Hopenstedt (PPE). — (DE) Mr President, Commissioner, ladies and gentlemen, I rise to address this subject out of sympathy more than anything else, because everything that there was to say on the content of the proposal has already been said. I say out of sympathy also because since 1992 this subject has played such a major role here. Parliament and the Council are of course working on the final phase of adoption, but in the preliminary stages, the Commission and all the services were very heavily involved. I mention this in particular because — especially as far as radiocommunication services are concerned, and this is the direction in which the debate is now heading — it simply was not possible to start work on this soon enough for this dossier to be brought to a conclusion in time to have an effect. It is this area of development which we believe is particularly significant. If you think that in the future a large proportion of terminal equipment will operate by radio, that is by cordless transmission, then you will see how important this whole subject is, and how important the whole debate has been.

If you listen to the experts, who say that in terms of technical development, one year today is equivalent to seven years in the past, then you have some idea of how urgently this decision was needed. I can only congratulate all of us — Parliament, the Council and the Commission — on going through the conciliation procedure and thus concluding our work on this far-sighted proposal.

Bangemann, Commission. — Mr President, if Mrs Read is feeling a little lonely here in plenary she could comfort herself with the words of England’s own bard, Shakespeare: ‘We few, we happy few, we band of brothers’ (and, I would add, sisters). The presence of many people is not always a sign of the importance or seriousness of the subject. Both the Commission and I personally have always greatly appreciated your work. By bringing forward European legislation and in that way defending the interests of citizens I would say that you are one of the most effective Members of Parliament. I only hope my remarks will not harm your chances of re-election.

Unfortunately the citizens themselves do not always appreciate the good that is being done for them, especially here. Both Parliament and the Commission have to show that they are effectively fighting red tape and over-regulation. There is a prejudiced view that we produce ever more regulations but, in fact, the piece of legislation that we have been producing here — and, thanks to your efforts, have been able to complete and convince the Council of — is replacing more than 1,000 national regulations.

I am sure that we are listening to each other. People who have prejudices will not listen to us. They will repeat what they are always repeating, namely that the European Parliament and especially the Commission are eager only to produce new regulations for regulation’s sake. Considering the advantages for small and medium-sized enterprises that this is creating, I would like to see some of their associations praise Mrs Read. It is something which is making their lives easier. I would say to our trading partners, the US and Japan especially, who are always attacking Europe and saying we are a Fortress Europe, that we are now the most open market-place for these products in the world. We can only hope — and we will do our utmost to ensure — that our trading partners will follow our example.

So many thanks to Mrs Read and to everybody who has participated in the work. The Commission is quite satisfied, and we endorse the declaration by Parliament and the Council that some adverse effects could possibly result from the introduction of these devices.

President. — The debate is closed.

The vote will take place tomorrow at 12 noon.

7. Copyright and related rights in the Information Society

President. — The next item is the report (A4-0026/99) by Mr Barzanti, on behalf of the Committee on Legal Affairs and Citizens’ Rights, on the proposal for a European Parliament and Council Directive on the harmonisation of certain aspects of copyright and related rights in the Information Society (COM(97)0628 — C4-0079/98-97/0359(COD)).

Barzanti (PSE), rapporteur. — (IT) Intellectual property is not theft. Copyright and related rights do not create obstacles or lead to unjustified reward: the fact is that authors, interpretive and performing artists, companies and distributors involved in creative activity in Europe, in developing the arts and cultural production, will only be able to enjoy the certainty and autonomy they need if the various forms of intellectual property are strictly protected.

If the information society is excessively dominated by the major telecommunications companies and if there is a general move towards deregulation, to the point where there are no rules at all, this will not be a society for knowledge, encouraging easier and freer movement of original ideas, recognisable images and identifiable messages. Too many people believe that to be successful, all you have to do is rely on technology without supervising, directing or controlling it. The difficult and complex problems that arise out of the need to protect copyright and related rights in this new environment, in which digital technologies prevail, are at the heart of this crucial debate. These are not technical and marginal issues; they form an important chapter in the way in which the information society is managed.

As you will be aware, there are already in force five basic directives that tackle these issues, and the European Parliament was both prompt and forward-looking in the way in which it cooperated in their drafting. The directive we are today considering covers aspects that have yet to be broached: the right of reproduction, the right of communication to the public, the right of distribution and protection of the means of identifying and protecting works and therefore combating rampant piracy. This directive is also needed to secure consistent implementation,
Barzanti

bringing national laws into line with the principles and guidelines set down in the two recent treaties signed in late 1996 under the auspices of WIPO.

Europe cannot stand back. Even now, many misunderstandings surround the debate with which we are concerned. Let me say once again that copyright provides a guarantee for the creators and, for users, it provides a guarantee of quality and integrity. There is no point complaining that the major information networks are being misused for dishonest and harmful activity that offends morality and flouts the law, unless at the same time we work to establish strict and clear rules and to defeat piracy and illegality.

Cyberspace must not be allowed to be a no-man's land in which currently recognised and established rights cease to apply. The report that I am presenting on behalf of the Committee on Legal Affairs and Citizens' Rights is balanced overall and takes account both of copyright and related rights, of the fair demands of the operators and of our citizens' desire for knowledge. I shall confine myself to commenting on a number of fundamental points and extremely controversial issues, beginning with the rewording of Article 5(1). Amendment No 33, tabled by the Committee on Legal Affairs and Citizens' Rights, provides a tighter and clearer wording, and it has been much attacked and criticised, even though I would point out that it was approved by a large majority of the committee. I fail to understand what is so complicated or strange about asking that where a work is used to make copies that are transitory and essential as part of a technological process, this should be authorised or at least permitted by law if it is not, as such, of economic significance to the rightholders and is therefore not damaging to them. Is it not a useful recipe for achieving transparency? Does it not provide a sufficiently secure way of guaranteeing that the wishes of both authors and small and large publishers are properly and responsibly observed? Is it so outrageous to ask at least to be in a position to know who is the owner of an image, a musical performance or an audiovisual work, in order to be able to monitor its path and ensure that it can be identified?

There are other issues, including the distinction between analogue and digital copies: a digital copy is actually a clone. The report points out the need for fair remuneration to be accorded for each type of copy, in a manner to be decided by each of the Member States. Indeed, arrangements of that nature already exist in 11 Member States. Plainly, if there are technical ways of protecting the works that should not be abused, copies will not be able to made at least for a time; but that must not jeopardise the right of access and nor does it, it merely prevents unre-munerated use.

Copyright, I repeat is not theft; the remuneration that has to be paid is not an excessive charge.

Furthermore, adequate exemptions have been provided for libraries, archives and other teaching, educational and cultural institutions, as well as for press reviews and reports, educational activities and scientific research.

Particular attention has been paid to the handicapped, and here I still consider Amendments Nos 17 and 42 to be clearer and more workable. We have to intensify our efforts to combat piracy and illegal activities, as well as the advertising, trade and instruments which are designed to facilitate them; I consider that the redrafting of Article 6, in particular, will help in this. A strange kind of alliance actually exists between those who preach anarchy and those who wish to benefit from the maximum of freedoms when it comes to rules and rights. It is right that surfing the Internet should be more secure; this should be the aim of most people, and I hope it is. For that reason, I ask the House to vote for the amendments tabled by the Committee on Legal Affairs and Citizens’ Rights, which has also accepted some of the amendments tabled by other committees, in particular the Commission on Culture, Youth, Education and the Media. I am not, however, in agreement with the bulk of the amendments tabled subsequently, except for Amendment No 32. However — if I may be permitted a personal assessment which I feel I have to make — Amendments Nos 30, 32, 48 and 56 are contradictory, impenetrable or downright dangerous.

Little is being done to promote the different cultures and give momentum and resources to European programmes; the Union ought therefore to encourage — and it has done this to some extent in the past — sound rules that protect a world increasingly exposed to triviality and commercialism, in which the vast majority of ideas and projects are rooted, to far too great an extent, in market considerations. Those considerations must not be allowed to sweep aside rights and traditions that form an integral part of Europe's history. The lobbying on this directive has been frenzied and relentless from all quarters; huge numbers of faxes have been received, all of them suggesting how we should vote. Ladies and gentlemen, I believe the time has come to forget the advice pressed on us and the biased points of view; I hope that each of you will make his or her own decision with a mind free of prejudice, not forgetting that these are crucial issues, prime among them respect for intellectual achievement and artistic which must be allowed autonomy and the opportunity to function independently. Unless they are guaranteed resources and rights, the cultures of Europe will all become more vulnerable, and the position of those involved in this difficult work that enhances our lives will be less secure.

Cassidy (PPE), draftsman of the opinion of the Committee on Economic and Monetary Affairs and Industrial Policy. — Mr President, let me first of all say how much I appreciate, as a member of the Committee on Legal Affairs and Citizens’ Rights, the job that Mr Barzanti has done. His responsibilities as rapporteur on this highly complex issue have not been easy to measure up to. I now speak as the person who drafted the opinion of the Committee on Economic and Monetary Affairs and Industrial Policy and I have some sympathy with what he has gone through. This is the bundle of lobbying letters, faxes and e-mails that I have received this week on Strasbourg on this particular issue. I suspect that Mr Barzanti has probably got a pile even larger than that.

This is a highly controversial issue. On the one hand you have the deserving cases of the artists. We are shortly to be lobbied here this afternoon by Jean-Michel Jarre and one or two other prominent people in the music industry. But behind them you have also the very powerful phonogram companies, most of which are American. I have also
Cassidy
discovered from the letters I have received, in this file, that many other bodies have a legitimate interest in this, particularly people who have an interest in the economic results of what the Commission is proposing.

I have been astonished in the time I have been working on this to find out how wide a range of interests are involved in this particular project: not only the performers and the record companies but the manufacturers of consumer electronic products; the Internet service providers; representatives of telecommunications companies and of the disabled — I have a letter here from the European Union for the Blind who are very worried about the implications for them of some of the amendments proposed by the Legal Affairs Committee.

Here, I have to make a confession. Confession, as we say in English, is good for the soul! I have to admit that as a member of the Legal Affairs Committee, I voted for Mr Barzanti's opinion. But I also confess that it was such a complicated vote that I lost sight of some of the amendments that my committee — the Economic Committee — had been responsible for. Some of them — particularly those that affect broadcasting — were incorporated into the Legal Affairs Committee's opinion, but many of them were not. If I have a criticism of the Legal Affairs Committee's opinion, it is that it is too one-sided. It comes down too much on the side of the owners of the rights and ignores the legitimate interests of those other groups that I mentioned: the disabled, the consumer electronics manufacturers, the Internet service providers, the telecommunications companies etc.

Neither the Commission nor the Legal Affairs Committee of the European Parliament wishes to make life unduly difficult for people. But the fact is that we have — as I respectfully suggest — got too involved in detail in the Legal Affairs Committee's opinion. What I would hope is that, as a result of tomorrow's vote, we will come up with something which is clearer, technologically neutral, at least as good for industry as is American legislation and sufficient to comply with the World International Property Organisation treaty commitments which we have entered into.

Whitehead (PSE), draftsman of the opinion of the Committee on the Environment, Public Health and Consumer Protection.
— Mr President, I want to congratulate my colleague, Roberto Barzanti, who has always been an elegant and eloquent contributor to our debate. Speaking as a near contemporary of his, I am somewhat alarmed that he has felt that this should be his last Parliament, which of course also means that this will be his last report. I salute him for all he has done in this area.

He has, of course, been caught in the balance of forces between all the great interests involved here which Mr Cassidy referred to, and he is also caught by the fact that the regulations we are trying to make here have to fit in with the new world of encryption and electronic commerce, as well as all the other areas where copyright and ownership are of the essence. I wish I could say all was sweetness and light in this debate. Alas this has not been the case and there are doubts that have to be expressed.

I wish to list just a few in my brief minute. Many of us are not certain that we should assume that the world is utterly changed because of digital technology. We can see from the report that the Commission takes a more cautious view than the rapporteur, and rightly so. Digital copying obviously makes profound differences to some, especially in the field of music reproduction, which we need to take account of that and protect it as fully as we can. We also need to deal with piracy with an iron hand. But when you use the iron hand, you have to be very careful what you crush, and many of us have tabled amendments giving some protection to other interests which may lose in the new digital field what they have traditionally enjoyed in the analogue field, because of the implications of some of the rapporteur's suggestions.

I mention in particular those groups which are covered by such exemptions under the right of reproduction and may lose them: the disabled in all their various categories that are not specifically and sufficiently mentioned by the rapporteur; and those institutions of learning which also tackle disadvantage. Amendments 89 to 96 which I and a number of other colleagues have tabled attempt to strengthen their position, not because we have anything against the definition of copyright and the protection of rights holders, but because we consider other cultural matters as well.

The last doubt I can raise in this brief account concerns the right of free speech which is entrenched in the protection of quotation, criticism and review. We have to be certain that this does not disappear under the assertion of copyright. I have to declare my interest as a rights holder in some broadcasting matters, but I am not speaking here today in that sense. I am speaking against myself and in the interests of access by consumers and citizens which also has to be considered very seriously when we debate this directive.

Günther (PPE), draftsman of the opinion of the Committee on Culture, Youth, Education and the Media. — (DE) Mr President, I too should like to join in the congratulations to the rapporteur, also on behalf of the Committee on Culture, Youth, Education and the Media, because I think that the draft report, as subsequently adopted in the committee responsible, does actually adapt the legislation effectively to the new technical reality. I wish to comment briefly on the points already made in connection with Article 5, points which proved to be particularly contentious in the discussions of recent months and to which the mountain of letters piling up in all our offices also relates.

Should the exceptions in Article 5 be compulsory or voluntary for the Member States? Both the Committee on Culture, Youth, Education and the Media and the Committee on Legal Affairs and Citizens' Rights have opted here for non-compulsory provisions, because — and this is also in accordance with the principle of subsidiarity — they give the Member States a certain amount of scope when drawing up their own legislation. If the Member States provide for exceptions in this context, however, they must also ensure — by a method to be devised by the Member States — that rightholders receive a share of the proceeds or a particular level of compensation.
Günther

The Culture Committee envisages that rules of this kind might comprise either a flat-rate charge and/or methods analogous to those already used in the Member States to regulate the protection of intellectual property.

A further point was how private copying should be regulated in the digital environment. I think that a derogation should only be granted for reproductions made by individuals which are intended purely for their own private use and not for commercial ends, and where there is no further dissemination to third parties. If technical measures are insufficient to prevent this right from being abused, then in my opinion a remuneration scheme — for example a levy on equipment or copying materials — should be introduced to ensure that rightholders receive at least partial compensation, as is of course already the case in the analogue field in eleven of the fifteen Member States.

This position may at first sight conflict with the interests of consumers and the hardware industry, because their associations are calling for the existing provisions in the analogue field to be extended to digital copying as well. I can understand this demand from the point of view of the groups I have mentioned, but I think that ultimately, exceptions to the exclusive right of copyright can only be justified by a higher social interest, which should then be substantiated as accurately as possible. Broad sections of the population having access to these new forms of knowledge and learning is something we should very much welcome. We should not forget, however, that in the long term, the wishes of equipment manufacturers and consumers can only be met if diversity of content is guaranteed. This diversity of content requires those offering it to be protected too.

The Committee on Legal Affairs and Citizens' Rights has generously accepted a number of the ideas put forward by the Committee on Culture, Youth, Education and the Media, which means that we can also support the report's adoption in the form in which it has been presented by the Legal Affairs Committee. I think it is balanced, even though this concept has now been the object of some criticism here. It is a directive which safeguards the interests of rightholders and protects intellectual property. It is therefore bound to carry a certain amount of weight in this sector, and rightly so in my view.

Rothley (PSE). — (DE) Mr President, where cultural matters are concerned, it is the duty of the European Parliament to protect artists, stimulate creativity, strengthen society's creative powers and thus show respect for intellectual achievement. That is our cultural duty, and it is one which the rapporteur has fulfilled admirably. That is why the Socialist Group will be supporting this position.

The Commission proposal bears all the signs of a compromise. Of course, with such diverse interests it is very difficult to reach a consensus, and of course there is room for improvement. I should just like to mention two points which I think are very important. The first concerns the limitations on copyright, in which context we have logically proposed providing compensation. Limiting copyright is not synonymous with doing without compensation. I know that this view was shared by some of the Commission. I would be very grateful if the whole Commission would support these proposals.

The other point concerns the infamous Article 5(1). I really do not understand the Commission here at all. You see, by introducing Article 5(1), what the Commission does is abandon artists. It leaves them unable to defend themselves against piracy. Illegal distribution of works, of all things, is to be promoted, with artists being left defenceless. Anyone acting in this way and actually giving preference to the interests of the distributors is no longer being objective.

I do not believe that the comments we have heard on this point in the public debate are accurate. It is claimed that the Internet would grind to a halt or that services would not be able to work uninterrupted. That is certainly not true. That is why I make this urgent request: let us rectify this, the most dangerous point, as it continues to be in the amended Commission proposal. Let us say no, we will equip artists and rightholders with the technical instruments, in particular, with which to defend themselves against piracy. The Commission is not able to tell us today how it actually intends to do this. I believe that we in the European Parliament should stand on the side of the artists, the rightholders, and that in so doing we are making our contribution to the intellectual development of the European Union.

Palacio Vallelersundi (PPE). — (ES) Mr President, this directive affects at least three interested parties. Their interests may not always conflict, but they certainly do not coincide either.

In the first place, there are the creators. One of the distinguishing features of European culture is that long ago it gave rise to the concept of intellectual property, the creator's property. There has been a general consensus that creativity should be recognised and remunerated, remuneration being the ultimate form of recognition. Creators are therefore the first interested party and we should not forget this, as it is one of the distinguishing features of European culture.

The consumers constitute the second group.

The third group is made up of the middlemen, who have a range of differing interests.

If there is a conclusion to be drawn, it has to be that nobody is happy with Parliament's report. From my experience as a lawyer, that could be a good sign, because when none of the three parties to a dispute agree with the solution, it probably represents a good compromise between them.

I must therefore congratulate the rapporteur, because both his detailed knowledge of the subject and his skilful handling have been crucial to the matter in hand. Further, I have to say that the Group of the European People's Party will support this report, even though it is a contentious issue within our group, as indeed it is for your group, Mr Barzanti. In addition, we will support all the amendments, including some that you personally are not in favour
of, and in which certain points of detail are indeed technically incorrect. These amendments — particularly Amendments Nos 30, 31 and 48 — may well prove problematic.

Our group approached this matter from a broad political point of view rather than a technical one. We are aware that the report contains a number of technical difficulties, but they can be dealt with at second reading or by the Commission. We wish to adopt a political stance. We support this report and I feel that the fact that neither of the two main political groups has tabled amendments as a group must be an encouraging sign.

I should also like to point out that this report is in line with the Commission's thinking. The directive is not aimed at complete harmonisation. It only concerns 'the harmonisation of certain aspects'. It is primarily a directive aimed at updating Community regulations and to a certain extent Community directives, such as the directive on hire, the directive on databases and the directive on computer programmes. In particular, it follows the two major 1996 WIPO agreements. The structure must therefore be respected, and I feel that this report by the Committee on Legal Affairs represents an excellent response to the delicate balance called for in the Commission's proposal. The three fundamental principles — reproduction, communication and distribution — receive even-handed treatment in an article which allows room for manoeuvre, enabling the various Member States to maintain often long-standing differences which do not hinder the smooth running of the internal market. I believe that this is an important directive, pointing the way, as I have suggested, 'to framework harmonisation' directives which do not seek to harmonise every last detail, but only what is necessary.

I offer the rapporteur my full support, and hope that his position will be endorsed by a majority vote tomorrow. Finally, I must reiterate my view that the rapporteur's approach is well-balanced and sends a clear message to the Commission.

Thors (ELDR). — (SV) Mr President, Commissioner, it has been said on countless occasions here in the House that what is needed is a set of international rules for the information society to ensure that our countries retain their competitiveness in the new business sectors it creates.

If we adopt the directive in the form in which it has been submitted by the committee, I am afraid that we shall not be acting consistently with what we have said in other circumstances. We will be setting up a system which makes it more difficult for many of those participating in the information society to operate. There are no clearly defined rules governing the sharing of responsibility. As a result, I believe that a growing part of the action is moving away from Europe to other places — one might say that 'the best is the enemy of the good'.

While the proposal for a directive was being drawn up, I asked repeatedly and with ever more insistence the following fundamental questions: would it not be better to ratify the WIPO Convention quickly and approve the directive dealing with electronic commerce? Do we need anything else? Should we not accept that this directive was produced before we had come up with a definite proposal on electronic commerce and before we had formed a general view on the sharing of responsibility on the networks?

It is essential that the WIPO Convention should be ratified quickly. It affects absolutely everyone in this sector. It is not certain that we need this directive, and in fact I believe it is holding up ratification. Is it really in anyone's interest?

Many countries in Europe have public rights of way, in other words the public has access to private land where no damage is likely to result and prohibition would be unreasonable. In my view, similar rights of way should exist in the digital world. To a degree, the Commission's proposal respected that, but not the rapporteur's. Consequently, we have tabled a number of amendments which are based on the idea of a 'digital right of way'. I agree with Mr Whitehead that we should not make too great a distinction between digital and analogue technology here.

Cultural differences do exist, and so do not understand why there should not be mandatory provision for exemptions. On the other hand, the list of copyright exemptions needs to be complete.

We have to combat piracy, and the way to do so is through cooperation with the countries with whom we have dealings and other forms of association. However, we should encourage those concerned to devise a method that is neutral, in other words capable of preventing piracy but which does not impede openness or lead to the emergence of a closed system. That would fit the bill, and I am glad to see that Mr Cassidy has at last woken up to the fact.

At the same time, it is also crucial that the public should not be deprived of the rights which the directive would give them.

Crowley (UPE). — I also wish to join in the congratulations to the rapporteur on his very able handling of an extremely difficult brief and report. Even though I do not subscribe to all the proposals put forward by the rapporteur, I personally believe that he has come up with a very balanced approach towards resolving the problem.

However, I disagree with some Members who say that the Internet and the new technologies offered by digital communications do not present a danger or mean a huge change in the future, because we can already see, in its very infancy, that digital technology, the Internet and the new information society have altered the way we do business and communicate. In the future, they will also alter the way in which we get our entertainment — whether through music, plays, television programmes, films or books. Therefore, it is essential for us now to come up with a balanced approach as to how best protect the intellectual property rights of the creators.

Often people involved in music, art or literature tend to be laughed at because they have no business sense; they tend to care more for their art and the public presentation of their art than for mere commercial realities or
Crowley

business necessities. Therefore, it is incumbent on us, as we benefit spiritually from the material these people produce, to put in place protection to guarantee that their rights will not be usurped by pirates or others.

Some time ago we debated about giving the rights to artists who sell their artwork. There was a lot of debate in this House about whether artwork sold by auction would go to America rather than to Europe if we adopted this legislation. Since that legislation came into being, there has been no noticeable difference. There is a proper balanced way to achieve the rights that everybody here wants to see.

Whilst consumers also deserve protection of their rights — ensuring that they have the widest possible access to information at the most reasonable cost (sometimes for free) — there are also responsibilities on the consumer to pay for some of these rights. That responsibility must also be balanced with the rights of the authors and the creators of these works to ensure that their rights are protected.

I have submitted a number of amendments to this report to ensure that there will be no reduction in the dissemination of information through public libraries, educational facilities and so on; that indigenous culture will be preserved and developed; that the needs of disabled people will not be undermined by this legislation and that the cultural and social importance of major sporting events will be protected. All in all, my group will support the Barzanti report but we urge that our amendments be adopted.

Finally, I should like to ask the Commissioner whether there will be another proposal from the Commission with regard to copyright and related rights in the information society in the near future?

Ullmann (V). — (DE) Mr President, Commissioner, ladies and gentlemen, thanks to digitisation, reproduction technology is now so advanced that there is no discernible difference between the original and the copy. In an age of digital communication, anyone not wishing to put at risk everything that copyright rules have achieved must reformulate them in such a way as to take account of the demands of the new technology and the industry using it.

The fact that this draft satisfies these demands — and not least that it puts the stress on copyright — is due to the preparatory work carried out by the Commission, but in no lesser measure to the judiciousness, determination and patience of the rapporteur. If these achievements are not to be put at risk, it is particularly important to adopt Amendments Nos 33, 34 and 37 and also to take into account the consequences, as expressed in Amendments Nos 97 and 95.

I hope we all agree that we do not want to go back to a time when the famous composer Johann Nepomuk Hummel, Chopin’s teacher, had to secure copyright protection for composers for the very first time, and when the great philosopher Schelling lost a case challenging the illegal reproduction of his texts because he was not protected by any rights at all.

Sandbæk (I-EDN). — (DA) Mr President, the June Movement sees free access to information as the very cornerstone of democracy. The public must retain the right to information and education at libraries and other publicly financed institutions. In this context, consideration should be given to the weaker members of society. That is why the June Movement has tabled amendments, seeking to ensure that for example the visually handicapped have the same free access as everyone else to material in libraries when the purpose is not commercial.

A second general principle is that artists should own all the rights connected with the exploitation of their work. They themselves should be able to negotiate the scale of their remuneration and what rights they transfer to a producer. In Scandinavia, we have a long successful tradition of solving difficult copyright issues with the help of licensing agreements, and we need to retain this option.

Finally, I would like to draw attention to Amendment No 56, which quite unreasonably calls for journalists to have the same rights as authors when newspapers use their articles. Such a principle is contrary to both copyright law and agreements, and would entail an unreasonable commercial risk for the newspapers. This too is a question of democratic access to information. In other respects I am in complete agreement with Mrs Thors with regard to this directive.

Hager (NL). — (DE) Mr President, the proposal for a directive is significant because it points the way ahead. This has already become clear from the public response. The right of artists to have their works protected must also be guaranteed in the age of the Internet. For this to be the case, a legal framework needs to be established and the rapporteur has successfully done this. I can support most of the amendments proposed by the Committee on Legal Affairs and Citizens’ Rights. Alongside the pro-artist provisions, I should in particular like to draw your attention to the proposed rules on the use of archive productions. I think that the rules need to offer incentives to producers — producers of audio media and those who work for radio — to provide on-line access to the productions they have either produced themselves or on someone else’s behalf. The new technology can make it possible for the film and audio material currently languishing in cellars to be made available to a much larger audience.

Finally, however, let me sound a note of criticism on the linguistic quality of the proposal. Parts of it are, I think, the perfect example of legislation which is remote and difficult to understand, and which intrinsically fails to comply with the rule of transparency.

Berger (PSE). — (DE) Mr President, in all the time that I have been a Member of the European Parliament and its Committee on Legal Affairs and Citizens’ Rights, I have never before experienced anything like as complex a legislative procedure as this one on adapting copyright to the requirements of the information society. There is, therefore, all the more reason for me to wish to thank the rapporteur for trying to guide us through the jungle of numerous conflicting interests and to identify a sound policy. We may perhaps not agree on all the individual
points in this policy, but it has been sketched out and can therefore serve as a guide to both the Council and the Commission.

One point on which everyone is agreed in the Committee on Legal Affairs and Citizens' Rights is, in any event, the need for a European model of the information society, in which works of high cultural and artistic quality form the core of the content, and the new technologies are not used to undermine existing rights. Given that content and technologies are universal, however, this does beg the question of whether this aim can be better achieved by having a higher level of protection — compared with the situation worldwide — or whether by doing so we in fact make life so difficult for other players in the European information society that this ultimately also has an adverse effect on rightholders.

If we want more high-quality content, then we should not make it too difficult, or even impossible, for the content providers — as they are now known — and in particular television and radio broadcasters, to distribute this content and pioneer new ways of publishing it. Consumers are also expecting the information society to bring an increase in easily accessible content, and not repeated requests for money in the future. This is true, above all, of particularly sensitive groups of consumers, especially the disabled. I should therefore once again like to call on the rapporteur to tone down the reservations he expressed concerning Amendments Nos 30, 32 and 48, which were accepted by the Committee on Legal Affairs and Citizens' Rights. I should also like to express my thanks for the support which these have attracted from the speakers in the House so far.

**Perry (PPE).** — Mr President, I will confine myself to just two points. The first is that in Europe we need to encourage the use of the Internet and not discourage it. Equally, we have to recognise that new technology requires modern thinking and a digital copy is not the same as an analogue copy. It is a clone. This poses a risk for the music industry if such cloning is totally unrestricted.

We should not underestimate the young people of Europe and their entrepreneurial capacity to produce those clones. Even in today's Financial Times I saw reference to a product of a French company which has launched a multipurpose CD duplicator. At the press of a button you can produce an exact clone of the original CD. I have no doubt at all that the long-term solution to all of this lies in new technology, but there will also be legal restrictions where that is necessary.

The second point I want to address is the proposal made in a number of amendments, including my own, concerning the possibility of having mediation where there could be disputes between the producers and the disseminators. We are going to see a lot of litigation as a result of this legislation and that no doubt will play into the hands of the lawyers. We want to have a system where, in those countries that are prepared to allow it, there should be the right of recourse to an independent mediator who can listen to both sides of the story and arrive at an objective solution that is not actually going to cost vast sums of money which the small users, the small producers, the individual musicians and the like would not have access to.

That is a small point but one I would hope the rapporteur and the Commission would have some sympathy with as a way of helping some of those who are going to be affected by this legislation.

**Monfils (ELDR).** — (FR) Mr President, the report by Mr Barzanti is excellent and perfectly balanced. It defends legitimate copyright but takes into account the concern to make all works available to as many people as possible. This is an important point because in this technical and complex debate some people would have us believe that consumer interests are being prejudiced. This is completely inaccurate. Neither the author's copyright on his creation nor the remuneration that he is entitled to expect for its dissemination constitute obstacles to making the work available to the public.

If Member States consider that cultural policy demands free access to works, for example, it is up to them to provide for the necessary measures; it is not up to the authors to foot the bill. In education, for example, could we imagine asking teachers to give up half their salary to pay for the education service? This would obviously be absurd. Moreover, in my view the fears expressed by television companies and electronics manufacturers are groundless.

Copyright has never been, and never will be, an obstacle to technical progress, and this has been the case since printing was first developed. On the other hand, without serious protection, technical development can undermine copyright and, as a result, stymie creation.

In my opinion the system proposed by the Committee on Legal Affairs and Citizens' Rights in the area of digital private copying is a good one because before any technical measures are developed to protect the rightholders, there will be a financial contribution and fair remuneration, probably as is currently done with the analogue equivalent.

In conclusion, our job is not just to organise a technological free competition and free trade area. It is also our job, as Mr Rothley said, to maintain and develop cultural creation in Europe in all its diversity. This is essential as amended, generalises and thus confirms the European copyright model without preventing works from being disseminated. For this reason I, together with part of the ELDR Group, will vote in favour of Mr Barzanti's report.

**Svensson (GUE/NGL).** — (SV) Mr President, the Commission's proposal and the report both pinpoint the flaws that exist in the Union's legislative procedures. An international panel of experts should have been appointed to investigate thoroughly the complex problems associated with copyright and public access. There should have been a broad public discussion before the legislative process was embarked upon.
Svensson

Instead, we now have a legal text that is obscure and not sufficiently businesslike. Nor does a surfeit of words make the legislation any clearer. In particular, we regret the lack of clarity in defining the position as regards the provisions that exist in the Nordic countries whereby ordinary people are entitled to have access to official documents and information. What is most needed in this, as well as in other areas, is a serious in-depth analysis of the problems.

De Clercq (ELDR). — (NL) Mr President, Tony Blair once said that his country's culture industry is a greater source of revenue than the steel industry. But digital technology has now opened up a whole new dimension for pirating. It is estimated that about one million CDs are stolen from the Internet every day. It is therefore high time that we introduced legislation, not just for music but for all kinds of audio-visual material. We must ensure that the author or copyright holder is granted exclusive rights to the reproduction, distribution or any communication of his work to the public. That is the only way to create a favourable environment which can stimulate creativity and investment.

Effective cross-border protection of intellectual property offers many benefits. In economic terms it will ensure an expanded market, which in social terms will create more job opportunities, and last but not least there is the cultural dimension. Consumers must continue to have the guarantee of good quality and, let us not forget, creativity and artistic innovation are the source of income for authors. In order to continue to preserve and further enrich our artistic identity, our artists must be further encouraged. Above all, we must take care of young talents who are busy creating what in future may be much loved but unprotected.

People are looking to us to provide effective regulation, including on behalf of those who are not yet famous. It is up to us as the European legislator to guarantee this. For this reason I shall be voting for Mr Barzanti's report, on which I congratulate him.

Lindholm (V). — (SV) Mr President, the directive is on three levels, namely technical, legal and political, which adds considerably to its complexity. Both the committee and the rapporteur, Mr Barzanti, have nevertheless done an excellent job. However, I would urge the House to vote against Amendment No 48 which calls for a non-voluntary licence, or legal presumption.

The Nordic countries have had licensing and collective agreements for a long time, and the experience has been constructive. The agreements also extend to authors who remain outside the organisations responsible for concluding the agreements, and guarantee rights and levels of remuneration. It is essential that such a system, which benefits all the parties concerned, should be retained and not replaced by a non-voluntary licensing arrangement. To do so would contravene both the Berne and WIPO Conventions. This is basically a cultural issue, but there is also the question of safeguarding the rights of public institutions, such as hospitals, schools, libraries, museums, archives, prisons and, last but not least, both the rights and opportunities of the disabled. Free and equal access to information, culture and public documents is essential for the democratic development of society. It is essential that this is guaranteed by the directive.

Oddy (PSE). — Mr President, I would like to thank the rapporteur for his good humour and fortitude in tackling this difficult report: difficult, firstly, because it needs to strike a balance between the rights of the authors and the needs of consumers and, secondly, because technology is changing rapidly, which makes it hard to anticipate legislative problems in such a context. I want to pinpoint three issues: disability rights; the need to be able to report parliamentary and judicial proceedings; and the issue of fair compensation.

On the disability rights issue, I have tabled an amendment for the British Labour Group which is preferred by the disability lobby because it is mandatory rather than optional like the amendment adopted by the Committee on Legal Affairs and Citizens' Rights. Philip Whitehead and I have also tabled an amendment to allow fair reporting of parliamentary and judicial proceedings.

The issue of fair compensation, and I speak for the British Labour members, poses a problem for the United Kingdom. Although the exceptions are optional and can be adapted to national law at the will of the Member States, the amendments as they stand at present would introduce the obligation to introduce fair compensation. In Britain people have got used to copying their favourite TV programme and watching it at leisure at the time most convenient for them. This is a right which does not incur financial consequences. The British public would be extremely unhappy if this right was curtailed by having to make a payment. Therefore my Group cannot accept that concept.

Matikainen-Kallström (PPE). — (FI) Mr President, copyright is not merely restricted to the question of who is due compensation and how it may be most effectively collected. Mr Barzanti's report should basically be concerned with the principles of the free development of the information network and its commercial exploitation, in other words, enabling the consumer to use the Internet at the lowest possible cost to him or her.

The protection of copyright is in everyone's interest, but not necessarily on the terms of those who up to now have been in the strongest position. It is a matter of setting priorities: greater rights for the holder, or the freedoms of the Internet user and the right of the Internet service provider to operate. As far as the future of the information society is concerned the latter objective is the more crucial one.

The report's basic theme, that digital copyright may be best protected by prohibiting the temporary reproduction of material for transmission, is completely at odds with the widely accepted principles associated with operating the Internet. If the prohibition of temporary reproduction is allowed to go through and technological monopolies
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spring up, such practices as surfing the Internet could be forbidden and an ordinary computer could be regarded as an illicit piece of equipment used to dodge copyright protection.

One of Mr Barzanti's main objectives is to improve the conditions under which European copyright holders can get their work published. However, over 80% of the market in the sales of music products in Europe is now in non-European hands. Tightening up on electronic copyright would further concentrate business in the mega-companies of Hollywood. This, contrary to the opinion of the Committee on Culture, Youth, Education and the Media in particular, would not improve conditions for European artists to get their work published and sold.

Ryynänen (ELDR). — (FI) Mr President, safeguarding copyright in the world of the digital information network is a crucially important objective. Illegal reproduction threatens the legitimate interests of copyright holders and ultimately the production of content in its entirety as well as the profitability of creative work. However, the public's right to information is just as legitimate and important, as is the development of an information society available to all.

In many Member States a viable copyright environment has been successfully created, one that safeguards a balance between a flexible approach to the use of material and the interests of rightholders. The EU's copyright directive, and especially the more stringent version proposed by the Committee on Legal Affairs and Citizens' Rights, is a threat to this balance. In its present form the directive would significantly restrict the free circulation of information and the ability of public service institutions to provide citizens with a service.

The copyright balance also requires provision to be made for minimum compulsory exemptions connected with access to information, study and research, to act as a counterweight to strong harmonised protection of copyright; such exemptions have already been acknowledged and ratified in all international agreements in this sector. In addition to compulsory exemption we must be able to create codes of practice to be applied nationally, on the basis of local tradition and culture, for example in collective bargaining agreements.

The consequences of library services being solely dependent on licences being granted, or not, by rightholders, as the proposal for a directive suggests, will be particularly disastrous. The right to information must not be subject to licence in the lifelong learning society, while distance learning and virtual network services are becoming ever more common. We certainly do not want to take a step backwards and have a situation where electronic material cannot be seen, browsed or reproduced without a separate licence or charge. In the democratic information society it is appropriate to safeguard the practice of reproducing material for purposes of study, research or private use particularly via libraries, as libraries, archives and museums have an obligation to guarantee that materials connected with matters of culture and heritage are preserved and accessible in electronic form also.

Tongue (PSE). — Mr President, many thanks to Mr Barzanti. He has balanced diverse interests very well. Quite simply, intellectual creation is vital to the future of our economy but it is also the lifeblood of our society, be it music, film, photographs, books or software. We are told we must balance interests but, quite frankly, all interests are not equal. Large telecoms companies will always survive but if we strangle and silence individual creators we will never win them back. Blank screens will not enrich our society.

We have to ensure creators enjoy sufficient incentive and reward for their work. A strong system of copyright as proposed by the Commission and Mr Barzanti will ensure dignity, independence and survival for creators. Too many continue to scrape together a living in a kind of La Bohème garret. Only 7% of authors in France earn above the minimum wage. Let us never forget that. I have friends who are authors and they survive hand-to-mouth on royalties and have to sell their own belongings to write the next book or create the next film. I can therefore never support an amendment providing for the forced transfer of rights away from authors to others.

It is absolutely critical to have exemptions for the disabled, education, research, archives, investigative journalism and libraries. Some would argue that there should be fair use without fair compensation. Why do we demand of authors and artists what we do not demand of other workers in our economy? Systems of fair compensation through a blanket tape levy exist in 11 out of the 15 countries. All the UK creators and their trade unions support a blanket tape levy. All I am saying to British Members of this House is: do not vote against Amendments Nos 34, 36, 37 and 41. Allow the creators and others in the United Kingdom to have a fair debate about whether we should have a blanket tape levy.

Let me make it clear that these are not obligatory exemptions. Voting for those amendments will not force the British Government to introduce a blanket tape levy. Let us ensure that out of this we have a cultural rainforest, in the words of our great author Maureen Duffy.

Ebner (PPE). — (DE) Mr President, in my opinion, the report drawn up by Mr Barzanti is a very balanced document. Whenever the paths cross of those who own intellectual property rights and those who have access to the information, there is a conflict. I believe that the property issue is a fundamental one, and that this is not a question of how the information is disseminated. For this reason, I believe that the principles Mr Barzanti has identified and incorporated into his report are the right ones. Obviously exceptions are needed, but they should be limited and should uphold the rules on the protection of intellectual property.

I will soon have served as a Member of Parliament — both at national level and here — for 20 years, and in all that time I have never before been lobbied so intensively on an issue by the interest groups. When it comes to the vote, I hope that this Parliament will not help the new forms of media — which have a role to play and should be able to do so — to strike it rich, at the expense of authors.
Plooij-van Gorsel (ELDR). — (NL) Mr President, Commissioner, ladies and gentlemen, there are three branches of industry which have an interest in seeing a strong and clear copyright directive, namely the content industry, the telecommunication and service providers, and suppliers of consumer electronics. Then there are also of course our consumers, libraries, schools, etc. to be considered.

The Barzanti report clearly weights the balance in favour of the content industry, at the expense of the other branches of industry and especially the consumers. Copyright holders are given an absolute right to protection, with the banning of copying for private use for example. American companies are now trying to lobby for legislation in Europe to go much further than in the United States, where such an absolute right has just been forcefully rejected. US companies are therefore deliberately placing Europe at a disadvantage and Europe will be accepting this if we accept the Barzanti report. We will be falling behind, especially our industry, and this will cost jobs.

It is primarily the Committee on Legal Affairs which is now busy fighting a rearguard action, because with this directive the established industry is trying to maintain its present market position in the old media at the expense of the new. New technological developments, such as the Internet, will be held back by the directive and artists manipulated and made to dance to industry's tune, with big names such as Claudia Cardinale being brought in. But the new generation of artists who are distributing their products on the Internet are being left out in the cold.

Finally, I have a question for Commissioner Monti. How does the copyright directive stand in relation to the proposal for a directive for electronic commerce? In other words: if there is a difference in copyright protection between the Member States, which applies? The principle of the country of origin or the country of destination? In the directive on electronic commerce we now have before us, the basis is the country of origin. I would appreciate an answer from Commissioner Monti to this question.

Mann, Erika (PSE). — (DE) Ladies and gentlemen, the directive we have before us is a complex one, and I have appreciated the way in which Mr Barzanti has dealt with it. I am not overjoyed about everything, as he and many other Members of the House know. This is the first reading — we still have the chance to improve many aspects — and I hope that we are on the right track.

But let us just get one thing clear, and let us not be under any illusion: we are not waging a cultural war here. This is not actually about poor artists; Ms Tongue, you know how strongly I support your position against the large telecommunications companies. It is not about the software industry, about Microsoft versus European companies. Nor is it about the fact that one industry is being played off against the others here. Let us be honest. It is about who wins control of this electronic marketplace, and a hard battle is being fought out there over this. We are standing in the midst of the interest groups, as we can tell from the constant stream of publications arriving in our offices.

But let us not skate on thin ice by supporting one industry and believing that in doing so we are helping creators and artists; we do not want to follow a good European tradition and then end up in an American blind alley. I would urge you not to make this mistake. In the United States, a compromise has been reached on many points which is acceptable. Let us not fall behind this compromise in Europe. I would urge you to examine the law. The happy medium lies somewhere in between. It lies in the Commission proposal. It lies in the proposal which Mr Barzanti has made. It lies in the proposal made by the Committee on Economic and Monetary Affairs and Industrial Policy, which I supported — and as you know, I put forward many suggestions. It will lie in the second reading, and in the proposals which the Council tables. Only please let us not choose the wrong approach, let us not be under any illusions, but let us choose a very realistic, pragmatic approach which puts European industry on the right track, which protects the interests of authors and all those in this market — the great and the small, the telecommunications industry and the Internet providers too. I would urge you to adopt this approach, and that is why I am asking you to take another considered look at the amendments, and in particular those relating to Articles 5 and 6, in time for tomorrow; Article 6 also safeguards the interests of European industry.

Vaz da Silva (PPE). — (PT) Mr President, Commissioner, ladies and gentlemen, there are very few areas where the quality and the future of the European integration process are really at stake. Copyright is one of them. It may seem that the common agricultural policy or the trans-European transport network are higher priorities, but they are not.

European copyright policy also relates to food and transport. It concerns the production and distribution of books and newspapers, of music, and of audio-visual and multimedia products. If these products are in short supply or of inferior quality, that will sound the death-knell for Europe. European society will be unable to assert its differentness, will lose its vitality and will fail to balance its trade unless it can claim that share of the cultural market that is its by right. With the advent of the Internet and digitalisation, and whatever other unknown technologies are around the corner, along with globalisation of the market, enlargement of the Union and the increasing role of multilateral treaties, a policy on copyright is a priority for Europe. That is because creators and artists act as our antennae for the future, as our critical conscience and as our calling card. It is therefore in all our interests that they should thrive.

So what is involved? Basically, facilitating the distribution of creative work, rewarding everyone taking part in that process, creators and investors alike, and eliminating piracy. What ought to be done? We should set up a permanent body to help the Member States negotiate, guarantee the international compatibility of European legislation and make sure it is constantly updated. We should also automate remuneration systems as far as possible, and increase the use of protection technologies.

The Barzanti report is an excellent one because it not only adopts a cultural perspective but it is also an appeal for the key words to be 'compatibility' and 'harmonisation'. That is after all the only way of defending the interests at
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stake. All parties — Member States and artists, producers and users — have to be shown that they are in the same boat and need to row in time and row hard if they are to reach a safe harbour.

Garosci (PPE). — (IT) Mr President, in today's proposal on copyright, we are rightly concerned to protect authors and performers, but also record and phonogram producers who must be properly remunerated. At this point, however, the House is being asked to approve legislation which limits the right of European operators to have access to the Internet, in contrast to what has been provided in the recent World Intellectual Property Organisation treaty and the US Digital Millennium Copyright Act. This is rightly being done to protect copyright, but under pressure from the big multinational record companies which are now all American, if not by origin then at least in terms of their economic interests.

The Committee on Legal Affairs and Citizens' Rights has required technical copies to be authorised, but I do not see how that can strengthen copyright. Copyright is in fact already substantially protected by Article 2 of the directive, which establishes the principle whereby no one may place works on the networks without the permission of the copyright holder. How will that further authorisation improve the position of authors? That is not the way to combat piracy, at least according to the US legislation, which takes the view that the procedures for identifying and closing suspect sites provide the most effective way of combating that particular scourge. If network operators were required to monitor all of the 'packages' sent by service suppliers, numbers would have to be reduced, leaving them concentrated in just a few hands. That is not what the independent record industry in Europe wants, that same industry which is investing in most of the recordings made in Europe, which is creating jobs and development, believes in young artists and is exporting Europe's musical products to the outside world. It is those with interests on the other side of the Atlantic that want it. The people who are asking us to close off access to the Internet are importing into Europe music produced elsewhere. Even the small proportion of music produced in Europe is adopting commercial standards that require mass sales, which are in turn dependent on the kind of hugely costly advertising campaigns that the Italian supervisory body recently condemned in Italy in its decision against the Big Five, that is to say the five big music companies.

Let me end by pointing out that the independent record industry and the managers — the artists' true representatives — are asking us to call a halt before it is too late. I propose to accept their advice and vote for the Cassidy and Thors amendments which come closer to meeting the needs of artists. In that way, we shall be able genuinely to protect the future of the information society, of music and of consumers.

Paasilinna (PSE). — (FI) Mr President, Mr Barzanti's report is an important one, and he has demonstrated some artistry in putting it together! It is true that this is only the first reading and we can correct many of its possible shortcomings if any emerge later on. However, I would like to point out that a good balance has been achieved in many Member States by virtue of agreements made without any directive whatsoever, as, for example, in my own country.

Three issues are at odds with each other: first, there is the public's right to information, which means libraries, lifelong learning, and so on. That cannot be violated; it is a vital principle. Secondly, most important is the right of creative people to their intellectual property. Thirdly, we must create and maintain a viable context for the electronic market, as it is an area that employs a lot of people in Europe. We have to be able to make these three issues compatible.

We all believe that piracy is a crime, and we have to oppose it. For that reason, I believe we should look at the next stage of the directive, after voting. We need to discuss the work of the rightholder on the one hand, and industry on the other, from the employment point of view, to achieve the best possible European employment model in relation to copyright and industry, with regard to radio, television and other electronic media.

At present we seem to be squabbling quite a lot among ourselves, and employment and material in Europe are suffering as a result, yet both these issues are now among our most crucial concerns, as they represent European identity, culture and jobs.

Palacio Vallelersund (PPE). — (ES) Mr President, as this debate draws to a close, I should like to refer to an oft-neglected matter, namely, certain recitals. I said earlier that this report set a political course although it was technically imperfect. There are some very clear examples of this in the recitals. Some of the recitals do not correspond to any of the amendments to the main body of the text and are therefore technically unacceptable, but they outline three clear political ways forward. Mr Barzanti mentioned the first of these, which concerns indigenous peoples and their cultural rights. The second, referred to by Mr Perry, suggests that the WIPO has made a determined effort to promote mediation as a solution to disputes. The Group of the European People's Party will support two amendments to recital 21 to that effect, that is, Amendments Nos 82 and 91, if I remember correctly. The final political direction concerned an issue that I should like to consider in greater detail, as it has been somewhat sidelined, even though it was the subject of heated debate.

Despite being related to another important directive under discussion at the moment — the directive on electronic commerce — and also to a directive on responsibility in a general sense, this directive has its own distinctive features. The usual procedures should be followed and it should be approved as soon as possible. An amendment has, however, been tabled — and it is supported by the Group of the European People's Party — emphasising in effect that though all these directives have their own distinctive features, they should be handled in parallel and implemented at the earliest opportunity.

Finally, I have to say that I was delighted to hear such an authority as Mrs Mann sound a note of reason with regard to what is often portrayed as the entrenched rivalry between European and American industry. I fully endorse her
views. I believe that this is a balanced directive. It will need to be improved at second reading, but it sends a clear political signal. The ball is now in the Commission’s court.

Amadeo (NI). — (IT) Mr President, Italian companies account for 80% of original European production, but the big multinationals take up 80% of the market by importing products from outside Europe, in particular from the USA. At one time, almost all Europe’s major hits came into being with the help of a producer who believed in them. Only later, because of distribution needs, did they have to approach a multinational. That is why our approach to the directive differs from that of the big multinational record companies, which have established a stranglehold on distribution and advertising because they control all the systems for access to stores, the media and the charts.

We feel that the Internet provides an effective way of avoiding that stranglehold. What is really at stake here is not protecting copyright, that is already guaranteed by Article 2 of the directive, but maintaining the current state of freedom of access to the Internet for everyone, and not just the big boys.

The requirement for technical copies to be authorised, adopted by the Committee on Legal Affairs and Citizens’ Rights, would actually have the effect of extending to the digital sphere the dominance which the multinationals already enjoy over the way in which music is conventionally distributed. We therefore take the view that it is necessary to redraft Article 5(1) to avoid limiting de facto access to the networks for independent operators. Furthermore, we believe it necessary to encourage the investments of independent access providers who are the natural partners of independent music producers in Europe. The reality is that European producers primarily need unrestricted and low-cost access to the networks in order to be able to offer the kind of music which the big multinationals regard as uneconomical in terms of their own commercial criteria. In offering their product on the Internet, the companies also need to use systems compatible with the interfaces most commonly used by consumers, as they cannot run the risk of investing in websites that might subsequently prove incompatible with the new versions of dominant software. Secondly, European producers need programmes of support similar to those through which the audiovisual sector is supported via the media. Finally, they need strategic research and development programmes that will allow the European music industry and the European technology industry to establish, by common accord, standards for the secure and effective distribution of music, as an alternative to the American analogue standards.

For all of these reasons, the non-attached Members believe that it is right to reassess the situation and are therefore calling for the directive to be referred back to committee.

Monti. Commission. — (IT) Mr President, creative and innovative activities will be critical to the development of the information society. This proposal for a directive is an important part of the legislative framework which is currently being drawn up at both a European and a global level to guarantee harmonious development of the information society. The information society is in fact evolving in a global context. In 1996, the international community adopted two treaties under the auspices of WIPO: one on copyright, and the other on interpretation and performance and on phonograms.

I would remind the House that the European Union played a vital role in the drafting of those treaties. It can now accede to them as the European Community and be among the first to ratify them. The United States has already met its requirements. Thirty instruments of ratification will have to be deposited before the treaties enter into force. The European Union accounts for 42 because of the agreements that link it to the countries of the European Economic Area and the countries of Central and Eastern Europe, and the fact that it has association agreements with still more countries. Ratification of the treaties by the Union and its Member States is based on their incorporation into the national legal systems; it is their incorporation into Community law that is, among other things, the objective of this proposal.

Alongside meeting our international commitments, the basic aim of the proposal is to put in place a harmonised legislative framework for copyright and related rights. We expect that greater legal certainty, guaranteeing investment in creative and innovative activity and in the network infrastructures, will boost growth and the competitiveness of the European industry and job creation. It is for us to tap this huge cultural and economic potential by providing the appropriate legislative framework.

In drafting and adopting this proposal — which, as you will remember, is the product of wide-ranging consultation dating back to 1994 — the Commission has taken the greatest care to retain a fair balance between the various rights and interests at issue, which are frequently in open conflict. I am well aware that this was also the aim of Parliament’s work. On behalf of the Commission, I wish to thank the rapporteur, Mr Barzanti, for having done his job so efficiently. He has managed to combine a thorough understanding of the problem, founded also on the earlier work on the 1995 Green Paper and the 1996 communication, with the great resolve that tackling such sensitive proposals demands.

Fifty-eight amendments have been tabled, 30 of which relate to the operative part of the text and 28 to the recitals: of those 38 amendments, the Commission is able to accept 28 and to take into consideration 14, but it has to reject 16. The amendments the Commission is able to accept are the following: Amendments Nos 1, 2, 4, 5, 6, 7, 8, 10, 12, 17, 18, 20, 21, 24, 29, 31, 34, 35, 36, 37, 38, 41, 42, 43, 44, 45, 55 and 57.

The Commission will take account of the following amendments, albeit with a number of mainly drafting changes: Amendments Nos 9, 11, 16, 22, 33, 39, 46, 49, 50, 51, 52, 53, 54, 58 and the new Amendments Nos 82 and 91.

As far as the recitals are concerned, the Commission rejects Amendment No 3 which, in our view, confuses protected work and information in general and is contrary to the principles of the acquis communautaire; the first
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part of Amendment No 13 which is incompatible with the WIPO treaty, though we accept the second part; Amendment No 14 which does not, in our view, succeed in defining the concept of 'public'; a responsibility we believe is best left to the Member States, which are in a better position to define this somewhat elastic term; Amendment No 19 which does not correspond to the amendments tabled in relation to Article 5(2) (b); Amendment No 23 because it calls into question the approach taken in the proposal to the exceptions; Amendments Nos 27 and 28 which are already covered by the third recital; and Amendments Nos 15, 25 and 26 because they are too far outside the scope of the proposal.

Turning then to the actual articles of the directive, the Commission rejects Amendment No 30 because the issue it tackles is taken into account in Article 5(1); Amendments Nos 32 and 48 which are designed to introduce new exceptions for the benefit of broadcasters — I wish to deal separately, in just a moment, with our rejection of Amendment No 56 concerning Article 5(1) — Amendment No 40 because the concern on which it is based is amply taken into account by Article 5(3) (c), an amendment at your suggestion; and Amendment No 47 because that issue is being dealt with under the 27th recital, amended by Amendment No 20.

As regards the amendments tabled at this part-session, given that they either reflect viewpoints and concerns already taken into account in the report of the Committee on Legal Affairs and Citizens' Rights or are amendments rejected by that committee, the Commission endorses the report. Of the new amendments, we are able to take into account only Nos 82 and 91 which relate to mediation, a point mentioned by Mr Perry and taken up by Mrs Palacio Vallemersundi.

Overall, the Commission is thus able to accept Parliament's line on many points. I repeat: we are rejecting 16 amendments, taking account of 14 and accepting 28.

To conclude, I have two points to make concerning two specific issues. As far as the broadcasters are concerned, the House is proposing to add three new exceptions for their benefit. I would remind you of our interest in observing a balance between the rights and interests which are at stake. The Commission accepts Amendment No 39, which introduces an exception for broadcasters in respect of specific acts of reproduction necessary to facilitate a legitimate broadcasting act, because it meets a genuine technological need. In contrast, and in an effort to achieve a balance between the interests in play, the Commission feels compelled to reject Amendments Nos 32 and 48, the first of which introduces an exception that would allow broadcasters to make available, on request, programmes largely consisting of phonograms.

We then come to Article 5(1) — the source of such controversy. What is the purpose of that provision? It is designed to establish an exception to the right of reproduction in regard to some technical acts of reproduction that are an integral part of a technological process, carried out for the sole purpose of enabling a different use to be made of the protected material. This is the only mandatory exception in the whole of the proposal and it is therefore very clearly drafted. That provision will give the telecommunications operators and service providers the legal certainty they need to be able to perform operations for the benefit of the network services, which are very often transnational in nature.

We have subdivided your proposals on this and are able to take account of some.

As far as the definition of the scope of the exceptions is concerned, we are able to accept the inclusion of the words 'transient' and 'incidental', as providing a closer definition of the concept of 'temporary' that appears in our proposal, and of the word 'essential' which further defines the incidental nature of the act in relation to the technical transmission process. Consequently, we reject Amendments Nos 65 and 88, which have the effect of watering down the latter condition.

We cannot, however, accept the concept of 'economic significance' for the rightholder. The reference to our concept of 'independent economic significance' is consistent with the aim of the exception and therefore workable when the exception is actually applied. It is in any event worth bearing in mind that protection against unjustified economic harm is provided for in Article 5(4).

Finally, we cannot accept the insertion of the clause referring to 'uses... authorised... or permitted by law', the addition of which would mean that the exception would be triggered only in relation to items whose use had been authorised by the rightholders or permitted by law. We are aware of the concerns of rightholders who fear that the network will end up acting as a broadcasting vehicle for items that have been illegally copied — pirated items — but if we are to hit our target, we have to consider beforehand what is the most workable and balanced way of achieving it. In this case, that way has to be sought by ensuring a proper balance between rights and exceptions to those rights.

Finally, I would draw your attention to a very important group of amendments: those concerning private copies. Your amendments uphold two important principles: the right of rightholders to fair remuneration and the fine distinction concerning private digital copies. The first principle protects a need for equity; it is a measured step forwards in the quest for legal certainty in this sector. The Commission's acceptance of the amendment relating to digital copies for private use must be seen in the context of the approach already set out in recitals 26 and 27 of our proposal. Specifically in the light of what is set out in those sections of the proposal, the Commission agrees to recognise the principle that, in the digital sphere, the possibility of making a copy for private use must exist, without prejudice to the effective and workable technical means that are capable of protecting the interests of rightholders. We therefore align ourselves with the solution you have put forward, though the amendment will have to be redrafted in such a way as to provide an accurate statement of the principle.
Monti

You link not only analogue and digital copies for private use but also the exceptions concerning illustration and teaching to the principle of fair remuneration for rightsholders. That is a formula which allows broader harmonisation and respects the traditions and practices of the Member States. The Commission is able to follow Parliament’s line here too, and therefore accepts Amendments Nos 36 and 37 as well as Amendments No 35 and 41.

The protection of technological measures forms the subject-matter of Article 6 of the proposal, which has been substantially recast by your Amendments Nos 49, 50, 51, 52, 53 and 54. We are able to take those amendments into consideration, subject to a degree of clarification which the Commission considers important.

We congratulate Mr Barzanti on a comprehensive and determined piece of work. I welcome the fact that you support the Commission proposal, in terms of both the overall approach and — I think I can honestly say this — the main components. In the past, Parliament’s influence has been decisive in the adoption of the five directives already in force; the cooperation that exists between Parliament and the Commission in the field of copyright and related rights is something we can rely on, and for that I am truly grateful.

IN THE CHAIR: Mr D. MARTIN
Vice-President

Plooij-van Gorsel (ELDR). — Mr President, I put a specific question about the compatibility of this amended copyright directive with the proposal for a directive on electronic commerce that the Commission made to the Parliament and the Council. In the proposal on electronic commerce the country of origin is the principal component. In this copyright directive it could be the country of destination. That is why I asked my question and the Commissioner did not answer it.

Monti. Commission. — Mr President, I am fully aware that I did not answer. This was because of time constraints. However, I shall now answer very briefly. The Commission submitted its proposal on the legal framework for electronic commerce last year. Both proposals are independent and each has its own crucial importance. According to the proposal on electronic commerce the country of origin principle does not apply to intellectual and industrial property in accordance with existing international law.

President. — The debate is closed.

The vote will be taken tomorrow at 12 noon.

8. Common organisation of the market in wine

President. — The next item is the report (A4-0261/98) by Mr P. Martin, on behalf of the Committee on Agriculture and Rural Development, on the proposal for a Council Regulation (EC) on the common organisation of the market in wine (COM(98)0370 — C4-0497/98-98/0126(CNS)).

Martin, Philippe-Armand (UPE), rapporteur. — (FR) Mr President, Commissioner, ladies and gentlemen, the common organisation of the market in wine is certainly the most complex of all the COMs because it includes not only aspects relating to vineyard management and conditions of grape production but also all rules concerning oenological practices — the processing of wine — as well as rules on labelling.

The very structure of the text of the COM in wine shows us that wine is an agricultural product rather than an industrial product. In the time I have been allocated I am not going to present all of the 248 amendments that are included in my report and that are the result of a vote in committee on almost 600 amendments tabled by all Members. I would like at this stage of my presentation to thank firstly all the officials in the Committee on Agriculture and Rural Development and all those colleagues who made my task easier for me and enabled me to draw up a coherent report.

What are the central themes of my report? Firstly, a significant number of amendments concern the decision-making procedure. The Commission, in its proposal, wanted to have sole authority to change the rules. In my report we have asked that the procedure known as the Article 43 procedure be reinstated, so that the Council takes decisions on the basis of proposals from the Commission and after consulting the European Parliament. I personally believe that this procedure, although cumbersome, will allow us to preserve specific rules for wine, promoting its status as an agricultural product. In view of wine imports from third countries and the intentions that some people have, as we well know, European wine must retain its status as a local, quality product. In this connection, the Committee on Agriculture and Rural Development adopted an amendment which I had put forward, prohibiting the vinification of musts imported from third countries. If this proposal is accepted by the Council, in the form in which we adopted it, the quality image of European wines will be preserved.

With regard to structure, the Committee on Agriculture adopted the principle of the right to growth, by an increase of 3% in the vineyard, while preserving restrictions on planting. Vineyards with an expanding market will be able to obtain other rights on condition that the Member States and, where appropriate, their regions genuinely monitor them. This was what led us to adopt a specific amendment on maintaining the rules on the computerised vineyard register.