



## JOINT STATEMENT

of

**the European Writers' Council, European Visual Artists, European Federation of Journalists, Society of Audiovisual Authors, Federation of European Film Directors, and European Council of Artists**

***On the REPORT on enforcement of intellectual property rights in the Internal Market (2009/2178(INI)) 3 June 2010, Committee on Legal Affairs, Rapporteur: Marielle Gallo and the***

***Alternative Resolution. Motion for a European Parliament Resolution on enforcement of intellectual property rights in the internal market (2009/2178(INI))***

Dear Members of the European Parliament,

EWC, EVA, EFJ, SAA, FERA, and ECA are six European federations of national and transnational associations, and together they represent the professional interests and authors' rights of more than 680.000 authors and creators in over thirty two countries of Europe and abroad, including writers, journalists, playwrights, screenwriters, literary translators, visual artists, film and TV directors, illustrators, photographers, artists, performers, composers, stage directors, and designers.

EWC, EVA, EFJ, SAA, FERA, and ECA would like to draw your attention to the report of the Legal Affairs Committee on **“Enforcement of intellectual property rights in the internal market”** prepared by **MEP Marielle Gallo** and adopted by the Legal Affairs Committee in its meeting on 1<sup>st</sup> June 2010 due for vote in the plenary session in the week of 5 July 2010. We also find it necessary to refer to the *“Alternative Resolution. Motion for a European Parliament Resolution on enforcement of intellectual property rights in the internal market (2009/2178(INI))”*.

### **I. REPORT on enforcement of intellectual property rights in the Internal Market (2009/2178(INI)) Committee on Legal Affairs, Rapporteur: Marielle Gallo**

EWC, EVA, EFJ, SAA, FERA, and ECA welcome the report adopted by the Legal Affairs Committee because it recognises the added value of creativity, and the need to protect the Intellectual Property Rights (IPR) of the creative sector. This basic line was rightfully extended by the Committee introducing additional elements that emphasise the economic importance of the cultural sector that deserves full support. Furthermore, it brings to light the need to address the gap in the legal framework for handling authors' rights and online piracy, and calls for IPR enforcement as it stresses the negative impact of IPR infringements not only on the overall economy, but specifically on creators and consumers. The undersigning organisations appreciate the reference made to the international context in IPR that the European Institutions have endorsed during the last decades, in particular TRIPS and the two WIPO Treaties, WCT and WPPT. These Treaties apply within the EU and set important legal standards, including in relation to third countries. Equally

important, the report favours an in-depth stakeholders' dialogue to find balanced solutions, and proposes to develop consumer awareness campaigns and education for young people on the value of IPR. We fully support the need to create a favourable environment to provide access for consumers to creative and in-copyright works of high quality, both on-line and in analogue contexts. We welcome the new business models for commercial use that will ensure an appropriate remuneration for the uses of creators' works. We welcome the fact that the report also recognises that multi-territory licensing is possible under the present legislation and acknowledges its existence in various areas, such as in the text- and image-based sector.

## **II. On the Alternative Resolution. Motion for a European Parliament Resolution on Enforcement of Intellectual Property Rights in the Internal Market**

EWC, EVA, EFJ, SAA, FERA and ECA express their concern about the "Alternative Resolution" which proposes a series of alternative compensation options for the on-line use of authors' works which would jeopardize the current remuneration systems; at the same time, the alternative resolution states that "IPRs infringement in a purely digital environment" should be the object of separate enforcement measures, thus excluding authors' rights infringement from the prospective Resolution. Such exclusion would impair the authors' and creators' positions in the online uses of their works.

As introduced in recital G, the alternative resolution proposes to distinguish between different forms of infringements and rights violated. It argues for a focus on the counterfeiting of physical goods while leaving other IPR infringements out of the enforcement framework, in particular, authors' rights and illegal file sharing, and proposes legislative measures that would have the effect of legalising these infringements through the need to address "on-line non-commercial file sharing".

When concrete enforcement measures are discussed it is appropriate, in the authors' and creators' view, to include the different kinds of IPR infringements. The signatories strongly object to the legalisation of infringements of their works. In the past, authors and creators have experienced the fact that the enforcement of their rights is very time-consuming and that the instruments and measures in place are still both inefficient and insufficient. To prevent the violation of authors' rights by digital uses, effective and appropriate enforcement tools should be adopted, as is the case for any other categories of IPR infringements.

### **"Alternative reward systems", "Kulturflatrate" and "adequate funding"**

Paragraphs 35, 39 and 40 of the Alternative Resolution deal with the introduction of "alternative reward systems aimed at compensate the authors for the on-line use of their works", and "invites to an open-ended approach to the proposals that have emerged regarding the recognition of online non commercial file sharing," to investigate "mutualised funding schemes for creation based on non-market exchanges of digital content" (such as the "creative contribution" and "Kulturflatrate"), also including "adequate funding for cultural and creative industries as well as creative communities". The authors and creators represented by the undersigning organisations are concerned that alternatives to their authors' rights are proposed without clarification of their extent, purpose, addressees and value. The bottom line is to generate some income for the creative industries and the cultural communities – the latter not being a technical term, whose membership remains undefined – in alternative forms of funding. Furthermore, what is understood by an "open

ended approach” is not explained; would it mean, for instance, that all stakeholders are included in a dialogue or would it simply remain uncertain which direction will be taken. In conclusion it appears that the aim of the Alternative Resolution is neither related to authors’ rights nor to authors and creators being rewarded with equitable remuneration for the added value they contribute to the economies and society, and who are exploited by others.

### **The need to strengthen the relations to the consumer through awareness campaigns and education**

The proposed alternative resolution does not seek to promote awareness campaigns and the education of young people on authors’ rights and the value of other IPR. It is claimed that past campaigns had a “limited success.” The signatories strongly believe that more efforts need to be devoted to enhance these awareness campaigns at EU level, rather than using the few fragmented efforts as justification to dismiss the need to promote the value of IPRs.

### **Conclusion**

Writers, journalists, playwrights, screenwriters, literary translators, visual artists, film and TV directors, illustrators, photographers, artists, performers, composers, stage directors, and designers, believe that a balanced framework of economic models, legislative measures, and relevant support policies is needed to facilitate the legal use of high quality creative 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 authors’ rights, is a pre-requisite for authors and creators to contribute with their work to the European cultural wealth and economy.

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

Brussels, 1<sup>st</sup> July 2010.

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