



The European Writers' Council and European Visual Artists

on the Amendments Tabled to M. Gallo's "Draft report on '*Enhancing the enforcement of intellectual property rights in the internal market*':"
(2009/2178(INI)), Committee on Legal Affairs, European Parliament

Dear Members of the European Parliament,

EWC and EVA are two federations of national and transnational associations, and together they represent the professional interests of 180.00 authors and visual artists in 32 countries of Europe, including writers, playwrights, screenwriters, literary translators, visual artists, illustrators and photographers.

EWC and EVA would like to draw your attention to the "Draft report on '*Enhancing the enforcement of intellectual property rights in the internal market*'" prepared by MEP Marielle Gallo, for which amendments have been tabled to be voted on in the Legal Affairs Committee (JURI) of the European Parliament on June 1st 2010.

Firstly, EWC and EVA welcome the original Draft report because it recognises the added value of creativity, and the need to protect the Intellectual Property Rights (IPR) of the creative sector. Furthermore, it brings to light the need to address the gap in the legal framework to handle on-line piracy, and calls for IPR enforcement as it stresses the negative impact of IPR infringements not only on the economy, but also on creators and consumers. Equally important, the Draft report favours an in-depth stakeholder dialogue to find balanced solutions, and proposes consumer awareness campaigns and education for young people on the value of IPR. We fully support the need to create favourable environments to provide consumers access to quality creative and in-copyright works both on-line and in analogue contexts. We welcome new business models for commercial use that will ensure an appropriate remuneration for the uses of creators' works.

Secondly, EWC and EVA respectfully express their concern about a series of amendments put forward which, if approved in *correlation*, would modify the constructive core issues of the original Draft report: These include the deletion of "copyright" in particular, and deleting "piracy", "Internet piracy" and/or "online piracy." Such proposed deletions would restrict the scope of the Draft report to apply mostly to the counterfeiting of goods and trademarks. Other proposed deletions seek to take out the notion of "enforcement" of IPR in the Draft report. Moreover, a semantic confusion is being introduced by exchanging "piracy" for "digital file-

sharing” and “online sharing”. The incorrect overlap between “piracy” and “file-sharing” is used in other amendments, in order to make the case for a system of private copy equivalent, and the result is that the online exchange of illegal files would be made “lawful” through exceptions. Other amendments demonstrate a position against combating online piracy and against the protection of IPR on the Internet.

Furthermore, a special mention should be made of the strong support of the signatory organisations to the right of young people to be informed and educated on all areas of IPR, including copyright. Therefore, we are concerned about the proposal to delete Paragraph 15 (Amendment 82) because the need to hold targeted public awareness campaigns particularly on “on-line piracy” would be absent from the forthcoming Resolution.

The signatories would like to make you aware that a “cultural flat rate” would not be a balanced solution and would close down developments for use-oriented and individualised remuneration. It is unlikely to generate sufficient revenues to appropriately remunerate different authors and rights holders. The potential of the technology to localising individual uses will not be deplored. Distribution to authors would lack a level of due fairness.

Authors and visual artists believe that a balanced framework of economic models, legislative measures, and relevant support policies is needed to facilitate the legal use of works, to empower European consumers, and at the same time to enable authors, visual artists and other creators and rights holders to receive appropriate royalties. Respect for IPR, including copyright, is a pre-requisite for authors and visual artists to contribute with their work to the European cultural wealth and economy.

Thirdly, the signatories consider that a number of amendments are against the future of creativity, and were they adopted, the final Resolution may have a negative effect upon both creators and consumers.

In conclusion, considering the above, EWC and EVA recommend the adoption and rejection of several amendments, as follows:

I. Adoption of the following Amendments:

- ❖ **Recital A c (new) Amendment 11**
Françoise Castex, Stavros Lambrinidis, Cecilia Wikström
- ❖ **Paragraph 2: Amendment 47**
Marielle Gallo
- ❖ **Paragraph 14 Amendment 78**
Marielle Gallo
- ❖ **Paragraph 16 a (new) Amendment 88**
Marielle Gallo

II. Rejection of the following:

- ❖ **Recital A**
 - Amendment 6**
Stavros Lambrinidis
 - Amendment 7**
Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Stavros Lambrinidis, Cecilia Wikström, Christian Engström

- ❖ **Recital F**
 - Amendment 17**
Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Christian Engström
 - Amendment 18**
Alexandra Thein, Cecilia Wikström
 - Amendment 21 Recital F a (new)**
Cecilia Wikström

- ❖ **Recital G**
 - Amendment 27**
Cecilia Wikström
 - Amendment 32**
Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Cecilia Wikström, Christian Engström

- ❖ **Paragraph 1 c (new) Amendment 44**
Lidia Joanna Geringer de Oedenberg, Françoise Castex, Luigi Berlinguer, Bernhard Rapkay, Christian Engström

- ❖ **Paragraph 2 Amendment 46**
Lidia Joanna Geringer de Oedenberg, Françoise Castex, Antonio Masip Hidalgo, Bernhard Rapkay, Stavros Lambrinidis, Cecilia Wikström, Christian Engström

- ❖ **Paragraph 3 Amendment 50**
Christian Engström

- ❖ **Paragraph 13 Amendment 75**
Françoise Castex, Antonio Masip Hidalgo, Bernhard Rapkay, Cecilia Wikström, Christian Engström

- ❖ **Paragraph 15 Amendment 82**
Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Cecilia Wikström, Christian Engström

- ❖ **Title after paragraph 15 Amendment 83**
Cecilia Wikström
- ❖ **Title after paragraph 15 Amendment 84**
Françoise Castex, Christian Engström
- ❖ **Paragraph 17 Amendment 89**
Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Cecilia Wikström, Christian Engström
- ❖ **Paragraph 19 Amendment 94**
Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Christian Engström
- ❖ **Paragraph 20 a (new) Amendment 101**
Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Bernhard Rapkay, Christian Engström
- ❖ **Paragraph 27 Amendment 122**
Françoise Castex, Lidia Joanna Geringer de Oedenberg, Luigi Berlinguer, Antonio Masip Hidalgo, Bernhard Rapkay, Cecilia Wikström, Christian Engström

We sincerely thank you for considering the position of authors and visual artists in Europe.

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