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## **EU CONSULTATION Creative Content Online – Policy/Regulatory issues for consultation**

### **Submission from BLF Swedish Picture Suppliers Association**

BLF is the largest trade association in Sweden for picture libraries, agencies, photographic firms, video companies and news graphic companies. BLF is also the second largest organisation of picture agencies and photograph companies in Europe and the oldest one with today more than 300 members all over Sweden.

In 1950 Bildleverantörernas Förening (BLF) - Swedish Picture Suppliers Association was established as an association for "suppliers and photographers whose activities include the selling of Swedish and foreign pictures for publication", as it is stated in the statutes of BLF. To become a member the company must prove that they are serious. They must supply references and the company must have been in business for at least three years time.

BLF supports our members in legal matters regarding intellectual property. BLF is an official body to which a proposed measure from justice ministry in Sweden is referred for consideration when changes in the law concerning the picture trade are considered.

BLF is a member of the collecting society "BONUS" in Sweden and also a founding member of CEPIC - Coordination of European Picture Agencies Press Stock Heritage. CEPIC is an international federation of picture agencies & libraries. CEPIC's membership includes over 1,000 large and smaller stock photo libraries, photographer companies, major news agencies, art galleries and museums in 18 European countries.

Cepic was founded 1993 and in 1999 it was registered as a European Economic Interest Group in Paris while its main office is in Berlin. It obtains observer status at the World Intellectual Property Organisation on 1997. Every year Cepic holds an International Congress. Last year it was hold in Florence with 950 delegates from 52 countries. During the congress for the first time in the world it was held a Photo Meta Data conference with participant from all players in the picture industry from camera producers, software vendors, standard making organisations like IPTC and IFRA, users etc. Cepic is also a member of IPTC an organisation that has been working with digital standard of photos since early 1990 and working in their Photo Meta Data group. The BLF-member at the Cepic board represents Cepic in IPTC. In the spring there will be a new Photo Meta Data standard approved that support among other things a unique ID for each picture, which will make it easy to protect and search for the right content.

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Picture agencies & libraries member of BLF produce content of their own or distribute copyright protected material from other members or other rights holders like photographer, museum etc.

The photos are distributed through global and easily accessible networks. The photographic material, like photos, flash, videos or news drawings is distributed either with local, regional or global license, which makes it easy for the end-users or consumers.

More than any other creative fields has the advent of digital technologies revolutionised the picture market in the last 15 years. Picture libraries are highly experienced users of on-line facilities from the digitization of picture material to ordering and paying online and over searching and locating material on-line. They developed innovative business models, from traditional Rights Managed models to Web Generated Content models, operating both from business to business or directly to the consumer. BLF was the first organisation in Sweden to establish a price for the use of a picture on Internet 1997. BLF was also involved in the first theft of stolen pictures on Internet 1997. It became a crime case and was won by the photographer, probably the first case of its kind in Europe. BLF also used young people to search on Internet for stolen pictures and that action did that most of the pictures published on Internet from the media industry were agreed between the supplier and the buyer.

As we can see of the questionnaire EU has not mentioned the global picture industry, which has a turnover more than many other industries.

In the picture industry there are big global companies like Getty, Corbis and Jupiter. Getty's turnover in 2004 was approximately \$622 million, of which roughly \$84.32 million was earned in their homecountry, UK. During the end of February 2008 Hellman & Friedman are acquiring **Getty Images** for \$2.4 billion dollars. We think it is of importance for EU to get more information about how this global picture market works and we now that Cepic are willing to assist in that. We think it is also necessary that the well functioning picture market is represented when EU wants to get informed about distribution and selling of copyright protected material.

BLF likes to give following answers to the questionnaire:

## Digital Rights Management

- 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? What are the main obstacles to fully interoperable DRM systems? Which commendable practices do you identify as regards DRM interoperability?**

DRM systems are critical to the development of on-line services. In our business, the technology and the experience are there: the picture business looks back on more than 15 year-old experience of distributing and selling digital pictures. At its own costs and close to its customer needs, it has developed global DRM systems making content available and allowing management of global rights on-line.

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The high cost necessary to develop DRM systems and the lack of financing are the main obstacle for the development of interoperable DRM systems. This is particularly true for small and medium sized enterprises. As the picture business is highly developed in this area almost all of the picture companies use DRM systems that makes it easy to make global search for content. Well developed DRM-systems make it also possible to pay on line. The Scandinavian countries were early with digital archives and selling on Internet from them. There is no need for legislation in this area but there is still a lack on standard, which IPTC works to take care of like the camera producers with their EXIF-files.

- 2) **Do you agree that consumer information with regard to interoperability and personal data protection features of DRM systems should be improved? What could be, in your opinion, the most appropriate means and procedures to improve consumers' information in respect of DRM systems? Which commendable practices would you identify as regards labelling of digital products and services?**

One of the big problems with Internet is possibilities to be able to contact the Internet Company. There should be a harmonized way of presenting companies on Internet. Now in some cases you cannot find the owner of webpage even if it a very big company. It is impossible to find the persons behind Google office in Sweden on Google homepage. You cannot find the owner or names of the general manager of Google Company globally either. If there is a limited company you can always go to each country's government office for industry information and find out the owner for a specific country. It is not possible on Internet. Usually you get a link where you should ask your questions. When you ask the server provider they sometime refuse to give information of the owner and companies with .nu as address is even harder to track. There should be a rule that if you run a company you have to give your contact information on your homepage. The only way to go to court to prevent stealing is to know who the thief is. If not it will become more wild west than the real Wild West.

And if not the Internet provider can live up to such a standard there should be legislation. If not it will be even more thief's market on Internet.

As far as commendable practices are concerned, CEPIC as a member of IPTC, International Press Telecommunication Council supports its standardisation work. It is part of its metadata working group for pictures... Embedded in picture material, metadata can provide ownership and usage as well as descriptive caption information that can be used to help search and identify image subjects and facilitate tracking and rights management. There are no court cases in Sweden yet but the punishment for destroying the ID-information should be hard.

- 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? Which recommendable practices do you identify as regards EULAs? Do you identify any particular issue related to EULAs that needs to be addressed?**

We agree that easy-to-read EULAs would support the development of online creative content services. There has been a lot of work done to simplify the pricing structure for pictures on Internet. But counting equipment

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on Internet gives fast answers to end-users questions for price. Terms & Conditions can be issued by trade associations, such as BLF, as best practice documents and as references for the users.

- 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?**

We think that the court system that can be used today is satisfying. A harmonisation of small cases that is on its way in Sweden is good. An important thing is to harmonise if Internet publishing is a global publishing and if it is possible to sue in every country or not. A problem is also countries where the copyright law are weak and that they also not respect court decisions from other countries.

- 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?**

This problem does not apply to our industry which developed its own systems as outlined above.

## 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?**

The picture industry has been working with multiple rights licensing on a global scale for the last 20 years. We have an adequate system and therefore would not recommend any initiative at EU level. As mentioned before BLF has worked with different and global licensing since 1950.

- 7) **What is in your view the most efficient way of fostering multi-territory rights licensing in the area of audiovisual works? 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, the market has as explained above since many years solved that problem. It should be important for the legislator of EU to have a look at the global picture industry and get more information from organisations of the picture industry. BLF would be more than willing to share its knowledge with EU in this area.

- 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)?**

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The “long tail” theory is at the heart of the picture business. The picture industry is already distributing and selling materials that are copyright protected unless the age of that content.

## Legal offers and piracy

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

More copyright education is necessary. This is true for picture buyers and, in view of the development of User Generated Content, for end-users alike. BLF supports the development of Educational initiatives at EU level and BLF has made a lot of efforts to educate sellers and buyers in Sweden.

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

The Memorandum of Understanding has been issued recently and there is no experience. It is too soon to say anything.

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

A number of service providers in our industry have developed filtering measures and they are used by picture agencies to protect their material on-line and track copyright infringement on the internet. Although they are not sufficient to protect against copyright infringement, we have made a good experience with them. There has since log been discussed measures to delete a picture when the agreement of publishing goes out and such system will probably be in place in the future.

In the upcoming proposal from IPTC a unique ID will be added to each picture and it gives the copyright owner better opportunity to track his own pictures for reasonable amount of money. The system today to track or watermark pictures is rather expensive.

- 29 February 2008 -

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