[FR] CSPLA Opinion on Peer-to-peer Activities

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The market for music on-line is developing rapidly, and the CSPLA's specialist committee on the on-line distribution of works chaired by Prof. Pierre Sirinelli has just delivered an opinion on peer-to-peer activities (in which it is emphasised that the use of this technology “is not in itself illegal”), after more than a year of consideration of the matter. The opinion is based on a report that points to feasible methods in addition to the legal action that may be taken against Internet users committing acts that constitute counterfeiting. The committee's members were not in favour of the global licence system proposed by the Alliance Public-Artistes. This system presumes that downloading amounts to private copying and would therefore introduce an optional payment to be made by Internet users, subject to a compulsory collective management scheme. Although the committee agreed that it was possible, on the basis of the current texts, to invoke the legal responsibility of suppliers of peer-to-peer software, it favoured the adoption of a specific text. Thus the Act could sanction the responsibility of editors of peer-to-peer software or of persons involved in the activity. The national council for literary and artistic property (Conseil supérieur de la propriété littéraire et artistique - CSPLA) has tabled an amendment to the bill transposing into national law the Directive on copyright and neighbouring rights in the information society with a view to sanctioning the responsibility of editors of software that makes it possible to make works available to the public (apart from peer-to-peer activities, other means of downloading may not comply with the rules governing literary and artistic property). The CSPLA is also aware of the development of software allowing the unauthorised reception of terrestrially-broadcast digital audio programmes and their copying onto a hard disk, and has suggested that the CSA should consider the possibility of amending the Act of 30 September 1986 in order to limit this kind of activity. The CSPLA is keen to address the matter with a “graduated approach”, and has recommended that solutions adopted in this respect should be combined with those proposed in its opinion. The “graduated response” mechanism provides for preventive messages to be sent automatically to Internet users before legal proceedings are instigated. Although this is recommended in the charter signed by the Internet access providers and the record industry in July 2004, the national commission for computing and freedoms (Commission nationale de l'informatique et des libertés - CNIL) at its meeting on 18 October had however refused to accredit the implementation of this mechanism proposed by the SACEM (Société des auteurs, compositeurs, éditeurs de musique - society of writers, composers and editors of music) and music

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producers in the SDRM (Société pour l'administration du droit de reproduction mécanique - society for the administration of the right to mechanical reproduction), the SCPP (Société civile des producteurs phonographiques - civil society of phonographic producers) and the SPPF (Société civile des producteurs de phonogrammes en France - civil society of phonogram producers in Europe). The CNIL had felt that the preventive and repressive means envisaged were out of proportion.

Avis du Conseil supérieur de la propriété littéraire et artistique n° 2005-2 du 7 décembre 2005, Commission spécialisée portant sur la distribution des œuvres en ligne

Opinion of the CSPLA No. 2005-2 of 7 December 2005, Specialist Committee on the on-line distribution of works

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