

29 June 2006

DJBFA comments to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Creative Content Online in the Single Market (SEC(2007)1710)

DJBFA (The Danish Society for Jazz, Rock and Folk Composers) is a society of professional songwriters and composers. On March 21, 1973, the organization was founded by a group of composers and lyricists working in the domain of Danish Jazz, Rock and Folk. The society is with 1060 members the largest of all the associations of Danish composers.

DJBFA's wishes to express the following comments to the questions raised in the Creative Content Online Communication.

Creative Content Online – Policy/Regulatory issues for consultation

Digital Rights Management

Question 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?

Answer:

Yes, we agree. The main obstacles to fully interoperable DRM systems are, naturally, technological incompatibility and the considerable divergences between the various business models and management systems. It is commendable that the monitoring and the subsequent management and right-holders' remuneration processes remain based on national structures. If the considerable numbers of stakeholders are not able to do that by themselves they should be taking legal action. As regards the monitoring process, it is very important that the techniques and business models offer equal access for all so that the democratic principles are not overruled and that cultural diversity is strongly supported

Question 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?

Answer:

Yes. In our opinion easy understandable information and easy legal access to digital content, as it can be done through i.e. one-stop-shop, are appropriate means.

Questions 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?

Answer:

Yes. And we would like to in particular take up the question about reciprocal agreements so that the EULAs secure a broad world-wide repertoire.

Questions 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?

Answer:

Yes. In those countries, which do not provide for a dispute resolution mechanism it should be established by the national government.

Questions 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?

Answer:

Yes, we do fully agree.

Multi-territory rights licensing

Question 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?

Answer:

Not necessarily. After the adoption of the Recommendation in 2005, a soft law initiative, stakeholders recognised a need for more binding legislation. This could be realised through a

framework directive, which would ensure that the democratic process is respected. All three EU institutions (Commission/Counsel/Parliament) have to understand that rights licensing is a field located between business and culture, and therefore in a kind of grey zone between the Common Market and national law.

Question 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?

Answer:

We believe that a common agreement should be found between the different categories of right-holders and users considering the sharing of fees. The existing national structures are securing access to the world repertoire through reciprocal agreements. Therefore, there is no need for multi-territory licensing.

Question 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)?

Answer:

Yes, but on the premise of a non-discriminating access to the back-catalogue.

Legal offers and piracy

Question 9

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

Answer:

By sharing knowledge and by ensuring that every point of view and/or interest is heard considered, as well as by securing transparency in the online environment.

Question 10

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

Answer:

We are not aware of this Memorandum.

Question 11

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

Answer:

What we need is a satisfying technological monitoring system, which secures payments to right-holders in a fair balance in relation to the users.

Franka Abrahamsen
Chairman

Poul-Henrik Jensen
Head of office