

INTRODUCTION

- about 'creative content'

First of all, you cover the « Creative content » theme with an « american » view of it ; this is the old debate between Cultural (Art) vs. Entertainment (the US vision of Culture).

So, you avoid Plastic Arts (contemporary Art) and live stage performance (plays, live music concert, dance, classic singers, orchestra ...)

During your development, you stress on the music industry ; but it is a specific business industry based on a twisted model in a decline activity. So

you focus your conclusion and your proposals on a 'dead' industry ; it is Darwinism ...

- about 'Creators'

Plus, you have mentioned the 'consumers', the 'Prosumers » (end-users who produce content) ; but you missed the new perspectives of the creative content on the Internet : the « Edinaute » (we could translate it by 'end-user editors').

The way a group of people (non professionals) financing for instance comics in Belgium or records in France (MyCompany).

This evolution is relevant regarding the deep nature of the Internet : erase the weak elements of a value chain ('desintermediation') and introduction of new entrants in the value chain ('reintermediation').

Regarding your proposals (Chapter 5)

5.1 Consumer access

About the legal offers :

Everyone get focus on that ; but business on the Internet is not so simple ; you can not only put a business model on the Internet just with add an 'e' before your offer.

They have to reshape and disrupt their business model based on « tangible goods » (produce, distrib and promote CDs and DVDs) from the brick & mortar model (click & mortar).

Exceptions and limitations should be wide to people (not only Internet users) with a strong position : live or theater performances are the way to make money for artists instead of selling copies through rights holders who keep more than 90% of the incomes.

5.2 Commercial users' access

Commission should make an effort to make the single-market a reality in this domain. The Internet is a fantastic tool to achieve this dream.

Thought that, new business models would emerge ; if only, you stop focusing on the music/movies majors who struggle to survive because of a past model.

You mention YouTube and the problems of video services ; I remembered a meeting with the CEO of the french subsidiary of a music major. At this time (2001), he was only concerned how to use the Internet to make money with the video clips ; they said to us video clip was only a cost and he wanted to make profit with it thanks to the Internet ...

That is a relevant example to illustrate what they really have in mind ...

As you suggest at the end of this part, « harmonisation of copyrights laws » is the best way to achieve single-market and to reinforce artists' rights at the European level while creating a single market for copyrights.

About the 'tax proposal' on the ISP revenues.

It's true that MP3 was the Kill App (killer application) to talk-up the subscriptions on broadband access. But, as in France, you have missed the point that it was historically the French government whom use this to improve the numbers of Internet users to fight what we called at the time 'le retard français' (French delay) regarding the penetration rate of the Internet users in the Scandinavia, Germany or UK (in the years 98-2000).

So you can not blame the Internet access industry for taking an opportunity and now try to save the 'majors' for their lack of vision to reshape their business model
Once again, it's Darwinism ...

5.3 Protection of rightholders

- CMOs

I have to admit I am not an expert in that domain ; the only thing I know is the CMO in France (SACEM) gives back less than 50% of revenues they collect to artists ...
Do the math !

- ISP

Forget the ads-revenues to support the creative content ; monthly subscription could be an option for premium and high quality content. Or, the ISP should deal directly with rightholders to fuel their web sites and try to monetize the content with their subscribers or give it to them for free as a competitive advantage to increase the take-up.

- Financial incentives

Take closer look to the « tax shelter » in Belgium to finance movies ; they consider the movie as an asset «equity » (as other financial supports) and movie makers can monetize their equity. That's a real interesting model and really efficient for the Belgian movies market regarding the size of their country.

A relevant example of virtuous Model : the comics

It was a decline business in the 90's ; I remembered all kids and young adults reading comics in a corner of department stores ... free of charge (like piracy downloads). More wealthy people or fans could afford it to keep a 'tangible good' with a collecting spirit.

But, the business is now very popular and attractive thanks to a larger offer to fit all tastes, thanks to famous festivals to make people interact with authors (real life), thanks to virtuous models (blockbusters financing more confidential comics), thanks to auctions to sell original draws (example of new revenues for creators) and with new financing model of 'Edinaute' (see previous) ... thanks to the Internet.

Conclusion

Instead on getting focus how to save the music majors business, Commission should take care of the plastic arts and stage performances (play, live music, lyric singing, dance).

To help artists to create and promote their artworks with a legislation to reinforce artists copyrights and to recover a direct control on their revenues.

It is not by random that the famous singer Madonna chose an organisator of events to produce her last records instead a 'major' ...

Your first sentence was « Copyright is the basis for creativity » ; you should say « Copyright and direct revenues from performances are the basis for creativity ».

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