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eDiversity

The Legal Protection of Cultural Diversity in a Digital Networked Environment

nccr trade regulation
swiss national centre of competence in research

eDiversity

The research project ‹eDiversity: The Legal Protection of Cultural Diversity in a Digital Networked Environment› is an integral part of the Swiss National Centre of Competence in Research (NCCR) ‹International Trade Regulation – From Fragmentation to Coherence›. The latter umbrella project is a major undertaking in the area of international trade law supported by the Swiss National Science Foundation and comprising twelve individual research projects. It seeks to overcome the prevailing fragmentation in this field by analysing and interconnecting trade regulation with other areas of law and policy, such as environmental protection, intellectual property, human rights, competition and culture.

Goals and Objectives of the eDiversity Project

In the context of the overall NCCR project, an intrinsic goal of the eDiversity project will be to overcome the existing fragmentation in the field of content regulation, in particular with regard to the protection of cultural diversity in digital networked environments. As part of the NCCR research cluster ‹Unresolved Regulatory Issues›, eDiversity seeks to examine the unaddressed current and potential effects of new digital technologies upon cultural content and to develop regulatory models for coherent media regulation on a global level.
The project's approach will be essentially interdisciplinary and encompass tools from law, economics, political science, media science and sociology.

Project Description

Digitisation has rendered all information expressible in lines of zeroes and ones and has made communication at the speed of light almost trivial. New digital technologies, the proliferation of networks and the ubiquitous online environment significantly change the traditional business and market models, including novel forms of copyright protection and repositioning of market players. There is an emerging and ever-strengthening concentration of market power horizontally, as well as vertically – along the entire value chain. The music and film industries and essentially *all* content industries are thus faced with serious implications.

At the centre of the eDiversity project are precisely these implications of digital technologies upon content industries, the resulting shift in the distribution of cultural content from traditional channels (such as cinema theatres, books, music discs and analogue broadcasting) towards digital environments and the impact of this shift upon the legal protection of cultural diversity. The plethora of questions arising in this context needs to be analysed against the background of the law of the World Trade Organization (WTO), the decisions taken in the framework of the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Summit on the Information Society (WSIS), the World Intellectual Property Organization (WIPO) and the International Telecommunication Union (ITU).

The eDiversity research concept for addressing these questions may be best described as comprising three main steps:
(i) The first step essentially outlines the topics relevant to the project (for a visualisation, please, see the mindmap below). Cultural diversity in new electronic environments (or eDiversity), as the project's title indicates, is at the core of all analyses and an unvarying reference point. Human rights and governance issues may then be depicted as two concentric circles around the centre of cultural diversity that are of critical relevance to every aspect of the project.

The Main Research Flows

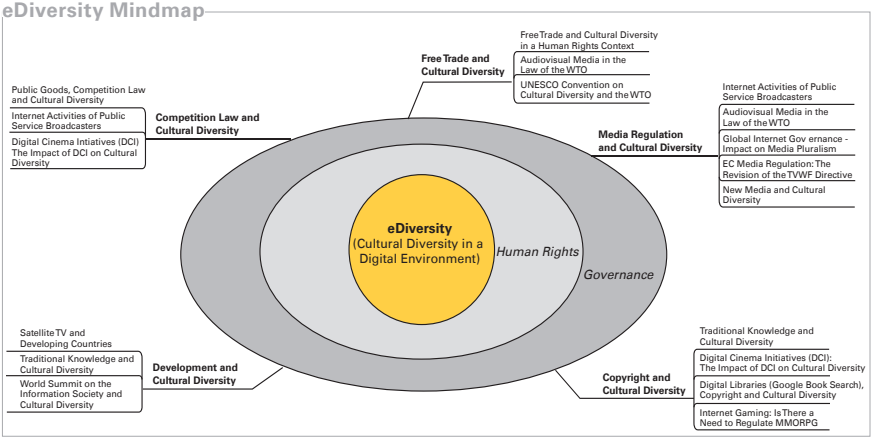
Stemming from the core as defined above, five research flows have been identified, namely:

1. Free trade and cultural diversity
2. Copyright and cultural diversity
3. Media regulation and cultural diversity
4. Competition law and cultural diversity
5. Development and cultural diversity

Within these broadly defined research flows, a number of more concrete sub-topics are being explored and further formulated. A selection of the currently pursued projects exemplifies this sub-level:

- The protection and promotion of traditional cultural expressions in a digital environment
- Free trade and cultural diversity in a human rights context
- Audiovisual media in the law of the WTO
- The UNESCO Convention on the protection of cultural diversity and the WTO
- Global internet governance and its impact on cultural diversity
- World Summit on the Information Society (WSIS) and cultural diversity
- EC media regulation for digital environments: the revision of the ‹Television without Frontiers› Directive
- Internet activities of public service broadcasters
- New media, new patterns of consumer behaviour and their impact on media regulation and cultural diversity
- Internet gaming – is there a need to regulate Massive Multiplayer Online Role-Playing Games (MMORPG)?
- Digital Cinema Initiatives (DCI): the impact of DCI on cultural diversity
- Digital libraries (Google Book Search), copyright and cultural diversity

(ii) The second step is to observe and analyse the development of the above topics and their interaction over time. All thematic fields will be correspondingly explored using an iterative approach, thereby simultaneously defining the problem of protection of cultural diversity *anew*, through the feedback from the topics already addressed.
(iii) Ultimately, strategies for the efficient and effective protection of cultural diversity will be developed. These will endeavour to achieve a balance between the goals of free trade and policy measures for cultural protection and to formulate a coherent model of content regulation.



People and Institutions

Christoph Beat Graber Project Leader

Christoph Beat Graber is the head of the research centre i-call (International Communications and Art Law Lucerne) of the Law Faculty of the University of Lucerne. He teaches in the fields of international trade law, communications and art law, European and global media law and sociology of law at the University of Lucerne and lectures on audiovisual services in the MILE programme of the World Trade Institute. Christoph Beat Graber was formerly Managing Director of the Swiss Independent Complaints Authority for Radio and Television. He is currently the co-editor of the Swiss journal of communications law ‹medialex›, as well as a member of the Committee on Cultural Diversity of the International Conference of French Speaking Law Faculties (CIFDUF). Christoph Beat Graber is also a member of the Swiss Federal Arbitration Commission for the Exploitation of Author's Rights and Neighbouring Rights. He is the author of the book ‹Handel und Kultur im Audiovisionsrecht der WTO› (Trade and Culture in the Audiovisual Law of the WTO) (Staempfli, 2003), as well as co-editor of ‹Free Trade versus Cultural Diversity: WTO Negotiations in the Field of Audiovisual Services› (Schulthess, 2004) and ‹Digital Rights Management: The End of Collecting Societies?› (Staempfli, 2005).

Mira Burri Nenova Alternate Leader

Mira Burri Nenova received her law degree from the University of Sofia and a Master of Advanced European Studies from the Europe Institute of the University of Basel. Prior to joining the eDiversity project, Mira was a research fellow at the University of Lucerne, primarily working for the i-call research centre. Mira is the co-editor of the publications ‹Free Trade versus Cultural Diversity: WTO Negotiations in the Field of Audiovisual Services› and ‹Digital Rights Management: The End of Collecting Societies?›, which deal with a number of eDiversity-related topics. Mira has recently received a doctoral degree defending a thesis in the field of European Community electronic communications law. Her research endeavours within eDiversity focus on media regulation and the impact of novel technological developments on content distribution channels, in particular those related to the protection of cultural diversity.

Miriam Sahlfeld Postdoctoral Fellow

Miriam Sahlfeld is a graduate of the University of Kiel (Germany), where she had a particular focus on European and International Public Law. In 1999 Miriam was admitted to the bar and worked as a lawyer in a Kiel-based law firm. Her dissertation ‹Alterations in the Exercise of State Power: Exemplified by State Reactions to Violations of Law on the Internet› brought her to Basel as a research fellow to the chair of Prof. Anne Peters. Miriam has also worked as a fellow for the legal service of the Swiss State Secretariat for Economic Affairs (seco). Upon the birth of her daughter in December 2002, Miriam and her family moved to Sweden where she received an LL.M in European Law from the University of Stockholm and gave birth to her son. In June 2006, Miriam joined the eDiversity project, where her interests focus on global internet governance, certain copyright issues and traditional cultural expressions.

Thomas Steiner Doctoral Fellow

Thomas Steiner joined the eDiversity team in 2007 after successfully completing his MLaw studies at the University of Lucerne. Next to his legal studies, Thomas was active in a plethora of projects: He was an Erasmus fellow at Mykolas Romeris University in Vilnius (Lithuania), as well as a trainee in the law firm of Kyjovský, Blažek & Partners in Brno (Czech Republic), at the Teisės institutas/Law Institute in Vilnius and at the Chancellery of the Swiss Confederation. His experiences will naturally flow into the undertakings of the eDiversity project, where Thomas will focus his research efforts on media regulation and competition law, in particular as their application in post-communist societies is concerned.

eDiversity External Partners

The plethora of topics under the umbrella of the eDiversity project has called for the creation of an interdisciplinary network of scientific and non-scientific partners. The latter, next to our NCCR collaborators, will not only contribute to the themes covered by the project but also create a platform for knowledge transfer and future capacity building.

Our currently active partners are:

Scientific

- Christoph Antons, University of Wollongong
- Denis Barrelet, Swiss Federal Broadcasting Complaints Commission
- Ivan Bernier, Faculté de Droit, Université Laval, Québec
- Michael Blakeney, Queen Mary Intellectual Property Research Institute, University of London
- Marie Cornu, Centre National de la recherche scientifique (CNRS)
- Bertil Cottier, University of Lugano
- Jacques de Werra, University of Geneva and Art-Law Centre, Geneva
- Monika Dommann, Faculty of Humanities, University of Zurich
- Urs Gasser, Faculty of Law, University of St. Gallen
- Thomas Geiser, Faculty of Law, University of St. Gallen
- Daniel Gervais, University of Ottawa
- Martin Girsberger, Swiss Federal Institute of Intellectual Property
- Valentin Groebner, Faculty of Humanities, University of Lucerne
- Michael Hahn, University of Waikato Law School
- Fiona Macmillan, Birkbeck School of Law, University of London
- John Palfrey, Berkman Center for Internet and Society, Harvard Law School
- Helle Porsdam, Faculty of Humanities, University of Southern Denmark
- Gaetano Romano, Faculty of Humanities, University of Lucerne
- Hélène Ruiz-Fabri, Faculté de Droit, Université Paris 1, Panthéon Sorbonne
- Joost Smiers, Utrecht School of Arts
- Uma Suthersanen, Queen Mary Intellectual Property Research Institute, University of London
- Gunther Teubner, University of Frankfurt and London School of Economics
- Peter Van den Bossche, University of Maastricht
- Christoph Weckerle, University of Art and Design Zurich
- Sacha Wunsch-Vincent, OECD, Information, Computer and Communications Policy (ICCP) Division

Non-scientific

- Moe Chiba, UNESCO
- Dominique Diserens, SRG SSR idée suisse
- Martin Dumermuth, Swiss Federal Office of Communications
- Carlo Govoni, Swiss Federal Institute of Intellectual Property
- Dieter Meier, Suissimage (Swiss Society for Authors' Rights to Audiovisual Works)
- Alfred Meyer, Suisa (Swiss Society for the Rights of Authors of Musical Works)
- Peter Mosimann, syndic of the Swiss Theatre Association
- Jean-Bernard Münch, SRG SSR idée suisse
- Matthias Ramsauer, Swiss Federal Office of Communications
- Andrea Raschèr, Tages-Anzeiger
- Frank Stehling, Medienboard Berlin-Brandenburg
- Madeleine Viviani, Swiss Federal Department of Foreign Affairs
- Michael A. Wagner, European Broadcasting Union
- Luzius Wasescha, Swiss State Secretariat for Economic Affairs (seco)
- Marc Wehrlin, Swiss Federal Office of Culture

Institutional Links

i-call (International Communications and Art Law Lucerne)	www.i-call.ch
World Trade Institute	www.wti.org
University of Lucerne	www.unilu.ch
NCCR Trade Regulation	www.nccr-trade.org
Swiss National Science Foundation	www.snf.ch

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The eDiversity project is generously supported by:

FNSNF
Swiss National Science Foundation

Ecoscientia
Foundation

903317