



Ministerstvo kultury

Maltézské náměstí 1
118 11 Praha 1

telefon: 257 085 111
fax: 224 318 155
e-mail: posta@mkcr.cz

via mail
avpolicy.europa.eu

Váš dopis značky

Naše značka

Vyřizuje / linka

V Praze dne
29 Feb 2008

Communication of the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions
on the Creative Content Online in the Single Market
(COM 2007/836)

Opinion of the Ministry of Culture of the Czech Republic

Introduction

The possibilities for the general public to gain online access to creative content keep growing and improving and consequently, it is increasingly urgent to develop adequate regulation or co-ordination of the relationships among the stakeholders, notably between the manufacturers of the equipment that enables access to on-line products, internet providers and online content developers.

In this context, the Ministry of Culture of the Czech Republic highly appreciates the European Commission's initiative, focusing primarily on support to developing new business models and transborder services and to ensuring, at the same time, that all stakeholders' rights are protected, particularly those of the holders of the rights to the creative content that has been made available, as well as the users' or consumers' rights to protection of their personal information.

Public Consultation: the Questionnaire

Digital Rights Management

Although support to the acceptance of interoperable systems of digital rights management, in our view, is not the only condition of support to the development and/or use of online content services, improved interoperability will certainly remove one of the obstacles to the availability and use of creative content.

Public awareness of what are the elements of interoperability and personal data protection in digital rights management is poor and consumer education in this respect is therefore vital. Specialists in the area should recommend suitable methods to improve public awareness: to-date experience shows that it is necessary to consider whether it is better to use a specific form of media campaign or to provide information through the products or in connection with the services being provided (e.g. at a web site offering a certain “creative content”), or to use a combination of both these (and other) methods.

As to the end-user licence agreements (EULAs), it will certainly be helpful to simplify and clarify them in order to support development and, in particular, to support the use of creative services online. The question is how far to go in simplifying the licence agreements, considering the complexity of the matter.

As to the issue of alternative dispute resolution mechanisms (ADR mechanisms), we must admit that these mechanisms are still at their very beginning in the Czech Republic: except arbitration, none is practically used (outside the commercial environment and outside the scope of international private law). Hence, we have no practical experience with their use.

We fully agree with the idea that a non-discriminatory approach must be ensured to strengthen competition in the market for digital content distribution.

Multiterritorial licences

As to multiterritorial licences, we do not agree that this issue **MUST** be addressed through a Recommendation of the European Parliament and of the Council. We believe that the first thing to be considered is the purpose of the project: to create the best possible legal and political environment to enable access to, and facilitate the use of, creative content online – an environment that will be a good compromise, or a feasible solution acceptable to all stakeholders. Another question is how realistic it is, in economic and legal terms, as well as politically, to introduce multiterritorial licences. And it should also be borne in mind that the internet is a worldwide web, not limited to the EU territory.

Hence, Recommendations of the European Parliament and of the Council are just one of the possible solutions that need to be further discussed.

In this context, we refer to the experience gained in implementing the Recommendation of the Commission on collective cross-border management of copyright and related rights for legitimate online music services (2005/737/ES) (Music Online Recommendation, see the February 2008 Monitoring Report.

As to the long tail theory, we believe that it is costly and inefficient to keep physical copies of older “forgotten” works in the stores of high-street shops, whereas in the internet environment (with the possibility of digital storage, which only needs several thousands of MBs and no physical room), storage, availability and distribution to those who are interested are much easier and efficient both for the provider and the user.

Legal Offers and Piracy

In our view, the only possible route towards better compliance with copyright regulations is through enhanced and efficient co-operation among stakeholders, combined with highly transparent behaviour of the rightholders in how they handle the money they get for making content available online. Generally, it is vital to continue improving public awareness of copyright and its purpose and meaning.

The memorandum of understanding adopted in France on 23 November 2007 is certainly one of the possible solutions to the piracy issue, but it will only serve its purpose if the agreement is respected by all parties, supported by relevant legislation.

If there is adequate legislation, effective enforcement tools and strong user education, the filtering measures may prove to be one of the effective methods to prevent copyright violation in the online environment.

Conclusion

The Ministry of Culture of the Czech Republic welcomes the project and will fully support all efforts towards achieving the objectives. Primary attention must be focused on ensuring that copyright is thoroughly protected. Representatives of authors must also be consulted in respect of the Recommendation. It is particularly important to find a way how to influence the individual stakeholders towards achieving the objectives not necessarily by changing the legal framework.