



DG INFSO / DG MARKT Reflection Document : ‘Creative Content in a European Digital Single Market: Challenges for the Future’

Joint Response by the Scottish Arts Council and Scottish Screen

The Scottish Arts Council and Scottish Screen are pleased to take the opportunity to respond to the reflection paper. We recognise the relevance of the issues described, and the challenges inherent in achieving a consumer-friendly legal framework for accessing digital content whilst ensuring a favourable environment for creators and rightholders which enables them to receive fair remuneration. Overall we welcome the positive and practical approach of the document . Our comments on specific points are set out below.

4.1 Consumer Access: User-created content and interactive services - states that consumers “*also want to be clearly informed whether their activities are compatible with third party copyright and under what conditions they could derive commercial revenues from their own creations*” We doubt that many consumers who engage with social networks and upload their own content are this explicit in their thinking and aware about their activities, and would like to see statistics and the research that gives credence to this statement.

5.1 Consumer access

We agree with the **extended collective licensing** for orphan works but clarity is needed on the approach to out-of-print works.

Limitations and exceptions: We agree with the need to provide clear boundaries for exclusive rights and a graded system of licensing and exceptions for artistic and educational purposes.

5.2 Commercial users access – a multi territory license

We can understand the rationale in aggregating the two distinct rights for online dissemination of content – but there are two distinct actions involved here which replicate the analogue world, so some form of definition from the distributor as to how they will vend the content will still need to be made explicit. (Film-makers, for instance, may be happy for people to see their film as a stream but not keen for the film to be available for download; the stream is still vulnerable to theft, but not to the same extent as a download).

The one-stop shop concept for re-aggregating different rights within a single digital work would be very useful if it can be agreed at origination and the commensurate revenue achieved via collection for each discreet rights holder.

We agree that the **online database of rights ownership** is a good idea and would ultimately benefit distributors, rights holders and ultimately consumers, although, if voluntary, this mechanism might not be sufficiently authoritative or up-to-date to be effective.

We agree that **an extension to the scope of the Satellite and Cable Directive of 1993 to online delivery of audiovisual content** is probably due and will help consumers across the EU (with an understanding that Public Service Broadcasters have the right to offer a territory specific free online service at source).

A **European Copyright Law** is a good objective but only if agreed by all member states and not if it exists alongside national copyright laws. There will need to be significant time given for consultation and for industry and collecting societies to change their business models and practice. Ideally, there would be development of a system of copyright for the future which could work on a global basis and this project could be conceived as step in that journey.

5.3 Protection of Rightholders

An extended or mandatory collective management system, we believe, will benefit artists, authors and performers but would only really be viable after the restructuring of the existing collection agencies under a new European Copyright Law.

We agree that more **collaboration with ISPs** will provide more options for rightholders and that more access based subscription business models will benefit rightholders and ISPs.