

European Court Case Could Threaten Cultural Diversity.

The cases^[1] that topped recent news bulletins and are currently pending at the European Court of Justice concerning the Premier League and others where the Advocate General of the European Court of Justice has recently given a preliminary opinion could have far reaching and serious implications for European cultural diversity.

The forthcoming judgment of the European Court of Justice, if it follows the advice of the Advocate General, could usher in a total change to the way in which creators, particularly audiovisual ones, are able to finance and distribute their material across Europe.

The cases were brought by the Premier League against a publican using a Greek decoder card to show Premier League matches and by the Premier League and its official licensee broadcaster in Greece (Nova) against two companies (QC Leisure and AV Station) which exported Greek decoder cards into the UK and sold them to pubs to show Greek Broadcasts of live Premier League football.

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Copyright Law and Intellectual Property Rights are thus being called into question with a potentially profound impact. Many within the creative industries believe this case goes to the heart of the European Union’s audio-visual, broadcasting and broadband industries and those, like sport but also music and movies, which supply them.

Until now, consumers enjoy sport, film, TV programming and other audio-visual products tailored to their specific needs and languages. This case could change all that.

This case could pre-empt ongoing democratic debate on copyright and author’s rights at national and EU level and prevent Member States, citizens, industry and trades unions from playing their legitimate institutional role within the usual consultative EU decision making process.

If the European Court of Justice were to decide that the selling of sport, films, music and other creative goods nation by nation contravenes EU law, this could have adverse consequences such as:

- To threaten the value of audio-visual content which could affect investment, innovation and redistribution mechanisms. At present a film producer sells the rights to a film, territory by territory talking to individual broadcasters and nationally based distributors discussing how they will promote the film specifically in their own countries and thus benefit from exclusivity in that country. In future it

could be possible to only license on an EU wide basis which would overthrow that whole business model. What kind of hassle is this going to mean for independent producers and distributors ? Could it mean that a broadcaster buys a pan EU licence for a French film for example but then chooses only to exploit it in France and not elsewhere to protect the core market which is France ? This is because if it was simultaneously licensed to territories where a satellite card is cheaper that could be exported back into France, the broadcaster will simply not allow that to happen.

- The end of the territoriality principle which accommodates the different viewing preferences within the EU because it enables audio-visual products to be sold in a way which meets differentiated cultural and linguistic demand. This would ultimately threaten the cultural diversity, one of the EU fundamental principles. A recent report by KEA[2] for the EU Commission highlights the need for European film to be sold, distributed and promoted specifically in individual territories to maximize their appeal to local audiences;

- Reduction of competition as only substantial operators could exploit pan-European rights, thus discriminating against small and local national broadcasters and also inhibiting new entrants into the broadcasting markets. In other words presumably the effect of having one European territory (and one EU copyright) would be to lead to consolidation of broadcasting among a handful of pan-European broadcasters – which may satisfy economic logic but may not be conducive to nurturing the cultural diversity that is Europe.

And what of national public service broadcasters whose populations pay a license fee and whose services including VOD ie the iPlayer, are only available on a national basis linked both to rights negotiated within that nation state and to the paying of the license fee?

The EU is faced again with tensions where its fundamental principles of free movement of services; fair competition and cultural diversity cannot necessarily be reconciled. How this plays out is anyone's guess.

Surely Europe's great cultural and linguistic wealth and diversity as it brings people together across borders through film, music and literature is much too precious to be sacrificed for the sake of an internal market principle which has not been balanced with the more important value of cultural diversity.

What we may have to get our heads around is that the very fragmentation of the internal market for broadcasting, books, music and sport could be the very guarantor of cultural diversity at an affordable price.

Carole Tongue
Former MEP and Chair of the UK Coalition for Cultural Diversity

[1] C-429/08 and C-403/08 Football Association Premier League and Others v QC Leisure and others
[2]http://www.keanet.eu/docs/stakeholder_workshopslides2june2010_updated.pdf

The Revaluation of the Yuan is No Panacea for Europe's Economic Ailments.

It is correct to criticise China about its undervaluation of the yuan by pegging its value to the US dollar. But the EU must

not follow the US in overstating the potential gains and understating the risks. Neither should it give into the temptation of using criticisms of China as a smokescreen to detract from the fact that the irresponsible fiscal policies of European countries have contributed to the global monetary mess. Instead the EU needs to show by example that reform of the global system must be initiated by brave steps towards getting one's own house in order first. Only then can tough talk on the international stage have enough teeth to prevent an all-out currency war.

The EU-China summit back in October dispelled any doubts that the EU would resist adding their voice to global calls for a revaluation of the yuan. Europe's top economic officials, including Eurogroup President Jean-Claude Juncker, called for a rise in the yuan. They argued that the undervaluation was a threat to the Eurozone's economic recovery. The Chinese delegation was clearly irked. A press conference, which had been planned to follow the summit, was abruptly cancelled, allegedly due to China's unhappiness with the EU's stance on its currency.

It is right that the EU should support global calls for the revaluation of the yuan. China's manipulation of the exchange-rate gives China an unfair advantage on the global trading floor, making it difficult for many European companies producing similar products to compete. Furthermore, China's actions perpetuate the international trend of devaluing currencies as a global policy and thus contribute to a destabilization of the international monetary order. If the problem of artificial interventions in the exchange rate is not addressed, financial conflict will intensify and other aspects of international economic and political relations could quickly sour.

However, the EU should not fall into the temptation of fuelling the myth that China's revaluation of the yuan is a silver bullet, which could solve a panoply of economic and financial problems.

"The EU needs to push its member states to focus on developing its high tech and service industries and training its labour forces to those ends."

This is what is happening in the United States. US political leaders widely claim that an revaluation of the yuan would seriously boost the US economy and prevent job losses. The assertions of Attorney General Richard Blumenthal are a perfect example: "By stifling its currency, China is stifling our economy and stealing our jobs...manufacturers have bled business and jobs over recent years because of China's unconscionable currency manipulation and unfair market practices." EU economic officials have so far shown much greater restraint when discussing the yuan issue in public. Speaking about the EU's stance following the October meeting, the head of the EU's Monetary Affairs Committee, Ollie Rehn limited his statement to an assertion that the yuan's evaluation "needs more flexibility". It is important that restraint and circumspection continues to keep a firm hold over the dialogue and prevent the EU stooping to American-style China-bashing.

This is because, for a number of reasons, a revaluation of the yuan would simply not solve the EU's problems.

Firstly, competitiveness of Chinese goods in the European (and American) market is not only due to the undervaluation of the yuan but also due to the low costs of labour in China, newer technology and lower trade barriers. Undervaluing the yuan would not put European manufacturers on a level playing field. Instead of trying to revitalize ailing industries, which, frankly, cannot compete with China, yuan appreciation or not, the EU needs to push its member

states to focus on developing its high tech and service industries and training its labour forces to those ends.

Secondly, if the price of certain Chinese goods did increase, European consumers will be out of pocket, having to pay more for goods, which were previously cheaper. Some European businesses, which use Chinese natural resources, would also have to pay more for the raw materials they refine to produce their products. Thus, some European manufacturers would actually suffer.

What is more, overstating the yuan problem is actually bad for Europe. This is because it tempts the EU into conveniently focusing on the yuan to detract from the own part Europe and its allies across the pond have played in contributing to the global financial mess, which has precipitated the currency war. The currency war was, after all, ultimately triggered by the quantitative easing programs initiated in the United States and Europe; the resultant lower interest rates and weaker dollar is what led to huge financial inflows into countries like China and Brazil, who are now in competition with each other and under pressure to buy up foreign exchange reserves to prevent appreciations of their currencies. European and American interventionism has simply been met by further destabilizing interventionism from the likes of China. Europe needs to recognise that it has, up until this point, contributed to a vicious circle of responding to its indebtedness by accumulating more debt and pursuing low interest rates. This can only lead to infinite repetition of the bubble and crash cycle, prompting governments to sink further under crushing levels of debt.

So the solution? Not easy to articulate and even more difficult to put into practice. The EU sovereign debt crisis is the outcome of a decade of debt-inducing macro-economic policies waived by

irresponsible national policy-makers and a 'complacent' EU central bank. The EU needs to preserve its most aggressive energy for getting countries within Europe to agree to and stick to corrective policies to check public debt. Only then will concrete steps have been made to prevent the global monetary imbalances giving countries like China reason (or excuse) to continue to interfere in global exchange rates. The European Financial Stability Facility is a step in the right direction but more needs to be done. The EU also needs to look beyond China and at the underlying structural issues which affect Europe's ability to compete in the global trade market.

Although an assertive and unified China policy will be crucial for Europe in coming years, the currency war demonstrates how important it is that assertiveness and unity extend to the EU's domestic policy as well. Far from making the EU appear weak, it will ensure it establishes itself as a serious, no-nonsense organization, which is tough enough to make its member states take much-needed medicine, however bitter the taste may be. Commitment to domestic reform is the best way to shame other countries, including China, into similar domestic reform. If the EU can deliver, its reputation on the global economic stage will experience a sizeable boost and it can make a real contribution to much needed global macroeconomic reform.

Sherelle Jacobs
President of EU Alliance

EU and Democracy.

On Thursday 22 March the European Movement in London is organising, together with the LSE European Society, an event to discuss the EU and Democracy. The subject has been at the centre of eurosceptic propaganda against the EU. The charge goes that the EU is

undemocratic. But their rhetoric could not be further from the truth and it demonstrates either complete ignorance of how the EU works or intentional and dishonest myth creation.

The EU institutions and the decision-making structures that underpin law-making at the EU level are not just a unique experiment in supranationalism, they also constitute an unprecedented success in international co-operation, consensus-building and policy-making based on the common interest of EU Member States. None of that would be possible without fundamental democratic structures and the democratic process is dominantly present in every step of the way when it comes to EU law-making.

Policy priorities are set by the Council of Ministers, made up of Ministers from all 27 Member States, and the European Council that brings together the Heads of State and Government of EU states, all of who are directly elected representatives of EU citizens. They decide what direction EU policy should take in areas where nation state legislation alone can not produce solutions and cross-border measures are needed to defend national and European interests.

The European Commission is then charged with drawing up legislative or non-legislative proposals that will deliver the policy priorities set by Member States. To do that the Commission sets a few ideas to public consultation, inviting governmental and non-governmental bodies to inform its thinking. The process is transparent and inclusive and the Commission utilises the expertise brought to the table by NGOs, think-tanks, private companies, government agencies, regulators national parliaments, civil society and private individuals.

The Commission then drafts its proposals, which are increasingly submitted to detailed

European Movement in Lo

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impact assessment to establish what their intended and unintended consequences might be. A cost-benefit analysis is at the hard of the impact assessment process.

The draft proposals are then send back to the Council and the European Parliament, whose directly and democratically elected members submit them to vigorous scrutiny in a Committee process. All the stakeholders that fed into the Commission thinking are invited again to inform the European Parliament process. While the EP is deliberating, taking European, national and political considerations in mind, the Member State representatives labour over the Commission proposals and consider the impact they have both on national interests but also the common European good that those proposals are meant to serve. Decisions in the Council are taken in most cases by majority (national vetoes still exist in some areas), through a system that takes into account the views of both Member State and population majority. The EP adopts its position in a Plenary session of all its Members, based on the recommendation made by the responsible Committee. The two directly and democratically elected co-legislators then come together and, in a process called co-decision, approve, amend or reject the Commission’s proposals, which only become law when both institutions reach a compromise.

This process might seem complicated, some times it is long but it is definitely not un-democratic. Despite what the Daily Mail and UKIP might claim, law-making at the EU level does not happen behind closed doors by unelected bureaucrats. It is not the Commission, it is in fact the Council and the EP, chosen by us, who decide what becomes EU law. We can put them in, and remove from, office, through democratic elections.

There are indeed imperfections in the process, things could be better and



they are constantly improved, as the institutional and decision-making innovations brought about by the Lisbon Treaty have done. But it is when it comes to correcting these imperfections that eurosceptics show their true colours. Aside of criticism they offer no solutions, they have no proposals for improving this supranational, cross-border democratic process. In fact they reject all reasonable and objective reform efforts because they know that they will further increase the EU's legitimacy and will remove the fig-leaf behind which hide their shadowy, extremist, nationalistic views. The ideas of electing MEPs across borders, giving them the right to initiate legislation and directly elect all European Commissioners, the concept of turning the Council into an upper chamber, the notion of federalising our system is considered anathema exactly because it will further increase the democratic credentials of the EU. Every single criticism they have of the EU decision-making process has a solution. But they accept none other than the dissolution of the process of European integration. These 'critics' do not have democracy in their heart. They just use the platform it offers them to distort the truth and as a result undermine the democratic process they claim to defend.

Petros Fassoulas

Round-up of EU activity during February.

jail until 2017 in a case seen as proof of Mr Putin's contempt for the rule of law.

- Agriculture ministers from across the EU headed to the European capital to hear the Hungarian presidency present to the Council its work programme for the first half of the year. Ministers are also held a public debate on reform of the Common Agricultural Policy off the back of the commission's recent proposed outlines for a revision of the programme that

- EU high representative Catherine Ashton travelled to New York at the beginning of the month for talks at the UN Security Council, with debate on the turmoil in Egypt, Tunisia and other parts of the Arab world likely to force its way onto the agenda.

- The gathering of ministers from the 17 euro-countries followed up on the controversial Franco-German "Pact for Competitiveness" floating radical proposals such as a common corporate tax base, harmonisation of retirement ages and the scrapping of wage indexation, along with a constitutional cap on national debt.

- In Strasbourg, EU commission chief Jose Manuel Barroso presented the formal opinion of his institution on the proposed EU treaty change to set up a permanent economic stability fund.

- The UK proposed further toughening of economic sanctions against Iran over its alleged nuclear weapons programme. And Poland is to call for extra measures against Belarus after it jailed a young protester for four years.

- Russia's prime minister, and likely next president, spent two days in meetings with Mr Barroso and his team. The regular, once-every-two-years event comes shortly after Russia sentenced oligarch Mikhail Khodorkovsky to stay in represents the biggest single chunk of EU spending.

- The Foreign Affairs Committee discussed the state of play of Croatia's application to join the EU, with a focus on the country's co-operation with the International Tribunal and state aid.

- Only 500 or so EU citizens who want to leave Libya are still in the country. The European Commission says 100,000 people in total have fled since fighting

began and more than 2,000 may have been killed.

- New proposals on joint economic governance put forward by European Commission President Jose Manuel Barroso and EU Council chief Herman Van Rompuy have failed to overcome resistance from some member states.

- Irish voters have punished the outgoing Fianna Fail-Green coalition government, handing a strong mandate to the centre-right Fine Gael party. The new government's immediate tasks will

include tackling the country's economic mess and securing more favourable terms on a recent international bail-out.

- Turkish leader Recep Tayyip Erdogan has accused German society of "xenophobia" and the German government of "discrimination" ahead of a meeting with Chancellor Angela Merkel. The remarks follow an unfriendly encounter with French President Sarkozy.

Compiled by Max Deckers

March Events.

- **15 March 2011 – The Lisbon Treaty: 16 months later.**
Event organised with the Queen Mary University Law Society.
Arts Lecture Theatre, Arts Building Queen Mary University, Mile End Road, E1 2AD, London
- **18 March 2011 – Eurozone Economic Reform: The view from the European Parliament.**
Event organised with Dutch Liberal party D66.
Europe House - 32, Smith Square SW1P 3EU, London
- **22 March 2011 – EU and Democracy.**
Event organised with the LSE European Society.
London School of Economics, East Theatre E.171, East Building, Houghton street, WC2A 2AE, London.