

differences in regulatory approaches. Substantial differences also exist between different sectors of the creative industries.

Concerns continue to be raised that authors and performers are not adequately remunerated, in particular but not solely, as regards online exploitation. Many consider that the economic benefit of new forms of exploitation is not being fairly shared along the whole value chain. Another commonly raised issue concerns contractual practices, negotiation mechanisms, presumptions of transfer of rights, buy-out clauses and the lack of possibility to terminate contracts. Some stakeholders are of the opinion that rules at national level do not suffice to improve their situation and that action at EU level is necessary.

**72. [In particular if you are an author/performer:] What is the best mechanism (or combination of mechanisms) to ensure that you receive an adequate remuneration for the exploitation of your works and performances?**

[Open question]

í .  
í .

**73. Is there a need to act at the EU level (for instance to prohibit certain clauses in contracts)?**

YES ó Please explain

í .  
í .

NO ó Please explain why

í .  
í .

NO OPINION

**74. If you consider that the current rules are not effective, what would you suggest to address the shortcomings you identify?**

[Open question]

í .  
í .

**VI. Respect for rights**

Directive 2004/48/EE<sup>64</sup> provides for a harmonised framework for the civil enforcement of intellectual property rights, including copyright and related rights. The Commission has consulted broadly on this text<sup>65</sup>. Concerns have been raised as to whether some of its provisions are still fit to ensure a proper respect for copyright in the digital age. On the one

<sup>64</sup> Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights.

<sup>65</sup> You will find more information on the following website:  
[http://ec.europa.eu/internal\\_market/ipenforcement/directive/index\\_en.htm](http://ec.europa.eu/internal_market/ipenforcement/directive/index_en.htm)

hand, the current measures seem to be insufficient to deal with the new challenges brought by the dissemination of digital content on the internet; on the other hand, there are concerns about the current balance between enforcement of copyright and the protection of fundamental rights, in particular the right for a private life and data protection. While it cannot be contested that enforcement measures should always be available in case of infringement of copyright, measures could be proposed to strengthen respect for copyright when the infringed content is used for a commercial purpose<sup>66</sup>. One means to do this could be to clarify the role of intermediaries in the IP infrastructure<sup>67</sup>. At the same time, there could be clarification of the safeguards for respect of private life and data protection for private users.

**75. Should the civil enforcement system in the EU be rendered more efficient for infringements of copyright committed with a commercial purpose?**

YES ó Please explain

The current system is slow and burdensome for right holders, and meanwhile the infringer can earn lots of money, encouraging further infringements. However, it should be possible to interrupt all kinds of infringements, not just those with clear commercial purpose

NO ó Please explain

í .

í .

NO OPINION

**76. In particular, is the current legal framework clear enough to allow for sufficient involvement of intermediaries (such as Internet service providers, advertising brokers, payment service providers, domain name registrars, etc.) in inhibiting online copyright infringements with a commercial purpose? If not, what measures would be useful to foster the cooperation of intermediaries?**

[Open question]

It is important to make sure that the legal framework doesn't hinder the possibility of voluntary agreements between different parties to fight against illegal activity.

**77. Does the current civil enforcement framework ensure that the right balance is achieved between the right to have one's copyright respected and other rights such as the protection of private life and protection of personal data?**

YES ó Please explain

Very much emphasis is put also in practice by the Courts to the protection of these "other rights"

NO ó Please explain

í .

í .

---

<sup>66</sup> For example when the infringing content is offered on a website which gets advertising revenues that depend on the volume of traffic.  
<sup>67</sup> This clarification should not affect the liability regime of intermediary service providers established by Directive 2000/31/EC on electronic commerce, which will remain unchanged.

NO OPINION

## VII. A single EU Copyright Title

The idea of establishing a unified EU Copyright Title has been present in the copyright debate for quite some time now, although views as to the merits and the feasibility of such an objective are divided. A unified EU Copyright Title would totally harmonise the area of copyright law in the EU and replace national laws. There would then be a single EU title instead of a bundle of national rights. Some see this as the only manner in which a truly Single Market for content protected by copyright can be ensured, while others believe that the same objective can better be achieved by establishing a higher level of harmonisation while allowing for a certain degree of flexibility and specificity in Member States' legal systems.

**78. *Should the EU pursue the establishment of a single EU Copyright Title, as a means of establishing a consistent framework for rights and exceptions to copyright across the EU, as well as a single framework for enforcement?***

YES

NO

NO OPINION

**79. *Should this be the next step in the development of copyright in the EU? Does the current level of difference among the Member State legislation mean that this is a longer term project?***

[Open question]

í .  
í .

## VIII. Other issues

The above questionnaire aims to provide a comprehensive consultation on the most important matters relating to the current EU legal framework for copyright. Should any important matters have been omitted, we would appreciate if you could bring them to our attention, so they can be properly addressed in the future.

**80. *Are there any other important matters related to the EU legal framework for copyright? Please explain and indicate how such matters should be addressed.***

[Open question]

í .  
í .