

12 February 2007

To Gary Titley MEP, Diana Wallis MEP, Sharon Bowles MEP, Arlene McCarthy MEP and Christopher Beazley MEP

Re: Amended proposal for a Directive of the European Parliament and of the Council on criminal measures aimed at ensuring the enforcement of intellectual property rights (COM/2006/0168 final - COD 2005/0127)

I write to you in your capacity as a UK member of the European Parliament's Legal Affairs Committee to express my organisation's concern regarding the above. It is my organisation's view that the directive in its current form has the potential to criminalise huge swathes of the UK population.

We are particularly concerned with the wording of Amendment 43, which defines "infringements on a commercial scale" as "any infringement of an intellectual property right committed to obtain direct or indirect economic or commercial advantage; but excludes acts carried out by private users for personal purposes not centred on profit". If, as the directive proposes, such infringements are to be made criminal offences, we anticipate adverse consequences for UK citizens.

A study conducted by the British Video Association estimates that 1.67 million UK citizens downloaded films and television programmes from the internet in violation of copyright law in 2004¹. We are concerned that the above definition of "commercial scale" is likely to include these and other violations of IPR-infringements by huge numbers of private citizens for non-commercial purposes, since those citizens are obtaining an indirect economic advantage in that they are spending less money on entertainment.

The Open Rights Group does not support the use of peer-to-peer filesharing systems to the extent that this use adversely affects the livelihoods of artists, filmmakers and other content creators. But nor do we believe that criminalising those who download material from the internet in violation of copyright is a proportionate or wise response. We would urge you to learn from past exercises in mass prohibition, to reject the criminalising a significant percentage of the UK population.

For other matters relating to this directive, I refer you to voting recommendations and analysis drawn up by the Foundation for a Free Information Infrastructure (to be found at http://action.ffii.org/ipred2/JURI_Tabled_Amendments), which the Open Rights Group supports in full.

Yours faithfully

Becky Hogge
Executive Director, The Open Rights Group

¹ Reported in *The Register* on 07/05/2004: http://www.theregister.co.uk/2004/05/07/illegal_film_downloads/