EUROPEAN COMMUNITIES
THE COUNCIL
Brussels, 25 August 1992
8375/92
RESTREINT
PI 88
CULTURE 88

NOTE

from the United Kingdom delegation
dated 19 August 1992
to Working Party on Intellectual Property (Copyright)

No. prev. doc.: 8351/92 PI 85 CULTURE 85
No. Com prop.: 5509/92 PI 33 CULTURE 21

Subject: Proposal for a Council Directive harmonizing the term of protection of copyright and certain related rights
- Article 1(4)

1 At the meeting of the Working Group on 14 and 15 July, the United Kingdom delegation expressed the view that Article 1(4) of the directive could unreasonably prejudice the interests of the author in certain circumstances, and agreed to submit an alternative proposal.

2 The United Kingdom continues to feel that a provision which brings copyright to an end because of the actions of a third party cannot be justified, even when that third party has presumed on reasonable grounds that the author died more than seventy years earlier. The provision would also be difficult to administer at the Community level since the subsistence of copyright in, say, the Member State of which the author is a national could depend on whether third parties in another Member State, possibly remote from that of the author, had acted on a reasonable presumption of the latter's death.
3. The United Kingdom therefore proposes that Article 1(4) should be deleted. If anything is needed to replace it, then we would suggest a provision which would safeguard the person who has acted on a reasonable presumption against an action for infringement. The following text is put forward for consideration:

"The rights of authors of anonymous or pseudonymous works are not infringed by any acts performed by a person who presumed on reasonable grounds that the author of such works has been dead for seventy years."

4. The Working Group may however consider that a provision of this kind is unnecessary since it does not relate to the term of protection of anonymous or pseudonymous works, and can be left to Member States' national laws along with other exceptions to authors' rights not subject to Community law.