Resolution on collective cross-border management of copyright and related rights for legitimate online music services

2008/2629(RSP) - 25/09/2008 - Text adopted by Parliament, single reading

Following the debate which took place during the sitting of 24 September, the European Parliament adopted, by 509 votes to 24 with 29 abstentions, a resolution tabled by the Committee on Legal Affairs on collective cross-border management of copyright and related rights for legitimate online music services. It recalled that in its resolution of 13 March 2007 Parliament invited the Commission to make it clear that the 2005 Recommendation 2005/737/EC on collective cross-border management of copyright and related rights for legitimate online music services ('the 2005 Recommendation'), applied exclusively to online sales of music recordings. In that resolution, it had also indicated that the interests of authors and therefore of cultural diversity in Europe would be best served by the introduction of a fair and transparent system of competition that avoids downward pressure on authors' revenues. It had asked the Commission to present a proposal for a flexible directive to be adopted in codecision with a view to regulating the collective management of copyright and related rights as regards cross-border online music services, while taking account of the specificity of the digital era and safeguarding European cultural diversity, small stakeholders and local repertoires, on the basis of the principle of equal treatment.

In the light of the territorial nature of copyright and despite the existence of Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society, the situation in the field of collective management of copyright and related rights for online services is genuinely complex, owing mainly to the lack of European licenses. Parliament felt that, owing to the refusal to legislate – despite various European Parliament resolutions – and the decision to try to regulate the sector through a recommendation, a climate of legal uncertainty has been created for right-holders and for users, especially broadcasters.

On the other hand, following a complaint from users, the Commission's Directorate-General for Competition intervened by instituting a procedure against CISAC (International Confederation of Societies of Authors and Composers), which includes 24 European collecting societies amongst its members. The effect of the decision will be to preclude all attempts by the parties concerned to act together in order to find appropriate solutions – such as a system for the clearing of rights at the European level – and to leave the way open to an oligopoly of a number of large collecting societies linked by exclusive agreements to publishers belonging to the worldwide repertoire. Members believe that the result will be a restriction of choice and the extinction of small collecting societies to the detriment of minority cultures.

Parliament considers that the summary report presenting the results of the monitoring of the 2005 Recommendation does not reflect accurately the existing situation and does not take account of the opinion given by Parliament in its resolution of 13 March 2007. This situation reflects the fact that the Commission has chosen to ignore the warnings given by Parliament, in particular in its resolution of 13 March 2007, which includes concrete proposals for controlled competition, as well as protection for minority cultures within the EU.

Parliament calls on the Commission to ensure that Parliament is involved effectively, as co-legislator, in the initiative on creative content online.