Intellectual property, WIPO Treaties: copyright WCT and neihbouring rights WPPT, phonograms

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OBJECTIVE: approval by the Community of the WIPO (World Intellectual Property Organization) Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT). SUBSTANCE: the provisions of the two Treaties concern not only the exploitation of works by traditional means but also, for the first time, by means of new technologies. The treaties establish balanced protection which takes into consideration the rights and interests at stake and allows countries the necessary flexibility in transposing them into their national legislation. Together with the Commission proposal on copyright and related rights, these Treaties will help to provide a high level of protection for the works concerned while allowing the general public access to material available via networks. More specifically: (1) The Copyright Treaty supplements the Berne Convention for the protection of literary and artistic works and adapts it to the digital environment. Under the WCT, authors enjoy legal protection if their work is distributed, commercially rented out, communicated to the public or made available to the public via networks and they may benefit from other rights enshrined in the Berne Convention. In addition, the WCT provides specific protection for software and databases. It also contains provisions on technological protection measures, such as the circumvention of anti-copying measures, rights management information systems and the enforcement of rights. (2) Under the Performances and Phonograms Treaty, artists and producers of phonograms now enjoy exclusive rights in the following areas: copying, distribution, commercial rental and making their performances and phonograms available to the public via networks. Artists/performers and producers of phonograms also have a right of remuneration for broadcasting and any other means of communication to the public of phonograms published for commercial purposes. It also contains provisions on technological measures, rights, management systems and the enforcement of rights. In procedural terms, the proposal for a decision enables the Community to become a contracting party to the two treaties, since existing Community rules are compatible with the principles thereof. However, in the areas concerned, the Community does not have sole competence but shares responsibility with the Member States, which accordingly approve those aspects of the Treaties which relate to their area of competence, while the Community must approve aspects concerning harmonization. In order to avoid any demarcation conflicts, the instrument of approval of the Treaties, along with the instruments of ratification of the Member States, will only be deposited when the Council has adopted the provisions amending and/or incorporating existing Community legislation.