

## Communication on Creative Content Online

### Summary of response from British Equity Collecting Society

#### Content Online Platform

The rights of audio-visual performers (however recognised in different EU Member States) are particularly relevant to work within the Content Online Platform. Audio visual performers such as those represented by BECS have a direct interest in debate over:-

- (a) availability of content;
- (b) improvement of clearance mechanisms;
- (c) development of multi-territory licensing on-line; and
- (d) management of copyright on-line.

**It is therefore important that representatives of audio-visual performers are invited to participate in the “Content Online Platform” discussions.**

#### **1) Do you agree that fostering the adoption of interoperable DRM systems should support the development of online creative content services in the Internal Market?**

Not if “fostering” means “regulating to enforce” interoperability of DRM systems.

#### **2) Do you agree that consumer information with regard to interoperability and personal data protection features of DRM systems should be improved?**

The Commission’s concern over complex contractual terms and a resulting lack of awareness amongst the public over the way these terms permit the use of personal data, are challenges to industry.

However, as the Commission also recognises, so are identification and promotion of licensing opportunities and provision of attractive billing systems. Information overload is not ultimately helpful for consumers.

Transparency and clarity in contractual terms is a goal for industry at all levels.

#### **What could be, in your opinion, the most appropriate means and procedures to improve consumers' information in respect of DRM systems?**

Transparency and clarity should be promoted by individual companies seeking to attract and retain customers, alongside support for good practice being developed by industry trade associations and representatives bodies within sectors of the creative industries.

#### **Which commendable practices would you identify as regards labelling of digital products and services?**

Voluntary codes developed by trusted agencies such as The British Board of Film Classification and ISAN.

#### **3) Do you agree that reducing the complexity and enhancing the legibility of end-user licence agreements (EULAs) would support the development of online creative content services in the Internal Market?**

Yes. This should help consumers understand the choices that they can make about the services that they choose to use.

**Which recommendable practices do you identify as regards EULAs?**

Providing for relevant terms to be clearly brought to the attention of a user and for the terms to be easily stored and/or printed for reference.

**Do you identify any particular issue related to EULAs that needs to be addressed?**

No.

**4) Do you agree that alternative dispute resolution mechanisms in relation to the application and administration of DRM systems would enhance consumers' confidence in new products and services? Which commendable practices do you identify in that respect?**

Alternative dispute resolution mechanisms are generally acknowledged to provide a less costly alternative to full court hearings. In this respect they are to be welcomed.

However, the willingness of individual companies to address consumer concerns will also be an important factor as “technical measures” which are understood and accepted as “effective” by both consumers and rights owners become more and more established.

**5) Do you agree that ensuring a non-discriminatory access (for instance for SMEs) to DRM solutions is needed to preserve and foster competition on the market for digital content distribution?**

Access to DRM solutions should be a matter for individual companies to address within competition law rules.

**Multi-territory rights licensing**

**6) Do you agree that the issue of multi-territory rights licensing must be addressed by means of a Recommendation of the European Parliament and the Council?**

No.

It seems appropriate that issues relating to the way in which rights are licensed to support online services should be a matter for consideration by the Content Online Platform.

**7) What is in your view the most efficient way of fostering multi-territory rights licensing in the area of audiovisual works?**

There are real dangers that seeking to “foster multi-territory rights licensing” could work against the interests of consumers.

The online world opens up opportunities for choice, but this should not be with total disregard to the linguistic and cultural diversity that is such an important facet of life within the EU.

**Do you agree that a model of online licences based on the distinction between a primary and a secondary multi-territory market can facilitate EU-wide or multi-territory licensing for the creative content you deal with?**

No. This is because it is not practical to draw a fixed line between what any one rights holder (or group or rights owners) may regard as a “primary” market on the one hand, and a “secondary market” on the other.

This is emphasised by the way that audiences for films and other audiovisual programming is becoming increasingly dispersed across increasing numbers and types of service.

**8) Do you agree that business models based on the idea of selling less of more, as illustrated by the so-called "Long tail" theory, benefit from multi-territory rights licences for back-catalogue works (for instance works more than two years old)?**

No.

A "one size fits all" approach to copyright works as a whole appears to lie behind this question.

It is not the correct approach for fostering new and innovative business models.

Legal offers and piracy

**9) How can increased, effective stakeholder cooperation improve respect of copyright in the online environment?**

Education and awareness amongst consumers and service providers remains central to improving respect for copyright in the online environment.

**10) Do you consider the Memorandum of Understanding, recently adopted in France, as an example to followed?**

The Memorandum of Understanding is a useful (but not definitive) example of encouraging ISP's to appreciate the concerns arising from unauthorised use of copyright works.

**11) Do you consider that applying filtering measures would be an effective way to prevent online copyright infringements?**

Yes. Internet Service Providers are gatekeepers in the online world.

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