REPORT

From: Presidency

to: Council and Ministers for Culture meeting within the Council

Subject: Copyright and neighbouring rights
- State of progress

1. Following the publication by the Commission of the green paper on copyright and the challenge of technology (1) in 1988, questions of copyright and neighbouring rights have assumed increasing importance in the work of the Community. Against this background the Portuguese Presidency, in common with its predecessors, has given copyright an important position in its work programme.


(1) 7675/88 PI 64 - COM(88) 172 final.
Further to the conclusions of the Council meeting (Internal Market) of 19 December 1991 (3), which confirmed the urgency of harmonizing Member States' laws in the field of copyright and neighbouring rights on the basis of the Berne and Rome Conventions (4) but which found that Member States were having serious difficulties accepting the method proposed by the Commission, the Permanent Representatives Committee agreed to distinguish between the internal and external objectives of the proposal:

- it took the view that the internal objectives could be attained in the framework of the proposal for a rental Directive (see point 3 below);

- as regards external objectives, it proposed the adoption of a Council Resolution on increased protection for copyright and neighbouring rights (5); the Resolution is due for adoption at the Council meeting (Internal Market) on 14 May 1992.

3. The current Presidency attaches the highest priority to the proposal for a Council Directive on rental right, lending right and on certain rights related to copyright (6), the purpose of which is to gain control over the increasing use, sometimes new and sometimes illicit, of works protected by copyright and certain objects protected by neighbouring rights by ensuring uniform and strengthened legal protection throughout Community territory. Following the Opinion delivered by the European Parliament on 20 February and in the light of the amended proposal submitted by the Commission on 30 April (7), the Presidency has entered this proposal on the agenda for the Council meeting (Internal Market) on 14 May 1992.

(3) 10543/91 PV/CONS 84 (Marché Intérieur), item 9.
(5) 6205/92 PI 48 CULTURE 40.
(7) 6344/92 PI 49 CULTURE 15.
The most important problems still to be resolved concern:

- inclusion of lending right in the Directive (Articles 1 and 4);
- authors' and performers' entitlement to fair remuneration in connection with rental (Article 3);
- applicability of the Directive to works and objects in existence on the date of its transposition (Article II);
- the person considered to be the author of a film (Article 2(2)).

The Presidency may supplement this report as regards the proposal in the light of the outcome of the Council meeting (Internal Market) on 14 May.

4. The Portuguese Presidency attaches great importance to the proposal for a Council Directive on the co-ordination of certain rules concerning copyright and neighbouring rights applicable to satellite broadcasting and cable retransmission (8). The Council authorities are currently undertaking a technical examination of the proposal in order to make it easier to seek a common position once the European Parliament has delivered its Opinion.

Insofar as a number of questions addressed in this proposal for a Directive also arise in the context of the Draft European Convention relating to questions on copyright law and neighbouring rights in the framework of transfrontier broadcasting by satellite, prepared by the Council of Europe, the Council's subordinate bodies are in the process of establishing a common position of Member States with a view to the Council of Europe informal

(8) OJ No C 255, 1.10.1991, p. 3.
ministerial meeting scheduled for the end of May in Oslo. The common position would relate to the definition of the phrase "communication to the public by satellite", the level of legal protection to be granted to the various categories of rightholders and the acquisition of broadcasting rights.

5. Finally, it should be noted that the Commission has recently adopted two new proposals:

- a proposal for a Council Directive harmonizing the duration of copyright protection and protection of certain neighbouring rights (9);


Council bodies are due to begin technical examination of these new proposals in the coming months.

(9) 5509/92 PI 33 CULTURE 21.
(10) COM(92) 24 final - SYN 393. At the time of drafting this report, the final version of this document had not yet reached the Council.