



EUROPEAN COMMISSION - CREATIVE CONTENT ONLINE: BECTU COMMENTS

1. BECTU is the trade union for workers (other than performers and journalists) in the audiovisual sector. We represent a significant number of creators, including directors, visual artists, designers, animators and stills photographers. Our members operate in a number of ways. These include work carried out under collective bargaining agreements recognised industry wide, or through individually negotiated contracts and agreements with production companies and broadcasters which acknowledge their exclusive rights and entitle them to royalties and residuals. Many are also members of relevant collecting societies or receive revenues from collecting societies through agreements between BECTU and those societies.
2. Our members make a major contribution to the European audio visual industry and will continue to do so in their role as key contributors to content online, both in the production of new creative content aimed primarily at the online market or in the material created for other purposes but made available to the online market for secondary use.
3. BECTU welcomes the Commission's interest in Creative Content Online and supports its plan to create a "Content Online Platform" which we hope will thoroughly investigate, consider and research all the issues before the Commission goes ahead with any Recommendation. We would add that to achieve a balanced outcome on the issues which the Platform will address, it must include representatives of all stakeholders including representatives of individual creators and other small scale copyright holders. It is only through their involvement that the range of contracts, payments and collective negotiations which make up this complex sector can be fully appreciated. BECTU looks forward to participating in the Platform including through our international federation UNI-MEI and its European section Euro-MEI (Media Entertainment International).
4. In general we support the submissions made by the British Screen Advisory Council and of the British Copyright Council of which we are members, so have limited our own comments to the one or two points on which we particularly want to respond and which are listed below.

Digital Rights Management - Questions 1-5

5. We are not sure what the Commission means by 'fostering' (Q1) but we would certainly support the Commission if its intention is to encourage the development of DRM systems (in a rights management context) which can be applied to all categories of copyright protected works, including those works which form part of other works such as film productions or television broadcasts. This is because we believe that rights management information will provide our members with the means by which their works and rights can be traced, thus greatly reducing the potential for an 'orphan' works situation to emerge in the online environment. It will also provide an additional method for ensuring appropriate remuneration to our members for use of their work in the online environment, particularly where that use is a secondary or subsequent use.

Multi-territory rights licensing - Questions 6-18

6. We do not think that a Recommendation would be appropriate at this time though it seems wholly appropriate for the Content Online Platform to address such issues. A Recommendation would be premature, particularly for the audio visual sector where services and products are still emerging. Due to fundamental differences between the music use and the use of audio visual works, consumer demand may dictate the development of an entirely different set of services and products for the audio visual industries. The earlier Recommendation on multi-territorial licensing of online use of musical works may be entirely inappropriate for audio visual works and if adopted at this stage could damage the market. We do not think that a "one size fits all" solution will work.
7. As already stated, the contracts and rights in the audio visual sector are managed and licensed in a variety of ways and while collective licensing is an important element and can be very useful, particularly for the secondary revenue streams of freelance and individual creators in the audio visual industry (e.g. artists, designers, photographers, script and screenwriters, animators and directors) it is not the whole answer. Collective bargaining agreements, negotiated by unions such as BECTU have an important role to play in ensuring that creators of content are remunerated at every level of use including many forms of secondary use.
8. Again, the variety of agreements and licences combined with the wide range of works and contributors which go to make up any audio visual production make it impractical to define what is the primary or the secondary market for a work. Flexibility is key and "straight jacketing" the developing marketplace on content online with a single Recommendation at this stage would be of no benefit to creators, could confuse consumers and is likely to inhibit the future development of the market.

Legal offers and piracy - Questions 9 to 11

9. BECTU is not itself directly involved in anti-piracy activities. However, we strongly support the suggestion that education and awareness particularly amongst consumers will play a major part in reducing piracy problems. We have contact with the Industry Trust for IP Awareness in the UK
10. While the French example is one way of encouraging ISPs to play a greater role in preventing the unauthorised use of copyright works we believe that this is only one of a range of solutions which could be tried.