# Parliamentary Assembly: Recommendation on Intellectual Property Rights in the Digital Society

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On 12 March 2010, the Parliamentary Assembly adopted Recommendation 1906 (2010), which identifies certain consequences of the development of the internet society that need further investigation. These are analysed below.

A solution has not yet been developed that sufficiently covers the issues of protecting copyright and neighbouring rights and combating piracy in the digital environment. The Committee on Culture, Science and Education presented a draft recommendation in order to initiate discussion about a model that harmonises the rights of creators, investors and internet users. The Parliamentary Assembly adopted the text in a slightly revised version after the publication of a report of the Committee on Economic Affairs and Development.

The Recommendation has been formed against the background of the ever-developing digital society. It has never before been so easy to share files on the interactive "Web 2.0". A side-effect of these technological advances is the possible conflict of interests on the internet. In the Report of the Committee on Culture, Science and Education, these interests are described as follows. Copyright holders want to receive fair remuneration for the use of their works, while at the same time access to existing works on which to build is also necessary. In addition, investors want to recover the costs of their productions and, finally, internet users have become used to unrestricted access to - largely - free content, meaning that copyrights are often not respected. As a result, all cultural sectors are facing rapidly declining sales.

This is not the only consequence. The Parliamentary Assembly indicates that, in the absence of European standards, States are developing their own laws to combat piracy. The Recommendation points out that these can seriously infringe important rights of internet users, such as privacy and freedom of information. This in turn has lead to the appearance of counter-movements (the so-called "Pirate Parties"), which combat overly far-reaching State intervention in user rights.

As said above, the Recommendation stresses that the current legal framework does not seem capable of finding a balance between the interests of all the parties concerned. Since democracy, human rights and the rule of law are of the

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utmost importance for the Council of Europe, it can play a significant role in developing new standards or adapting existing ones. The Parliamentary Assembly has formulated seven points of interest. These concern copyright in the light of technical, economic and social changes.

A flexible framework that takes the interests of the parties concerned into account must be established. According to the Recommendation, the Committee of Ministers should initiate studies to this end. How fair remuneration for the creators can be guaranteed should also be explored. In this respect, new business models for the offer of legal content should be made more attractive.

Furthermore, a debate should be opened between interested groups to reflect on the system of exceptions and limitations. These are intended to guarantee freedom of expression and information. Another point mentioned in the Recommendation is the development of contractual initiatives to provide improved access to works and their content. The feasibility of compulsory collective management systems should also be examined. Such systems make it possible to guarantee access to works even if it is difficult to clear the rights (for example in the case of orphan works, where the necessary permission to use the work cannot be obtained from the untraceable author).

Finally, the legal status of Internet stakeholders (such as search engines) regarding compliance with copyright rules should be evaluated.

*Doc. 12101, report of the Committee on Culture, Science and Education, 7 January 2010, rapporteur: Mr. Arnaut*

http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc10/EDOC12101.htm

*Doc. 12141, Opinion of the Committee on Economic Affairs and Development, 10 February 2010, rapporteur: Mr. Lambert*

http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc10/EDOC12142.htm

*Recommendation 1906 (2010) of the Parliamentary Assembly, Rethinking creative rights for the Internet age, 12 March 2010*

http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta10/EREC1906.htm

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