

## **COUNTRY REPORTS**

### **Europe**

#### **EU Digital Copyright Directive**

On 14 February 2001, the European Parliament approved a number of amendments to the Council's common position on the Directive for Harmonization of Copyright in the Information Society. The Directive was adopted on 9 April 2001, although it has not yet been published.

The European Parliament agreed not to extend the current system of 'blank tape' levies to the internet. However, levies will be paid in relation to the private copying of music films from other sources. This is thought to have the effect of stopping Napster from operating its swapping system in the EU without the approval of copyright owners. In addition, broadcasters will be able to use material from their archives on the internet without authorization from copyright owners.

The aim of this Directive is to update EU copyright legislation to take account of new technologies and to implement the two WIPO Treaties of December 1996. Under the Directive, copyright owners will have exclusive rights in relation to the reproduction, communication and dissemination of their work. There will be certain exceptions and limitations, the only compulsory one of which relates to temporary acts of reproduction, where this is transient or incidental or forms part of an integral and essential part of a technological process.

There will be other optional exceptions or limitations, such as fair dealing or use for charitable purposes. On copying for private use, the members of the European Parliament wanted to ensure that the purposes of such copyright were either directly or indirectly non-commercial and to reverse the burden of responsibility in favour of authors. For example, where there is copying for fair dealing purposes, they wanted to ensure that the author's name should be indicated, except where it proves impossible, as opposed to the common position wording of 'whenever possible'.

The European Parliament would like the Directive to come into force within 18 months, at the same time as the Electronic Commerce Directive.

#### ***Droit de suite***

The final text of the draft Directive on the resale right for the benefit of the author of an original work of art will now be settled in conciliation talks between the European Parliament and the European Council of Ministers.

Parliament has requested amendments which would reduce the traditional periods which have been requested by states which do not presently recognize resale rights. The common position allowed them 15 years to obtain full compliance. All states would have

until 1 January 2007 to ensure that their national law is consistent with the Directive and the four states required to create new rights would have up to ten years to apply resale rights to the benefit of those entitled after an artist's death.

Parliament has demanded that the five-year transition period be reduced to two and the ten-year exemption again be limited to two years.

The Conciliation procedure can take up to six months and Parliament must then decide whether to accept the deal or to exercise a veto.

Resale rights in Europe are largely modeled on France's *droit de suite* which was designed to give artists and their heirs a share of money paid for works of art which originally changed hands for nominal sums. The United Kingdom, where many major auction houses are established, has conducted a campaign against the proposal.

### ***Draft Convention on Cyber-crime***

The Council of Europe, on 2 October, released a draft Convention on Cyber-crime.

This will be the first ever international treaty addressing criminal law and procedure regarding criminal behaviour directed at computer systems, network data and other similar misuse.

It contains offences in relation to confidentiality, integrity and availability of computer data on systems concerning illegal access, illegal interception, data interference and illegal devices. It also deals with forgery and fraud and contains offences on child pornography.

There are also provisions on copyright and related rights and procedural law relating to search and seizure. The intention is to have the draft adopted by the Council of Europe in April 2001 and then ratified over the next two years.