



**Intel Corporation response to the Reflection Paper
and public consultation on the challenge of creating a European Digital Single Market
for Creative Content Online**

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Intel Corporation commends the European Commission's Directorate-Generals for Information Society and Internal Market for initiating this reflection paper. The development of a vibrant digital content market place will be of prime importance to the EU's Digital Agenda and it is very appropriate for the European Commission to seek stakeholders' views on the opportunities and challenges in this regard. In this submission, Intel would like to address in particular the issues raised in Chapter 5 of the reflection paper.

Intel has a long experience in working with content owners, device manufactures, Internet Service Providers and technology companies on developing and deploying technologies that enable new digital content business models. The content, communications and ICT industries share the same interest in providing consumers with new, exciting and flexible content experiences. Rapid technological innovation continues to challenge existing business models and paradigms, increasing consumer offerings and the ways consumers enjoy content.

The reflection paper talks about how the digital availability of content presents great opportunities for Europe, but also a number of challenges:

1) Consumer access

The availability of digital content provides a unique opportunity for content owners, technical innovators and consumers. Content owners should be able to consider new business models for the consumption of digital content. Companies should be able to innovate and provide interesting product and service offerings. Consumers should be free to choose from amongst these products and services; comparing the various benefits and options and selecting that which meets their various needs.

The reflection paper identifies the existing confusion and frustration of consumers due to the different regulations in each content sector and the different legislation in the 27 countries.

Actions proposed by the European Commission include further harmonization of Copyright law, in particular relating to the different limitations and exceptions.

Intel does support the overall goal of harmonizing copyright law as this will provide a well understood ubiquitous rights framework. That said, Intel does not generally support extending rights or creating new rights where none exist today. Intel supports an overall goal of making certain that harmonization includes sufficient consumer information such that a consumer in any EU member state would clearly be in a position to understand what limitations and exceptions exist in that EU member state.

Furthermore the reflection paper proposes a more nuanced approach to limitations and exceptions differentiating between the "public interest" (research, teaching, disabled people) and the "consumer interest" (private copy) limitations and exceptions.

Intel agrees with the paper's proposed nuanced approach, taking into account the difference between 'public interest' exceptions and 'consumer' exceptions (such as the private copy exception). We also consider that there should be more comprehensive education and information available for consumers about what is and what is not an authorized use of content. The boundaries of any exceptions to



copyright, and in particular private copying, must be well-understood by the public. The European Commission and member states should consider taking a lead role in consumer education.

Regarding the private copy exception and copyright levies, although most member states operate these systems, consumers are mostly unaware or ill-informed of levies; what is payable on each product and why. Levies should be transparent and consumers should be fully notified at the point of sale. It is not desirable that consumers are required to pay such levies without point of sale notifications and without a clear understanding of how levies are imposed to compensate rights holders for certain consumer activities. Where content is protected by DRM (digital rights management) consumers may currently pay twice for the same limitations and exceptions permitted activity (right to make a copy, etc). The possibility of a double payment is not desirable for consumers or for a successful distribution of online content. A reform of the levies system to ensure levies are (i) transparent; and, (ii) used exclusively as fair compensation for private copy, where DRM is not used to achieve the same effect can only be to the benefit of rights holders, industry and consumers, and help drive forward the digital content market place.

2) Commercial user's access

There is no technical obstacle for the circulation of online content but the territorial licensing and the territoriality of Copyright increase uncertainty and increase the right management costs. Intel encourages the European Commission to evaluate and promote new voluntary pan-European licensing regimes to enable more efficient and streamlined content licensing capabilities for EU-wide distribution, as long as no new rights are created that could impose additional obligations to all parties.

The objective of the European Commission is to simplify cross-border management of rights for online content. In order to achieve this goal, the European Commission considers that the first step is to create a pan-European licensing procedure, based on concepts such as, for example:

- a) The aggregation of the reproduction and the performance rights indispensable for online dissemination in one single right: Intel agrees
- b) the aggregation of all the rights of authors, composers, publishers, producers and artists in one single "online license": Intel agrees
- c) Create freely accessible ownership and licensing information to facilitate multi-territorial licensing: Intel agrees – license information regarding ownership of different rights would be readily available and easy to access for all stakeholders

In general Intel believes that a voluntary pan-European licensing procedure could facilitate rights clearance for online distribution across Europe. The European Commission could play an important role in extending this new licensing procedure.

It would also require changes in the current collective right management system, including the changes to the collecting societies evidenced by the competition requirements after the CISAC ruling. Intel supports changes in the current collective rights management system to promote competition and transparency for manufacturers and consumers.

Another eventual option presented in the paper is to create an European Copyright Law (through a EU Regulation, for example), that would not replace but exist in parallel to national copyright legislation and that would ensure legal certainty and reduce licensing/clearing cost by the creation of a "European copyright title" automatically available in all the 27 member states. Intel supports the overall goal of increased legal certainty and a reduction in the overall administrative burden associated with licensing/clearing costs. Such a proposal would require careful examination and participation by all stakeholders.

Alternative forms of remuneration shall also be considered, as for example, the eventual compensation from ISPs to right holders for mass reproduction of copyrighted work, or extensive online subscriptions fees.



The possibility of such forms of remuneration for rights holders exists today through voluntary agreements between ISPs and rights holders. Intel would not support a mandatory requirement for such licenses as this is unnecessary and the administration of such would be unduly burdensome and distort the marketplace for such content.

3) Protection of right holders

The paper states that the necessary protection of right holders to ensure diversity and incentives for creation can be improved by measures such as:

- a) Governance and transparency of collecting societies;
- b) Collaboration with ISPs to create new business models;
- c) Create incentives for multi-territorial offers of content.

Intel agrees with these measures provided it is on voluntary basis. Private agreements promote market driven consumer offerings and media usages that will help cultural dissemination and improve diversity, reducing the incentives to acquire unauthorized content. If the European Commission decides to propose legislation in this area, several elements must be taken into consideration to ensure that such legislation reflects a reasonable cost-benefit balance between rights holders and ISPs.

Conclusion

Intel commends the intention of the European Commission to take a pro-active role to ensure cultural diversity and adequate remuneration for right holders, and establishing the conditions for a balanced, innovative and competitive Digital Single Market across Europe.

About Intel:

For decades, Intel Corporation has developed technology enabling the computer and Internet revolution that has changed the world. Founded in 1968 to build semiconductor memory products, Intel introduced the world's first microprocessor in 1971. Today, Intel the world's largest chip maker is also a leading manufacturer of computer, networking, and communications



products. In Europe, Intel employs some 6000 employees, including more than 900 in R&D. For more information see <http://www.intel.com/europe>.