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Cleary Gottlieb Steen & Hamilton

Commission enthuses about international database protection

The European Commission has submitted a [report](#) to the [World Intellectual Property Organization's](#) Standing Committee on Copyright and Related Rights. The report encourages the renewal of efforts to establish international protection for databases. According to the commission, many databases are only available in the European Union as producers are unwilling to market their products in countries that do not offer adequate legal protection.

The report focuses on the EU [Database Directive's](#) *sui generis* (unique) protection for 'sweat of the brow' databases that are not copyright protected because they lack creativity. It argues that such databases, which lack creativity but involve a substantial investment, should receive the same international protection as databases with a creative element. The commission also points out that even creative databases would benefit from international protection, as the level of creativity required to satisfy the originality requirement for copyright protection varies from country to country.

The commission claims that the directive's protection has been a success, based on the fact that (i) a large number of new database products are on sale, and (ii) the CD-ROM and online markets have grown considerably since the directive's introduction. However, this claim seems to ignore the difficulties faced by national courts in applying the directive, as demonstrated by *British Horseracing Board Limited v William Hill Organization Limited* (C-203/02) in the United Kingdom (see [Court of Appeal sets precedent regarding database rights](#)). As a result of this case, the Court of Appeal has referred 11 questions related to the interpretation of the directive to the European Court of Justice.

Maurits Dolmans, Daniel Ilan and Olivier Oosterbaan, Cleary Gottlieb Steen & Hamilton, Brussels