Copyright and related rights in the information society. Follow up to the Green paper

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OBJECTIVE: Following the publication of the Green Paper on copyright and related rights in the information society (COS0292), it has emerged from consultation of the milieux concerned that additional measures need to be taken in this field, in the context of the internal market, without entailing a radical transformation of the existing regulatory framework. In the present document, the Commission sets out its conclusions on copyright and related rights in the information society and lists the reasons justifying its approach, with particular reference to priorities and means of action. SUBSTANCE: The Commission considers that more harmonization is needed so as to complete the existing legal framework where this is required for the smooth functioning of the internal market. The high level of protection conferred by copyright law should be maintained and developed. In parallel, there should be an equitable balance between the rights and interests of the different categories of rightholder, as well as between those of rightholders, right exploiters and users. The consultation procedure has made it possible to identify a certain number of problems calling for immediate action to eliminate the main obstacles to trade in copyright-protected goods and services. Proposals will therefore shortly be submitted in the following areas: - right of reproduction: harmonized measures will be proposed to define the range of acts protected by this right and set its limits; a distinction will be made between exclusive and limited rights of reproduction, rights to remuneration (legal licences) and certain acts of reproduction authorized without remuneration ('fair use' exception); - right of communication to the public: digital 'on-demand' transmission will be protected via greater harmonization of Community law: harmonized measures will also set limits to this right comparable to those proposed for the harmonization of reproduction rights; - legal protection of the integrity of technical identification and protection schemes: such protection will be harmonized (its exact scope - including the liability of persons in breach of the law - will be defined); - right of distribution: the distribution right of authors will be harmonized for all categories of work in such a way that the right will be exhausted only on the date of the first legal sale of the work in the Community by the rightholder or with his consent; the principle of exhaustion will apply only to the distribution of goods, not to the provision of services (on-line services included). Other questions of importance for copyright exploitation in the information society also require further definition or specific action: - right of broadcasting: the market effects of multi-channel broadcasting could justify harmonized action to protect the holders of certain related rights, in the context of the evolution of the market concerned; - applicable law and law enforcement: the Commission will publish a communication aimed at clarifying the situation, it is currently examining the problem of liability in cases of copyright infringement, with a view to a possible Community initiative; - management of rights: the Commission will continue its examination of this problem, and will give consideration to the need for a comprehensive and coherent Community initiative in the context of internal market requirements; - moral rights: this dimension of the single market is now more important than before. The Commission proposes to monitor market tendencies to determine whether the existing variations in Member State law represent obstacles to the exploitation of works justifying Union-wide harmonization of the protection of moral rights. A thoroughgoing response to the present challenge will have to be flanked by appropriate protection at international level. Any international agreement should pay particular attention to the nature of the rights applying to acts of digital transmission, the scope of the right of reproduction and the specific protection arrangements for databases. The negotiations currently under way within WIPO should offer the possibility of reaching an international agreement, in parallel to the harmonization efforts being made at Community level.