,
- having regard to Directive 2011/77/EU of the European Parliament and of the Council of 27 September 2011 amending Directive 2006/116/EC on the term of protection of copyright and certain related rights⁶,
- having regard to Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission⁷,
- having regard to Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights⁸,
- having regard to Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property⁹, which amends Council Directive 92/100/EEC¹⁰,
- having regard to Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art¹¹,
- having regard to its resolution of 27 February 2014 on private copying levies¹²,
- having regard to its resolution of 12 September 2013 on promoting the European

² OJ L 84, 20.3.2014, p. 72.

³ OJ L 175, 27.6.2013, p. 1.

⁴ OJ L 299, 27.10.2012, p. 5.

⁵ OJ L 372, 27.12.2006, p. 12.

⁶ OJ L 265, 11.10.2011, p. 1.

⁷ OJ L 248, 6.10.1993, p. 15.

⁸ OJ L 157, 30.04.2004, p. 45.

⁹ OJ L 376, 27.12.2006, p. 28.

¹⁰ OJ L 346, 27.11.1992, p. 61.

¹¹ OJ L 272, 13.10.2001, p. 32.

¹² Texts adopted, P7_TA(2014)0179.

cultural and creative sectors as sources of economic growth and jobs¹³,

- having regard to its resolution of 11 September 2012 on the online distribution of audiovisual works in the European Union¹⁴,
 - having regard to its resolution of 22 September 2010 on enforcement of intellectual property rights in the internal market¹⁵,
 - having regard to the public consultation on the review of the EU copyright rules carried out by the Commission between 5 December 2013 and 5 March 2014,
 - having regard to its resolution of 16 February 2012 on access by blind people to books and other printed products of 16 February 2012 on Petition 0924/2011 by Dan Pescod (British), on behalf of the European Blind Union (EBU)/Royal National Institute of Blind People (RNIB), on access by blind people to books and other printed products¹⁶,
 - having regard to the Commission Green Paper on the online distribution of audiovisual works in the European Union: opportunities and challenges: towards a digital single market (COM(2011)0427),
 - having regard to the Commission Green Paper entitled ‘Copyright in the Knowledge Economy’ (COM(2008)0466),
 - having regard to the Commission communication entitled ‘A Single Market for Intellectual Property Rights: Boosting creativity and innovation to provide economic growth, high quality jobs and first class products and services in Europe’ (COM(2011)0287),
 - having regard to the Memorandum of Understanding of 20 September 2011 on key principles on the digitisation and making available of out-of-commerce works, with a view to facilitating the digitisation and making available of books and learned journals for European libraries and similar establishments,
 - having regard to the September 2013 joint EPO and OHIM study entitled ‘Intellectual property rights intensive industries: contribution to economic performance and employment in the European Union’,
 - having regard to Rule 52 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs and the opinions of the Committee on Industry, Research and Energy, and the Committee on Internal Market and Consumer Protection (A8-0000/2015),
- A. whereas the revision of Directive 2001/29/EC is central to the promotion of creativity and innovation, cultural diversity, economic growth, competitiveness, the Digital Single

¹³ Texts adopted, P7_TA(2013)0368.

¹⁴ OJ C 353 E, 3.13.2013, p. 64.

¹⁵ OJ C 50 E, 21.02.2012, p. 48

¹⁶ OJ C 249 E, 30.08.2013, p. 49

Market and to access to knowledge and information; while at the same time also providing authors of literary and artistic works with sufficient recognition and protection of their rights;

- B. whereas Article 167 of the Treaty on the Functioning of the European Union states that the European Union shall promote the flowering and diversity of the cultures of the Member States, particularly through artistic and literary creation;
- C. whereas Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society was aimed at adapting legislation on copyright and related rights to reflect technological developments;
- D. whereas Directive 2001/29/EC also addresses a number of EU obligations under international law, including the provisions of the Berne Convention for the Protection of Literary and Artistic Works, of the WIPO Copyright Treaty and of the WIPO Performances and Phonograms Treaty;
- E. whereas the European Commission and the Member States are making considerable investments in the digitization and online accessibility of the rich collections of Europe's cultural heritage institutions, so that citizens can enjoy access from everywhere on any device;
- F. whereas the European cultural and creative industries are an engine for economic growth and job creation in the EU and make a major contribution to the EU economy, as they employ more than 7 million people and generate more than 4.2 % of EU GDP according to the latest estimates, and whereas cultural industries continued to create jobs during the economic crisis of 2008-2012;
- G. whereas the September 2013 joint EPO and OHIM study shows that about 39% of total economic activity in the EU, worth some EUR 4 700 billion a year, is generated by IPR-intensive industries, as is, in addition, 26% of direct employment (or 56 million jobs), with indirect employment accounting for a further 9% of the total number of jobs in the EU;
- H. whereas the digital revolution has brought with it new technique and means of communication and opened the way to new forms of expression which, while calling into question the long-established three-way relationship between creators, cultural entrepreneurs and users, has spurred the emergence of a knowledge-based economy providing new jobs and helping to promote culture and innovation;
- I. whereas any political initiative concerning the digital single market must be in keeping with the Charter of Fundamental Rights of the European Union, and in particular Articles 11, 13, 14, 16, 17 and 22 thereof;
- J. whereas cultural diversity and language diversity exceeds national borders, with some European languages spoken in multiple countries;
- K. whereas the Charter of Fundamental Rights protects freedom of expression, freedom of information, freedom of the arts and science, guarantees protection of personal data and

protection of cultural and linguistic diversity, the right to property and the protection of intellectual property, the right to education and the freedom to conduct a business;

- L. whereas the right of the creator to protection of his or her creative works must continue to apply in the digital age;
 - M. whereas measures that contribute to the further development of cultural interchange and improve legal certainty in the sector need to be considered; whereas many creative on-line services have developed since the application of Directive 2001/29/EC, and consumers have never before had access to such a wide range of creative and cultural works, while users need access to a plentiful and diverse supply of high-quality content;
 - N. whereas the harmonious and systematic development of the Europeana digital library, which was founded in 2008 as part of an EU initiative, has made works from Member States' libraries available;
 - O. whereas creative works are one of the main sources nourishing the digital economy and information technology players such as search engines, social media and platforms for user-generated content, but virtually all the value generated by creative works is transferred to those digital intermediaries, which refuse to pay authors or negotiate extremely low levels of remuneration;
 - P. whereas Directive 2011/77/EU and Directive 2006/116/EC harmonised the terms of protection of copyright and neighbouring rights by establishing a complete harmonisation of the period of protection for each type of work and each related right in the Member States;
 - Q. whereas the EU legislative authorities have a duty to promote a clear legal framework for copyright and related rights that can be understood by all stakeholders, in particular the general public, and ensures legal certainty;
 - R. having regard to the competitive advantage and growing power of a number of Internet intermediaries and to the negative impact of this situation on authors' creative potential and on the development of services offered by other distributors of creative works;
 - S. whereas when defining the legal framework for copyright and related rights account should be taken of the need to promote innovative industrial and commercial models, taking advantage of the opportunities offered by new technologies, in order to make EU businesses more competitive;
 - T. whereas the Commission's priority and the focus of its 2014-2019 programme is the creation of growth and jobs;
1. Points out that copyright is the tangible means of ensuring that creators are remunerated and that the creative process is funded;
 2. Welcomes the Commission's initiative in having conducted a consultation on copyright, which attracted great interest from a wide range of interested stakeholders,