



EUROPEAN PARLIAMENT

2014 - 2019

Committee on Culture and Education

2014/2151(INI)

5.3.2015

OPINION

of the Committee on Culture and Education

for the Committee on Legal Affairs

on ‘Towards a renewed consensus on the enforcement of Intellectual Property Rights: an EU action plan’
(2014/2151(INI))

Rapporteur: Silvia Costa

PA_NonLeg

SUGGESTIONS

The Committee on Culture and Education calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Welcomes the EU Action Plan on the Enforcement of Intellectual Property Rights (IPR) and, in particular, emphasises the importance of and supports the application of due diligence throughout the supply chain, the ‘follow the money’ approach, the improvement of civil enforcement procedures for SMEs as regards IP, the targeted communication campaign and the focus on commercial-scale IPR infringements;
2. Calls for the action plan to be implemented quickly, so that, if necessary, the measures needed to enforce IPR, in particular in the cultural and creative sector, can be revised in the near future to take account of real needs;
3. Stresses that the key objective of the action plan should be to ensure the effective, evidence-based enforcement of IPR) which plays a key role in stimulating innovation, creativity, competitiveness, growth and cultural diversity; notes that measures taken to enforce IPR should be based on precise, reliable data;
4. Notes that while data on the number and type of IPR in existence is relatively easy to collect and analyse, studies on the scope and scale of IP infringements and their relationship with criminality have been more difficult; emphasises, to this end, the important role played by the European Observatory on Infringements of Intellectual Property Rights in providing data, tools and databases to support the fight against IP infringements;
5. Notes that according to the Commission, the cultural and creative sectors, which are often IPR-intensive, already account for up to 4.5 % of GDP and up to 8.5 million jobs in the EU and are not only essential for cultural diversity but also contribute significantly to social and economic development;
6. Stresses that in a time of financial crisis, when funding for culture suffers from severe cuts, remuneration stemming from IPR is often a primary source of revenue for artists and creators; stresses, therefore, that attaining and safeguarding fair remuneration for artists, creators and rights holders should be one of the key objectives of the action plan;
7. Stresses the importance of ensuring the application of due diligence throughout the supply chain, including the digital supply chain and all the key actors and operators therein, such as creators, artists and rights holders, producers, intermediaries, internet service providers, online sales platforms, end users and public authorities;
8. Emphasises the importance of improving civil enforcement procedures for SMEs and individual creators as regards IP, as they play a key role in the creative and cultural sectors and often do not have the capacity to have their rights enforced given the complexity, cost and length of such procedures;

9. Supports the launching of targeted communication campaigns to raise awareness on the economic and potential health and safety risks associated with commercial-scale IPR infringements, particularly among the younger generations growing up in the digital era;
10. Notes that, in preventing commercial-scale IPR infringements, it is also important to expand the legal offering of diversified cultural and creative content online and to increase accessibility thereto; calls on the Commission, to this end, to take actions to support such efforts and promote investment in new competitive business models that broaden the legal offering of creative and cultural content and restore consumer trust and confidence online;
11. Points out that in the cultural and creative sector, in particular, cooperation, including on the basis of self-regulation, between rights holders, authors, platform operators, intermediaries and final consumers should be encouraged with a view to detecting IPR infringements at an early stage; emphasises that the effectiveness of such self-regulation must be assessed by the Commission in the near future and that further legislative measures may be necessary;
12. Emphasises that, in the cultural and creative sector, payment service providers should be involved in the dialogue with a view to reducing the profits generated by IPR infringements in the online sphere;
13. Notes that the system for the notification and removal, one URL at a time, of content that infringes IPR has practical limitations in view of the speed with which the content in question can be made available again; calls, therefore, on operators in this sector to start thinking about how to make the notification and removal system more effective in the long term;
14. Notes that, in Member States in which this is permitted by law, the blocking by a court ruling of internet sites which allow IPR infringements has practical limitations in the long term;
15. Notes that, where IPR infringements are committed by the public, this is sometimes because it is hard or impossible to find the desired content offered legally; calls, therefore, for a wide range of user-friendly legal offers to be developed and promoted to the public;
16. Stresses the need for a more holistic approach with a focus on how to meet consumer demand by increasing the availability and the consumption of an innovative and affordable legal offer, based on business models adapted to the internet which allow for the removal of barriers to the creation of a truly European digital single market, but maintain a balance between the rights of consumers and the protection of innovators and creators;
17. Stresses that in the interests of innovation, creativity and competitiveness, it is crucial to achieve the meaningful enforcement of IPR through a fully transparent, holistic, balanced and flexible system that can react rapidly to the evolving challenges that face the EU knowledge economy in the digital era;
18. Takes note of the need for a stable and harmonised framework for the enforcement of IPR and recalls that the current legal framework does not constitute an impediment to the

development of multi-territory licensing systems; encourages the Commission, to this end, to take note of the European unitary patent and the current revision of the trademark regulation, as well as the high fragmentation of cultural and creative markets along cultural and linguistic lines;

19. Points out that all the actors involved in the distribution chain should cooperate in the development of information campaigns which would allow consumers to have access to information on their rights and obligations, while easily accessing and using creative content;
20. Reiterates that a modern pro-competitive and consumer-friendly copyright framework is needed, one that also supports creativity and innovation by guaranteeing a safe, adequate and secure environment for inventors and creators;
21. Is of the opinion that the implementation of effective measures against all IPR infringements, taking into account today's digital world and the various means of distribution and the rights of IPR holders while guaranteeing a balance between all interests at stake and the rights of consumers, providing them with easy access to the widest possible choice of legal content, will only be of benefit, contributing to economic development and growth, employment and wealth creation;
22. Stresses in particular that in order to achieve a meaningful enforcement of IPR, full information should include a clear indication of the type of IPR (for example patent, trademark, copyright), the identity of the owners and, where relevant, the status of its validity;
23. Emphasises that in order to stimulate innovation and competitiveness in knowledge-based sectors in the Union, in a manner compatible with IPR, it is necessary to stimulate open research and knowledge sharing, which are also identified as key elements in the Global Europe and Europe 2020 strategies;
24. Emphasises the need for precise detection systems that lead to the swift interruption of commercial-scale IPR-infringing activities;
25. Points out that the income generated by using IPR represents an important source of external funding for research projects and thus a driving force for innovation and development and cooperation between universities and companies;
26. Stresses the importance of sector-based agreements and good practice guides to combat IPR infringements; calls on operators in the industry to exchange information about platforms which provide access to content that infringes IPR, and to take coordinated and proportionate measures, such as notice and takedown, to reduce the income generated from such content and platforms; notes that such measures should not include the non-judicial blocking of websites;
27. Insists that remedies be put in place for platforms adversely affected by any measures having a financial impact taken to combat commercial infringements of IPR by operators in the sector on the basis of the exchange of information;

28. Notes that some ‘cyberlocker’ platforms pay their users on the basis of the number of registered downloads of their files, a practice which is an incitement to disseminate content that infringes IPR; calls, therefore, on the Member States to take proportionate steps to prevent such practices;
29. Points out that ‘cyberlocker’ platforms are one of the main hubs for IPR infringements, from which they indirectly derive income via advertising and/or subscriptions;
30. Stresses that IPR-infringing products not only cause the direct loss of revenue for legitimate businesses but also lead to direct and indirect job losses, reputational damage and increased enforcement costs, while often having links to organised crime and posing potential health and safety risks;
31. Encourages the Commission, when addressing whether there is a need to adapt the IPR enforcement legislation to the digital era, to safeguard a fair balance between all key actors in the supply chain while fully respecting the Charter of Fundamental Rights of the European Union, in particular as regards the protection of personal data and respect for private life, the right to property and the right to access to justice;
32. Recalls that several other issues of IPR enforcement not included in the action plan were identified in the consultation process for the civil enforcement of IPR carried out by the Commission in 2012-2013, including difficulties in identifying infringers and alleged infringers, the role of intermediaries in assisting the fight against IPR infringements and the attribution of damages in IPR disputes; recalls, in this connection, that the action plan is just a starting point in securing the enforcement of IPR;
33. Calls on the Commission to consider all possible options to address the enforcement of IPR, including the proposal of more concrete legislative actions;
34. Stresses that the distribution of counterfeit and pirate goods has increased in recent years, given that these goods are easily circulated online; reaffirms the importance of an education campaign by the Commission to raise awareness among consumers, employees and clients, and in particular among young people, informing and educating them on the economic and social harm caused by commercial-scale IP infringement activities;
35. Recalls the involvement of organised crime in international IP-infringing activities and the high importance of delivering a European coordinated solution, strengthening the audit measures in place while implementing the ‘follow the money’ principle, to safeguard consumer interests and the integrity of the supply chain;
36. Calls on the Commission to study the feasibility of a European label indicating to the public those internet sites which are considered to be free of commercial IPR infringements.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	26.2.2015
Result of final vote	+: 20 -: 9 0: 2
Members present for the final vote	Isabella Adinolfi, Dominique Bilde, Andrea Bocskor, Silvia Costa, Damian Drăghici, Angel Dzhambazki, Emmanouil Glezos, Giorgos Grammatikakis, Petra Kammerevert, Rikke Karlsson, Andrew Lewer, Svetoslav Hristov Malinov, Fernando Maura Barandiarán, Luigi Morgano, Momchil Nekov, Michaela Šojdrová, Martin Sonneborn, Yana Toom, Helga Trüpel, Sabine Verheyen, Julie Ward, Bogdan Brunon Wenta, Theodoros Zagorakis, Bogdan Andrzej Zdrojewski, Milan Zver, Krystyna Łybacka
Substitutes present for the final vote	Therese Comodini Cachia, Marc Joulaud, Dietmar Köster, Ilhan Kyuchyuk, Ernest Maragall, Martina Michels, Michel Reimon
Substitutes under Rule 200(2) present for the final vote	Marco Affronte, Julia Reda