[CH] Swiss Government Report on Protection of Copyright on the Internet

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In a report published on 30 November 2011, the Federal Council (Swiss Government) held that the current legal framework provided sufficient and adequate protection for Swiss cultural creation. A revision of the legislation aimed at increasing the protection afforded to works falling within the scope of copyright (music, films and video games) would therefore be premature and as a result was unnecessary.

The Federal Council had consulted the parties concerned and based its report on a number of recently published studies in order to draw up an analysis of the situation. However, the existing surveys do not make it possible to reach clear, unambiguous conclusions on the impact of file-sharing sites on sales and commercial losses in respect of protected works. While some of the studies reported that the illegal sharing of files has a negative effect on turnover for sales of protected works, others noted either the exact opposite, or did not observe any significant effect on sales. Furthermore, the users of file-sharing sites spend what they have saved on other lawful entertainment products (concert and cinema tickets, merchandising products, etc.), so that the prejudice suffered by the cultural branch of the economy as a whole would appear to be limited. As a result, the new consumer habits produced by the development of the Internet and digital technologies do not appear overall to have any negative effect on cultural creation in Switzerland. In this respect, the Federal Council observes that the turnover for the sectors of music, video games and cinema entertainment has remained relatively stable in recent years, despite the existence of the file-sharing sites.

It should be recalled that downloading works for private use is allowed in Switzerland, whether the works are from a legal or illegal source. At the same time, the Federal Council feels it is legitimate to consider the pertinence of the repressive measures intended to stem the flow of violations of copyright. The effectiveness of these has indeed proved to be limited, given firstly the scale of the violations of copyright and secondly the limited resources available to the authorities in terms of criminal prosecution. It would therefore be sensible to look into the advisedness of setting up a system of legal licensing, combined with a flat-rate remuneration fee, for making works available on the Internet for non-commercial purposes; such a solution is controversial among the general public,

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however, and it would be necessary to check its compatiblity with Switzerland’s international commitments.

The Federal Council feels it is important to carefully monitor the evolution of the technologies and the international debate on the protection of copyright in the digital world. The situation should be reassessed periodically in order to detect the need to adapt copyright regulation in good time. Both the players involved and the authorities must continue at all times with their work of informing and making the public aware of copyright protection. Lastly, the Federal Council feels it is up to the market’s players to adapt their business models to the structural changes resulting from the emergence of the new technologies.

Federal Council report on the illegal use of works on the Internet, 30 November 2011

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