



---

*Committee on Culture and Education*

**Draft compromise amendments**

**Andrey Slabakov**

An intellectual property action plan to support the EU's recovery and resilience

**Draft opinion** PE693.629 - 2021/2007(INI)

### **CAM 1 on paragraph -1 a (new) (AM1; AM2)**

*-1 a (new). Recalls that intellectual property is a fundamental right, as enshrined in Article 17 of the EU Charter of Fundamental Rights, (AM1); acknowledges that access to education, knowledge, information and culture are fundamental rights, which are guaranteed by copyright limitations such as those established by the revised EU Copyright Directive (AM2); recalls that according to the Universal Declaration of Human Rights, everyone has the right to the protection of the moral and material interests resulting from any scientific, literary, or artistic production of which they are the author (AM1).*

### **CAM 2 on paragraph 1 (AM3; AM4; AM5;AM10; AM14)**

1. Recognises the paramount importance of ‘intangible assets’ and intellectual property (IP)-intensive industries in the economic dynamism, recovery, *cultural sovereignty* and resilience of the EU in the aftermath of the COVID-19 pandemic (AM3); underlines the need to *enhance their legal protection to adequate levels (AM5)*, allowing *all* creators of *cultural and creative works* to benefit from their intellectual property rights (IPRs) (AM4); *emphasises (AM 10 EPP) that collective management of authors’ rights represents an important source of income for the majority of creators and artists in Europe and is an indispensable element of adequate functioning of EU’s copyright/authors’ rights framework, while providing the broadest possible access to cultural and creative works for the public; notes with concern that global streaming platforms systematically pressure European creators to give away their copyright/authors’ rights against one-off payments (AM10; AM14).*

### **CAM 3 on paragraph 2 (AM20;AM 21; AM22)**

2. Asks the Member States to ensure that companies from the cultural and creative sectors, especially content producers, are encouraged to *retain* or acquire IPRs on their creations and improve their position in competitive markets, *without neglecting authors’ and performers’ rights (AM21; AM22)*; outlines that companies who own IPRs have 20 % higher revenue, improving their ability to access previously untapped highly competitive markets<sup>1</sup>; *highlights the various benefits that employees receive from a high level of IPR protection, as IPR-owning companies pay wages that are higher on average (AM20)*; *welcomes the various initiatives of the Commission and the EUIPO to ensure that SMEs make the most of their IP and calls for further similar initiatives to be considered by the Commission (AM20).*

---

<sup>1</sup> European Union Intellectual Property Office Observatory, ‘Impact of intellectual property rights intensive industries in the European Union’, IP Contribution, four EU-wide studies on the contribution of intellectual property rights (IPRs) to the EU economy, 2021. <https://euipo.europa.eu/ohimportal/en/web/observatory/ip-contribution#>.

#### **CAM 4 on paragraph 3 (AM26; AM27; AM28)**

3. Highlights the challenges that SMEs face in acquiring IPRs and notes with concern the fragmentation of the European IP system, *which hinders the development of enterprises in their ability to engage in the research and innovation process (AM26); calls for addressing the need for parallel litigations in multiple EU countries (AM26); calls for the process to become more streamlined and straightforward and for SMEs to be equipped with accurate information to facilitate the IPR acquisition process and to be informed of the benefits of IPRs for their commercial competitiveness; stresses the need for the Member States to introduce concrete measures to provide improved information and advice regarding IPR and its legal framework within the EU and the Member States, including acquisition, protection and use, which must be adequately funded and provide a low-threshold service for SMEs; highlights the need to ensure that SMEs, NGOs, and research and academic institutions can more easily access and benefit from IPR (AM27;AM28); emphasises the need for IPR regulations to ensure a level playing field for all actors, in particular smaller actors (AM28).*

#### **CAM 5 on paragraph 4 (AM 11; AM29; AM30; AM 31; AM32; AM33; AM35; AM38; AM57)**

4. Welcomes the Commission's commitment to support the full and timely transposition of the two copyright framework directives, *highlighting that they can play a key role in the revival of the culture and media sector (AM32); notes that the implementation of the Copyright Directive<sup>2</sup> should be carried out by Member States properly and without delay (AM11; AM31; AM33; AM35) in a manner which reflects the agreement achieved by the co-legislators (AM31); regrets, however, that the Commission only published the guidelines three days before the deadline for implementation (AM29); urges Member States to take the Commission's guidance into account to completely transpose the directives into their national legislation without further delay, using the appropriate tools to ensure copyright protection while guaranteeing users the right to freedom of expression and artistic processing (AM29;AM30;AM31; AM32; AM33; AM35); emphasises the role of the Copyright Directive in boosting the recovery and resilience of the Cultural and Creative sectors (AM29); acknowledges that territorial and exclusive licensing of rights are essential for the audio-visual sector in order to guarantee its creativity, financing, and sustainability, but also to ensure that European consumers have access to culturally diverse content and a pluralistic media (AM38) and emphasises that legal and business certainty and regulatory consistency are absolutely essential to safeguard the rich cultural diversity of the Union and to ensure that content creators are able to thrive and continue reinvesting in quality content; (AM 57).*

---

<sup>2</sup> Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC, OJ L 130, 17.5.2019, p. 92.

#### **CAM 6 on paragraph 5 (AM18;AM23;AM39;AM41; AM42 AM 54)**

5. Highlights the ongoing problems faced by creators, artists, *producers* and cultural sector workers with regard to copyright and related rights, *also in light of online piracy (AM39 EPP); highlights that effective protection of intellectual property rights must go hand in hand with the fight against content piracy and raising awareness among the general public of the value of IPRs for creators (AM23)*; notes with great concern *that, according to a 2019 study by the EU IPO<sup>3</sup>, losses caused by piracy of illegal streaming of content can lead to the loss of jobs in the creative industries, as well as a significant loss of public revenues, and less investment in creative, journalistic and sports (AM 54) content to the detriment of the cultural diversity and ultimately, the European consumer (AM18;AM39; AM54)*; notes that *creators, artists, producers and cultural sector workers* continue to be pressured into unfavourable contracts, often giving up the rights to their intellectual property without receiving *appropriate* and proportionate remuneration for their creative work *(A39; AM41; AM42)*; stresses that Member States must ensure that sufficient protection is put in place to prevent loss of IPRs by authors, *creators, artists, producers* and cultural sector workers across the EU *(AM39; AM41)*;

#### **CAM 7 on paragraph 5 a (new) (AM39; AM40; AM44)**

*5 a (new). regrets the significant use of the Internet for the distribution of pirated content and IPR-infringing services and urges the European Commission to acknowledge the need for regulatory intervention to ensure that rightsholders are able to protect their property rights online and enforce them effectively in line with Article 17 CFR, including by measure that have cross border effects (AM39;AM44); calls on Member States to strengthen the membership and contractual position of authors and creators, as set out in Articles 18 of the Copyright Directive in the provisions for the fair structuring of copyright contract law, by means of contractual provisions and dispute resolution mechanisms to ensure fair remunerations for all creators and insight into licence agreements with the major platforms (AM40; AM44)*;

#### **CAM 8 on paragraph 5 b (new) (AM44; AM54)**

*5 b (new). welcomes the proposal of the Commission for a Digital Services Act on the basis of the principle that ‘what is illegal offline is illegal online’ and to establish a robust framework within the DSA to counter those IPR infringements, also by strengthening the enforcement of notice and action mechanisms; highlights the fact that proactive measures from intermediaries would contribute enormously to the fight against piracy and that AI and blockchain could play an important role in detecting piracy and enforcing IPR; therefore, supports the use of new technologies to combat IP infringements (AM44; AM54).*

---

<sup>3</sup>[https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document\\_library/observatory/docs/2019\\_Status\\_Report\\_on\\_IPR\\_infringement/2019\\_Status\\_Report\\_on\\_IPR\\_infringement\\_en.pdf](https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/docs/2019_Status_Report_on_IPR_infringement/2019_Status_Report_on_IPR_infringement_en.pdf)

**CAM 9 on paragraph 5 b (new) (AM9; AM12; AM45; AM48)**

*5 b(new). Underlines that the cultural and creative sectors were already characterised by fragmented organisational structures and working practices before COVID 19 and that, among other factors, insufficiently protected IP-based revenue models contributed to this situation<sup>4</sup> (AM9); acknowledges that artists' remuneration is often unstable and uncertain as it comes from different sources such as contracts, public grants and subsidies, which renders their income highly unpredictable (AM12); emphasises that the COVID-19 crisis threatened the livelihood and led to an existential loss of revenue for workers in the cultural and creative sectors (AM12; AM45); observes that for many authors, performers and cultural workers, IPRs are an essential source of revenue that provides them with economic independence and a financial safety net that serves as a type of social security, and that the digital marketplace was the only tool for generating income during the lockdown (AM 12; AM45); notes with concern that the winners of the digital growth of culture were predominantly not the creators but the online distributors; highlights, therefore, that a robust and fair remuneration for author's and adjacent rights is essential and Member States must reinforce their IPR framework to protect creators and performers (AM45); notes, in light of the experience of the pandemic, that larger cultural and media productions can only be created if the required technical and intermediary services, such as assistant directing and catering, are also available; notes that such services are usually not paid for through licence sales, but are often indirectly dependent on creators having good contracts (AM48).*

**CAM 10 on paragraph 5 c (new) (AM37;AM47; AM49; AM51 )**

*5 c (new). Invites the European Commission to look into the impact of non-EU based VOD platforms on European content creation as well as on the interactions of these platforms with the creators of musical and audio-visual works within the EU; notes with concern that creators are totally deprived of their copyright/authors' rights when they are imposed to accept buy-out contracts (AM51); notes with concern the 'work-for-hire' system used by these companies, which acquire the intellectual property rights in exchange for a one-off payment and profit from the exploitation of the work (AM47); notes that these buy-out contracts are imposed on European creators through application of non-EU laws to such contracts, despite the provisions of national and EU laws discouraging them (AM49); calls on the Commission to monitor this phenomenon and to thoroughly investigate such practices of global streaming platforms and their impact on the remuneration of creators based on copyright/authors' rights (AM47;AM49);stresses the need to establish appropriate remuneration mechanisms for content creators and the exploitation of their work across the EU; underlines the importance of specific actions and support for digital content creators (AM37).*

---

<sup>4</sup> IDEA Consult, Goethe-Institut, Amann S. and Heinsius J. 2021, Research for CULT Committee – Cultural and creative sectors in post-Covid-19 Europe: crisis effects and policy recommendations, European Parliament, Policy Department for Structural and Cohesion Policies, Brussels

**CAM 11 on paragraph 5 d(new) (AM52; AM58)**

*5 d (new). Emphasises the role of intellectual property as one of the key drivers of economic growth; calls for IP to act as an important element in the EU's future, promoting a global 'level playing field', protect against IP infringement, ensure the EU's technological sovereignty, and to facilitate the 'green and digital transformations' of Europe (AM52); highlights the crucial role that IP plays in Europe's digital transformation; emphasises that innovation should go hand in hand with creativity and digitisation, with the pandemic highlighting the necessity of the emergence of critical new technologies, notably in the health and education sectors; notes the necessity of ensuring a system is in place to protect European businesses from cyber-attacks and the resulting loss of trade secrets (AM58).*

**CAM 12 on paragraph 5 e(new) (AM34; AM55)**

*5 e (new). Welcomes the Commission's commitment to seeking strong IP protection in future Free Trade Agreements (FTAs) and for full implementation in existing ones; regrets, however, that the current template for IPR in such agreements is not reflective of the protection afforded by European rules; reminds the Commission that FTA signatories interpret IPR differently than the EU and that the largest threat for intellectual property comes from outside the Union (AM55); recommends that the IP chapters of EU trade agreements showcase the EU model of authors' and adjacent rights which values the IPR of the authors and their right to receive on-going remuneration for the exploitation of their works on all media (AM34);*