

IV. Conclusion

The preceding discussion serves to demonstrate that considerable scope does in fact exist within the copyright frameworks of England, France and Germany for the introduction of a broad-based, general exception to copyright based upon the legitimate interests of the public.

In England in particular, the groundwork for the introduction of a public interest exception has already been laid with the enactment of section 171(3) of the Copyright Act, which is further supported by a substantial body of case-law that outlines the manner in which such an exception may be constructed. In combination these serve to establish a solid jurisprudential foundation for the introduction of a potential public interest exception within the English legal system.

On the other hand the discernible trend on the part of the legislature and the judiciary of France towards granting greater consideration to the freedom of expression and the right to information of the public in the application of copyright law, coupled with the strong philosophical underpinnings of copyright as a mechanism for the promotion of cultural heritage, form positive elements which could prove conducive to the introduction of a public interest exception to copyright within the French legal tradition.

As observed earlier the strong constitutional basis of the copyright legal framework of Germany with its focus on the achievement of an effective equilibrium between copyright and the freedom of expression and the right to information provides an ideal basis for the introduction of public interest exception to copyright.

It is noted that of the three European jurisdictions reviewed in the course of the thesis Germany provides by far the most conducive framework for the introduction of an exception to copyright based on the public interest.

The need for a mechanism by which to achieve an effective equilibrium between the competing values of copyright and the freedom of expression and the right to information constitutes an imperative concern, in the light of the exponential growth of the information and communications industry in recent times which herald the gradual transition of the modern social order to a knowledge based society.

The success of such a social order would hinge upon the ability of its members to freely access information as well as to use and disseminate such information in the public interest. Thus the freedom of expression and the right to information would constitute the vital linchpin upon which a modern knowledge-based society is founded.

It is submitted that the traditional exceptions and limitations to copyright which exist within the legal frameworks of EU Member Countries are not equipped to adequately preserve and further these fundamental freedoms nor to face the rapid advancements and transformations taking place in the manner in which copyright protected works are created and disseminated in modern society.

Hence in the overall context of Europe there is considerable need as well as scope for the development of a public interest exception to copyright, although the necessary political and jurisprudential will for the development of such an exception seems largely lacking.

Hence it is hoped that the foregoing discussion would serve to contribute towards the stimulation of a general discussion as to the potential introduction of a public interest exception to copyright in Europe, in order that the future copyright framework of Europe may be well equipped to face the challenges of today's world.

