Basic information

2013/2114(INI) INI - Own-initiative procedure	Procedure completed
Private copying levies **Subject** 3.30.25 International information networks and society, internet 3.50.15 Intellectual property, copyright	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	CASTEX Françoise (S&D)	18/12/2012
	Shadow rapporteur WIKSTRÖM Cecilia (ALDE)	

Committee for opinion	Rapporteur for opinion	Appointed
ITRE Industry, Research and Energy	The committee decided not to give an opinion.	

European Commission

Commission DG	Commissioner
Financial Stability, Financial Services and Capital Markets Union	BARNIER Michel

Key events

Date	Event	Reference	Summary
13/06/2013	Committee referral announced in Parliament		
11/02/2014	Vote in committee		
17/02/2014	Committee report tabled for plenary	A7-0114/2014	Summary
27/02/2014	Decision by Parliament	T7-0179/2014	Summary
27/02/2014	Results of vote in Parliament		
27/02/2014	Debate in Parliament		
27/02/2014	End of procedure in Parliament		

Technical information	
Procedure reference	2013/2114(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	JURI/7/12936

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE519.560	09/10/2013	
Amendments tabled in committee		PE521.789	21/10/2013	
Committee report tabled for plenary, single reading		A7-0114/2014	17/02/2014	Summary
Text adopted by Parliament, single reading		T7-0179/2014	27/02/2014	Summary

European Commission

Document type	Reference	Date	Summary
Commission document (COM)	COM(2012)0789	18/12/2012	Summary
Commission response to text adopted in plenary	SP(2014)447	22/07/2014	

Private copying levies

2013/2114(INI) - 18/12/2012 - For information

The Commission presents a communication on content in the Digital Single Market.

In 2010, in its Digital Agenda for Europe, the Commission endeavoured to open up access to content as part of its strategy to achieve a vibrant Digital Single Market and identified a number of actions in the field of copyright. In 2011, in its Intellectual Property Strategy "A Single Market for Intellectual Property Rights", the Commission recognised the strategic importance of copyright for the development of the Digital Single Market.

In the **Compact for Growth and Jobs in June 2012**, the Heads of State or Government underlined, among other measures needed to achieve a well-functioning Digital Single Market by 2015, the importance of modernising Europe's copyright regime and facilitating licensing, while ensuring a high level of protection of intellectual property rights and taking into account cultural diversity.

Whilst good progress has been made in delivering the copyright-related actions identified in the Digital Agenda and the Intellectual Property Strategy, there **remains work to be done to ensure an effective single market in the area of copyright**.

The Commission will therefore work on two parallel tracks of action.

1. Structured stakeholder dialogue: a structured stakeholder dialogue will be launched by the Commission, with the assigned objective of delivering by the end of **2013 practical industry-led solutions to these issues**, without prejudice to further public policy action, including legislative reform, as appropriate. Under the name of "**Licensing Europe**", this process will seek to tap the potential and explore the possible limits of innovative licensing and technological solutions in making EU copyright law and practice fit for the digital age.

"Licensing Europe" will comprise **four parallel work strands**, tasked with delivering effective market-led solutions. The process will cover the following issues:

- ***Cross-border access and the portability of services***: the Commission's objective is to foster cross-border on-line access and "portability" across borders of content. It also concerns cross-border legal access to cloud-stored content and services which should also be facilitated.
- ***User-generated content and licensing for small-scale users of protected material***: the Commission's objective is to foster transparency and ensure that end-users have greater clarity on legitimate and non-legitimate uses of protected material, and easier access to legitimate solutions.
- ***Audiovisual sector and cultural heritage institutions***: the Commission's objective is to facilitate the deposit and online accessibility of films in the EU both for commercial purposes and non-commercial cultural and educational uses.
- ***Text and data mining***: the Commission's objective is to promote the efficient use of text and data mining (TDM) for scientific research purposes.
- In addition to these areas, during 2012 the issue of **private copying levies** has been the subject of an industry mediation process, fostered by the Commission and led by former Commissioner António Vitorino. Mr. Vitorino is expected to deliver a report on this issue at the beginning of next year, including a number of recommendations.

2. Review of the copyright framework: in parallel the Commission will **complete its on-going review of the EU copyright framework**, based on market studies and impact assessment and legal drafting work, with a view to a decision in 2014 whether to table the resulting legislative reform proposals. The following elements will be addressed:

- territoriality in the Internal Market; harmonisation, limitations and exceptions to copyright in the digital age;
- fragmentation of the EU copyright market;
- how to improve the effectiveness and efficiency of enforcement while underpinning its legitimacy in the wider context of copyright reform.

Lastly, over the next two years, the Commission will continue to : (i) work for a modern copyright framework that remains fit for purpose and seeks to foster innovative market practices in order to guarantee effective recognition and remuneration of rights holders; (ii) provide sustainable incentives for creativity, cultural diversity and innovation; (iii) increase the choice of and open up access to legal offers by end users; (iv) allow new business models to emerge; (v) more effectively contribute to combating illegal offers and piracy.

Private copying levies

2013/2114(INI) - 27/02/2014 - Text adopted by Parliament, single reading

The European Parliament adopted by 252 votes to 122, with 19 abstentions, a resolution on private copying levies.

Digital private copying has taken on major economic importance as a result of technological progress and the shift to the internet and cloud computing. Authors' claim to protection of their creative work, and their right to equitable remuneration for that work must also exist in the digital age. The cultural sector provides 5 million jobs in the EU and 2.6% of its GDP and is one of the main drivers of growth in Europe.

Modernised and harmonised system: copyright law should **balance the interests of creators and consumers**. All European consumers should have the right to make private copies of legally acquired content.

The resolution emphasised that the current fragmented copyright regime needs to be reformed in order to facilitate access to, and increase (global) circulation of, cultural and creative content, in such a way as to enable artists, creators, consumers, businesses and audiences to benefit from digital developments, new distribution channels, new business models and other opportunities, especially in times of budget austerity.

Parliament stated that the private copying system is a **virtuous system that balances the exception for copying for private use with the right to fair remuneration for rightholders**, and that it is worth preserving. It considered that there is no alternative to this balanced system in the short term. They stressed, however, that discussions need to be held in the long term with a view to continually assessing the private copying system in the light of digital and market developments and consumer behaviour and, if possible, exploring potential alternatives that would fulfil the objective of striking a balance between the exception for copying by consumers and the compensation of creators.

The resolution emphasised that the **major disparities** between national systems for the collection of levies, especially as regards the types of product subject to the levy and the rates of levy, can distort competition and give rise to '**forum shopping**' within the internal market.

The Member States and the Commission are invited to conduct a study on the essential elements of private copying, in particular a common definition, the concept of 'fair compensation' – which at present is not explicitly regulated by Directive 2001/29/EC – and the concept of 'harm' to an author resulting from unauthorised reproduction of a rightholder's work for private use. The Commission is called upon to look for common ground as regards which products should be subject to the levy and to establish common criteria for the negotiating arrangement for the rates applicable to private copying, with a view to enforcing a system that is transparent, equitable and uniform for consumers and creators.

Single collection procedure, reimbursements and clearer consumer information: Parliament stressed that the concept of private copies should be clearly defined for all materials and that the user should be able to access copyright content on all media on the basis of a **single payment**. It called for arrangements already in force in Member States, such as exceptions and levy exemptions, to be respected and for it to be possible for them to apply in parallel on the market. Members stated that **private copying levies should be payable by manufacturers or importers**. In the case of cross-border transactions, private copying levies should be collected in the Member State in which the end user having purchased the product resides. Member States in which levies are currently charged or collected should simplify and harmonise their levy rates. The resolution stressed the need to make clear

to consumers the role of the private copying system with regard to remuneration of artists and cultural dissemination. Consumers must be informed of the amount, purpose and use of the levy they pay. In this respect, the Commission and the Member States are urged, in consultation with manufacturers, importers, retailers and consumer associations, to ensure that this information is clearly available to consumers.

Member States are urged to adopt **transparent exemption rules for professional uses**. Parliament called on the Member States to ensure that private copy levies never have to be paid where the media in question are used for professional purposes, and that various arrangements for the **reimbursement** of levies paid for professional users are replaced with systems which guarantee that these users are not liable to pay the levy in the first place.

Transparency regarding allocation of revenue: Member States are urged to ensure greater transparency regarding the allocation of proceeds from private copying levies. They should earmark at least 25 % of revenue from private copying levies to promote the creative and performance arts and their production and publish reports on the allocation of proceeds in open source format with interpretable data.

Technical protection measures: Parliament considered that it is necessary to authorise the deployment of technical protection measures in order to restore the balance between freedom to make copies for private use and exclusive copying rights. These protection measures should not prevent consumers from making copies or rightholders from being fairly remunerated for private copying.

Licences: Members noted that, despite some streaming access to works, downloading, storage and private copying continue. However, They took the view that a private copying levy system is therefore still relevant in the online environment and that preference should always be given to licensing models benefiting all rightholders if no copies of the copyright work are permitted on media and devices. Private copying exception arrangements should apply to certain online services, including certain cloud computing services.

Private copying levies

2013/2114(INI) - 17/02/2014 - Committee report tabled for plenary, single reading

The Committee on Legal Affairs adopted the own-initiative report by Françoise CASTEX (S&D, FR) on private copying levies.

Digital private copying has taken on major economic importance as a result of technological progress and the shift to the internet and cloud computing. Authors' claim to protection of their creative work, and their right to equitable remuneration for that work must also exist in the digital age.

Modernised and harmonised system: the Commission is called upon to **present a legislative proposal to review Directive 2001/29/EC** on the harmonisation of certain aspects of copyright and related rights in the information society, including a provision on the full harmonisation of exceptions and limitations, inter alia with regard to private copying. Members emphasised that the current fragmented copyright regime needs to be reformed in order to facilitate access to, and increase (global) circulation of, cultural and creative content, in such a way as to enable artists, creators, consumers, businesses and audiences to benefit from digital developments, new distribution channels, new business models and other opportunities, especially in times of budget austerity.

Members stated that the private copying system is a **virtuous system that balances the exception for copying for private use with the right to fair remuneration for rightholders**, and that it is worth preserving, especially in cases where rightholders are not in a position to license directly the right of reproduction on multiple devices. They considered that there is no alternative to this balanced system in the short term. They stressed, however, that discussions need to be held in the long term with a view to continually assessing the private copying system in the light of digital and market developments and consumer behaviour and, if possible, exploring potential alternatives that would fulfil the objective of striking a balance between the exception for copying by consumers and the compensation of creators.

The report emphasised that the **major disparities** between national systems for the collection of levies, especially as regards the types of product subject to the levy and the rates of levy, can distort competition and give rise to '**forum shopping**' within the internal market.

The Member States and the Commission are invited to conduct a study on the essential elements of private copying, in particular a common definition, the concept of 'fair compensation' – which at present is not explicitly regulated by Directive 2001/29/EC – and the concept of 'harm' to an author resulting from unauthorised reproduction of a rightholder's work for private use. The Commission is called upon to look for common ground as regards which products should be subject to the levy and to establish common criteria for the negotiating arrangement for the rates applicable to private copying, with a view to enforcing a system that is transparent, equitable and uniform for consumers and creators.

Single collection procedure, reimbursements and clearer consumer information: the report stressed that the concept of private copies should be clearly defined for all materials and that the user should be able to access copyright content on all media on the basis of a **single payment**. It called for arrangements already in force in Member States, such as exceptions and levy exemptions, to be respected and for it to be possible for them to apply in parallel on the market. Members stated that **private copying levies should be payable by manufacturers or importers**. In the case of cross-border transactions, private copying levies should be collected in the Member State in which the end user having purchased the product resides. Member States in which levies are currently charged or collected should simplify and harmonise their levy rates. The report stressed the need to make clear to consumers the role of the private copying system with regard to remuneration of artists and cultural dissemination. Consumers must be informed of the amount, purpose and use of the levy they pay. In this respect, the Commission and the Member States are urged, in consultation with manufacturers, importers, retailers and consumer associations, to ensure that this information is clearly available to consumers.

Member States are urged to adopt transparent exemption rules for professional uses in order to ensure that they are exempt, including in practice, from private copy levies. The committee called on the Member States to ensure that private copy levies never have to be paid where the media in question are used for professional purposes, and that various arrangements for the **reimbursement** of levies paid for professional users are replaced with systems which guarantee that these users are not liable to pay the levy in the first place.

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