

RESPONSE TO THE COMMUNICATION FROM THE COMMISSION TO THE  
EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC  
AND SOCIAL COMMITTEE AND THE COMMITTEE TO THE REGIONS

On Creative Content Online in the Single Market

1 Introduction

While the area of creative content online has been part of an ongoing debate for some years any decision on the way forward has been consistently postponed. Also the majority discussion has usually been in connection with end-users – the man or woman in the street wishing to have easy and low-cost access to music and other creative content.

However, there is also a multi-million euro industry experiencing the same difficulties as ordinary consumers – they are the providers and users of copyright music in a commercial situation which we represent. These businesses include hotels, restaurants, bars, shops, etc and those companies which provide these outlets with background music or internet radio services. The numerous consultations, of which InfoSoc's is but one, seem to just discuss and re-discuss the same material ad infinitum.

At the present time we have a consultation from Internal Market DG on the implementation of the Recommendation on cross-border licensing, await the results of Competition DG 's inquiry into CISAC, the review of the entire acquis on copyright, the inefficient implementation of the 2001 Copyright Directive (see report from Amsterdam University initiated by Markt DG), some eight years of talking about alternative dispute resolution beginning with Recital 46 of the 2001 Directive and not forgetting consultations, debates and reports at national governmental level.

The matter is simple: the commercial users/service providers of copyright music want a complete reform of the current licensing systems. They want to be able to approach any licensing society and openly agree with them a licence to cover, if need be, the entire EEA territory for just one cost. They want negotiations to be transparent and industry consultations on new licensing schemes to be open. They want quick, efficient and economical access to dispute resolution.

Also, surely, there must be more co-ordination between the DGs concerned with this subject with the result to be a catch-all Directive. It has be realised that the international music industry is controlled by a handful of major companies which in turn control the different national copyright collecting societies which, as we are all aware, are de facto or de jure monopolies. Ineffectual Recommendations have no place in this situation.

Finally, it is obvious in this latest Communication that some of our concerns have been recognised and we particularly welcome the establishment of a Content Online Platform and would welcome the opportunity to be able to contribute. Above we have simply reinforced our views, hopefully, clearly and straightforwardly. We now address the specific questions in the annex to the document.

### Digital Rights Management

We believe that DRMs are an efficient and effective way of ensuring easier licensing but the technical situation has to be resolved so that there is an industry-wide technical standard operating across all platforms.

It should be technically possible for a store owner to choose a music repertoire to use as background and then access this directly from the rights owner via DRM. There is a need for a standards body to be established working with the industry to ensure interoperability such as has existed for some time in other industrial areas such as CENELEC.

### Multi-territory rights licensing

We agree that multi-territory rights licensing must be addressed, but not by weak legislation, rather with a Directive as is already supported by the Parliament.

Any charge for a multi-territory license should be based on the country of destination principle. The distinction between primary and secondary licensing needs further exploration.

### Legal offers and piracy

We are totally opposed to illegal use of copyright works and welcome initiatives to curtail this activity such as the recent action by the French government in bringing in its Memorandum of Understanding which will set up an Internet authority.

### Conclusion

We welcome this opportunity to comment and that we can now go forward and resolve these issues to the satisfaction of all stakeholders. We also welcome any further opportunity to take forward this debate.

Submitted by:

Music Users' Council of Europe  
Contact: John W Clarke  
Email: [john.clarke@tele2.fr](mailto:john.clarke@tele2.fr)

19 February 2008

