The Digital Media Project			
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Response to European Commission on "Creative Content Online" consultation

This document is submitted by the Digital Media Project (DMP) in response to the invitation made in [1] to all stakeholders to take position on the questions listed in Annex "Creative Content Online – Policy/Regulatory issues for consultation".

DMP is a not-for-profit organisation with the mission to "promote continuing successful development, deployment and use of Digital Media that respect the rights of creators and rights holders to exploit their works, the wish of end users to fully enjoy the benefits of Digital Media and the interests of various value-chain players to provide products and services, according to the principles laid down in the Digital Media Manifesto".

The goals of DMP are realised through the development of Technical Specifications and Recommended Practices enabling businesses that support new or improved user experiences, and Recommended Actions to appropriate entities to act on removal of barriers holding up exploitation of Digital Media.

DMP has already contributed the results of its activities to ISO/IEC which have adopted them into International Standard (ISO/IEC 23000-5).

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?*

Response to 1st sub-question: *Do you agree that fostering the adoption of interoperable DRM systems should support the development of online creative content services in the Internal Market?*

DMP notes that "formats" have always been the force driving consumer adoption of new content distribution forms. This has been true since the early days of sound recording, has been true for radio and television broadcasting and is true of the most successful format of all time, the Digital Versatile Disc (DVD).

Therefore "Interoperability" can play exactly the same role in the digital space. In order to have a meaningful discussion, however, "Interoperability" must be defined. From the consumer viewpoint this is the ability to play the same type of content obtained from different providers with the same device. It must be noted that in the digital space Interoperability is not just at the level of consumer devices, but also at the level of other devices that value chain players employ to do business

between them. One important feature of digital content is that the way market players decide to set up value chains is unpredictable and likely to stay more than less so as the use of digital technologies extend throughout all the value chains. Even in this complex environment Interoperability is a value that must be technically supported.

In these conditions it can be expected that online creative content services will see a rapid and rewarding expansion in the Internal Market.

Response to 2nd sub-question: *What are the main obstacles to fully interoperable DRM systems?*

In order to have a meaningful discussion it is necessary to define the meaning of "proprietary systems". These are systems that are independently designed, developed and deployed by market players. DMP believes that interoperability between proprietary DRM systems is a technical problem that can easily be solved without the need of standards. Actual interoperability for users of the systems, however, is only possible if the owners of the systems decide to collaborate. Of course such a collaboration can only be the result of a business decision made by those who operate such systems. DMP does not see how, in the current climate, market players that are supposed to be in competition can be expected to spontaneously decide to interoperate. Therefore DMP does not expect that Interoperability as defined above can be practically achieved if technical Interoperability between proprietary DRM systems will be the selected route.

Interoperability as defined above can be achieved by using a *single toolkit standard*, like the Interoperable DRM Platform, version 3.1 (IDP-3.1) integrated by DMP using standard ISO/IEC technologies (MPEG-21) and implemented in Open Source Software (Chillout).

Response to 3rd sub-question: *Which commendable practices do you identify as regards DRM interoperability?*

There may well be commendable practices as regards interoperability between DRM systems. DMP believes that these offer too little to entice consumers who are accustomed to the full interoperability they enjoy today using ubiquitous standard content formats.

The table below analyses 5 possible scenarios that depend on the type of action that Public Authorities (PA) may decide to take in the field of content distributed using DRM systems

Scenario	Costs/Benefits
1 PA do nothing	• General lack of interoperability implies that consumers do not benefit fully from the Information Society potential • Some businesses are less constrained in their decisions while others are severely limited in their access to new opportunities
2 PA actively promote an open standard interoperable solution	• If the standard interoperable solution is supported by industry then Consumers may begin to find interoperable content and devices

		• Business constraints remain as above, with the option of supporting interoperability
3	PA mandate a company/organisation to run the interoperable solution	• Creators have a low threshold to access distribution through the services of the said company/organization • If industry decides to use the services of the said company/organization, consumers may find more interoperable content and devices • The said company/organization competes with businesses that do not use the interoperable solution
4	PA mandate service providers to use the interoperable solution in parallel to their proprietary services	• Creators have a low threshold to access distribution through the services of the said company/organization • Consumers can always find the content they want using the interoperable solution • Businesses retain full control of their business with both proprietary and interoperable solution at some additional costs
5	PA mandate exclusive use of the interoperable solution	• No consumer confusion • Businesses are prevented from using proprietary solutions

The [Interoperable DRM Platform](), version 3.1 can provide support to scenarios 2 to 5.

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?*

Response to 1st sub-question: *Do you agree that consumer information with regard to interoperability and personal data protection features of DRM systems should be improved?*

DRM systems deployed today are closed. This means that users of the systems, e.g. consumers, have no means to know exactly what they will get from a given DRM system, how their personal data will be handled and so on. It is hard to see how it will be possible to define and monitor the use of best practices or introduce practically enforceable regulation.

On the other hand DMP believes that, if content is distributed in Europe using a standard, open DRM which is also available as Open Source Software, the issues of interoperability and personal data protection should no longer be of no concern because anybody, e.g. a consumer organisation,

will be able to check what are the "bits on the wire" that move from a consumer device to a service provider's back end, of course without jeopardising any security the service relies on.

Response to 2nd sub-question: *What could be, in your opinion, the most appropriate means and procedures to improve consumers' information in respect of DRM systems?*

DMP notes that DRM is not black or white. DMP has adopted the NIST definition of DRM system as "A system of Information Technology components and services which strives to distribute and control content and its rights. This operates in an environment driven by law, policies and business models." Therefore digital distribution of content using digital versions of Creative Commons licences is a form of DRM which does not require (indeed it should not have) any Rights Enforcement. It is conceivable that some form of long tail content will need lightweight technologies for Rights Management Information (e.g. watermarking) while premium content will need strong Rights Enforcement (e.g. encryption). These three (and possibly more) levels of DRM could be easily signalled on content.

DMP notes that its IDP-3.1 specification supports this broad variety of DRM forms.

Response to 3rd sub-question: *Which commendable practices would you identify as regards labelling of digital products and services?*

Labelling of the three types of digital products and services described above can be easily signalled on the physical media carrier or in a pop up before content plays or on devices as it is done today for DVB set top boxes or DVD players.

Question 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?*

DMP believes that in many cases digital media need DRM (in the broader sense explained above) and that a truly interoperable DRM system will naturally lead to its almost universal adoption. Therefore ensuring a non-discriminatory access to DRM solutions is required to preserve and foster competition on the market for digital content distribution. Unfortunately setting up a proprietary DRM infrastructure is very costly and the trend is expected to go in the direction of ever more complex, sophisticated and costly DRM infrastructures. DMP does not expect that SMEs stand in general any chance of running an independent DRM-enabled business.

Of course it is conceivable to mandate that any company must give access to their proprietary DRM technologies. DMP believes this is a very challenging way to give SMEs a fair access to DRM for their business. On the other hand the DMP toolkit DRM specification IDP-3.1 solves this problem because some critical components of the infrastructure need not be considered (e.g. devices are available from the free market) and components/solutions can be found from the open market at inexpensive prices from multiple suppliers.

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

DMP has heard some of its members raising concerns about interventions affecting the right of citizens to have their communication kept private. DMP believes that such interventions are unnecessary if DRM interoperability as advocated in this document is implemented.

[1] 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, http://ec.europa.eu/avpolicy/docs/other_actions/col_en.pdf