

IPRED 2 – Should libraries be on their guard?

By Andrew Cranfield, EBLIDA Director

On March 20th members of the European Parliament Legal Affairs Committee voted on amendments to IPRED2 (Amended proposal for a Directive of the European Parliament and of the Council on criminal measures aimed at ensuring the enforcement of intellectual property rights) and Europe is therefore one step closer to proposing criminal measures, without the member states having a veto (due to the European Court of Justice judgment *C-176/03*).

The report by MEP Zingaretti (*A6-0073/2007 of 23 March 2007*) is scheduled for vote at plenary (first reading) on 25 April. You can see the amendments voted on in Brussels on March 20 at <http://www.europarl.europa.eu/registre/recherche/ResultatsAbreges.cfm?relation=DOSSIER&typerelation=JURI/6/29654>.

So what is the directive about and should libraries be worried? The main purpose of the directive is to combat trade mark counterfeiting and copyright piracy (both of which are already forbidden under the TRIPS treaty). However piracy is not defined in the directive (in fact the directive seems to be confusing piracy and commercial infringement) and can therefore be open to a very broad interpretation and at the end of the day this leaves the final decision as to the real scope of the directive up to the European Court of Justice, as vague legal wording will ultimately have to be interpreted there.

The major concern for libraries is the vague definition of "infringement on a commercial scale", which might hinder libraries contemplating new services in doing so for fear of prosecution. Is a possible loss of income for right holders enough to meet the "commercial scale" requirement? – if so libraries and other not for profit organizations could be found guilty of criminal activities and let's be honest this makes little sense in the real world.

At the end of January EBLIDA wrote letters to all MEPs of the Legal Affairs Committee outlining some of our concerns at the proposed amendments to the directive and it looks as though some of these have been taken on board, there are still areas for concern.

EBLIDA thinks the proposed directive is an overreaction to combat IPR infringements and will, in all probability, do more harm than good and we will continue to argue against the need for this directive within the EU.

Copyright at Parliament Plenary sitting of March 2007

By Carmen Morlon, EBLIDA EU Information Officer

At Parliament's plenary session of 15 March, MEP Milan GALA asked the Commission (*H-0147/07*) why it had decided to delay **copyright levy reform** and when it intended to return to this matter. The Commission explains in a written answer that "it will closely monitor future developments with respect to levy systems that operate at national level to compensate right-holder for any harm that results from consumers copying protected works for private use. The Commission will also continue to evaluate how levies interact with digital services and the information technology sector in general".

Furthermore and following current discussions within the EU on the proposed directive on **cross-border collective management of copyright and related rights for legitimate online music services and on respect for intellectual property rights**, MEP BADIA I CUTCHET asked the Commission (*H-0127/07*) how it thinks that the Doha Round negotiations in this area will affect its proposed reform. She wanted to know whether it will be possible to maintain the competitiveness of originating companies, the effectiveness of the services provided by collective rights managers and the competitiveness of user companies, particularly small right holders and users while ensuring creativity and cultural diversity.

The Commission informed Parliament on 15 March that it has currently no plans to propose a Community Directive on the cross-border management of copyrights in the music sector. Its Recommendation of *18 October 2005* "set forth a variety of policy choices on how the cross-border management for online services could evolve in a digital marketplace". The recommendation - concerned with how online rights are managed at Community level - would apply to all online services that are consumed in the EU.

The Commission intends to assess the development of Europe's online music sector in the light of the aforementioned Recommendation and thus has invited all interested stakeholders to submit comments by 1 July 2007 on their initial experience with the Recommendation and, in general, on their views on how the online music sector has developed since its adoption. The resolution adopted by Parliament on 13 March in response to the Commission Recommendation is awaiting publication in the OJ.

Please note that oral questions are asked in plenary sitting and included in the day's debates. You can follow up Par-

liamentary questions at <http://www.europarl.europa.eu/QP-WEB/home.jsp?language=en>.

Follow-up to the Green Paper 'European Transparency Initiative'

The Commission adopted on 3 May 2006 a Green Paper [COM (2006) 194 final of 3 May 2006] to launch a broad public consultation on the following key components of the 'European Transparency Initiative' (ETI):

- ◆ The need for a more structured framework for the activities of interest representatives (lobbyists);
- ◆ Feedback on the Commission's minimum standards for consultation (http://eur-lex.europa.eu/LexUriServ/site/en/com/2002/com2002_0704en01.pdf);
- ◆ Mandatory disclosure of information about the beneficiaries of EU funds under shared management.

More than 160 interested parties participated in the consultation (see EBLIDA Response to *Chapter 1* of the Commission's Green Paper at <http://www.eblida.org/uploads/eblida/19/1167692745.pdf>). Further to the consultation, the European Commission has decided to open a public register for all interest representatives working to influence decisions taken in EU institutions. While registration will be voluntary, there are clear rules on what information registrants would have to supply (see the follow-up to the Green Paper (COM (2007) 127 final and SEC (2007) 360 of 21 March 2007 at http://ec.europa.eu/commission_barroso/kallas/doc/eti_communication_20070321_en.pdf).

Many of those taking part in the consultation argued in favour of an inter-institutional approach to lobbying and called for a **future register and Code of Conduct** to be common to the Commission and, at least, the European Parliament. Many contributions supported the **establishment of a voluntary register**. However, a considerable number of those consulted, in particular NGOs, advocated a compulsory approach as the only way of ensuring full transparency, thus the Commission's intention to combine the voluntary register with a new standard template for internet consultations. If organisations submit their contributions in the context of such a consultation they will be systematically invited to use the register to declare whom they represent, what their mission is and how they are funded. The new register will be named 'Register of Interest Representatives'.

For the Commission to assess whether the information supplied is sufficient to join the register, NGOs and think-tanks will have to declare for instance the overall budget and breakdown per main sources of funding (amounts and sources of public funding, donations, membership fees etc.)

Rather than **self-regulation of lobbyists**, the Commission suggests instead to review and update the existing minimum requirements it adopted in 1992. Subscribing to the code should become a requirement for lobbyists wishing to be included in the new register, in line with the ex-

ample set by Parliament.

The Draft of a **common Code of Conduct** will be discussed with stakeholders before summer 2007. The Code will be a requirement for entry in the register and will be monitored by the Commission. Moreover, the Commission intends to open in spring 2008 the **Register for Interest Representatives** (the existing CONECCS database will be wound down). Following its launch, Commission services will receive guidance on how to actively promote registration and deal with non-registered interest representatives.

As regards **consultation standards**, participants pointed to certain weak areas in their application, in particular in providing general feedback explaining how and to what extent the comments have been taken into account as well as in observing the minimum time limit of eight weeks for open public consultations. While the Commission does not intend to review the content of the consultation standards at this stage, it feels that a reinforcement of their application is necessary.

Certain comments pointed to the desirability of a searchable, centralised database, managed by the Commission, containing all relevant information on beneficiaries. To achieve publication of data as of 2008, the most appropriate procedure seems, according to the Commission, to publish - in cooperation with the European Data Protection Supervisor - the data in their current form and to ensure the comparability and 'search ability' of data.

In spring 2009, the Commission will conduct a review to examine whether the new system has produced the desired results, including in terms of coverage of the target group for registration. If not, consideration could be given to stricter measures, in the form of compulsory registration and reporting.

An annex to the follow-up communication gives information on the amendment of Legal Acts (Financial Regulation and Sector legislation) affecting beneficiaries of EU Funds.

For further information visit http://ec.europa.eu/commission_barroso/kallas/transparency_en.htm. See also *IP/07/367* and *MEMO/07/110 of 21 March 2007* at <http://europa.eu/rapid/>.

News from the Secretariat

From the 20th to the 22nd of March Andrew Cranfield attended the third Leipziger Kongres fur Information und Bibliothek, taking part in two panel debates: the first on lobbying and advocacy work for libraries, where Peter Lor of IFLA and Susanne Riedel from Bielefeld also gave their views on how best to promote libraries. The second debate, and in fact the final debate of the whole congress, was entitled "The European Digital Library – Europe's answer to Google", which resulted in a good discussion and highlighted the need for public institutions to work with private companies as, for example, Google and it seemed as though most people were prepared to accept Google as a partner and not see them as the enemy.