

**eLIG Response to the European Commission Public Consultation  
on Content Online in the Single Market  
July- October 2006**

*The eLIG welcomes the opportunity offered by the Commission to express its views and recommendations to solve a series of regulatory obstacles and stimulate the digital content market across Europe. In its response the eLIG focuses on issues regarding educational content which Internal Market is still fragmented and inhibited. More significant investments and joint efforts from all stakeholders to build a trusted regulatory environment rewarding creativity and entrepreneurship is key to making Lisbon a reality.*

**Types of creative content and services online**

For the preparation of this consultation, the Commission has identified the following types of creative content and services:

- **Audiovisual media online**
- film, television programmes, documentaries, news and blogs/vlogs, videocasts, series online, sports online, etc.;
- Music online (music downloads, ring tones, video clips etc.);
- Radio online (for instance podcasting, radio programmes, news, sport, etc.);
- **Games online** (such as Massively Multi-player Online Role Playing Games);
- **Online publishing** ('printed' material/books/newspapers online, etc.);
- **Educational content;**
- **Other creative online services** (cultural information, etc.).

**1. Do you offer creative content or services also online? If so, what kind of content or services? Are these content and services substantially different from creative content and services you offer offline (length, format, etc.)?**

Although eLIG members may come from various historical background or core business, they are all active in the eLearning arena in a broad meaning thus, by definition, they provide for various educational contents online, services, technological support (hardware, architecture, software)

Just as “Is Digital different?”, the question as to whether online is substantially different from offline, may be answered both positively and negatively depending upon what is considered and indeed depending on what “substantially” means. To start with the different types of contents listed in introduction of this document, it should be obvious that a books, films, musical works are still books, films and musical works when distributed online. So what is really different? From an educational content publisher standpoint, there are many differences between the 3 worlds of paper-based textbooks, offline digital media and online educational resources. The move towards online distribution creates a lot of new content formats and business models opportunities. Instead of a single, standard paper-based textbook, teachers and learners can access a broad range of tailored, individualized and interactive multimedia contents and services that are best suited to the need for mass-personalization of a lifelong learning process. However, these opportunities do not necessarily change the very nature of creative works. In particular, there is no reason to believe that online content should be primarily subject to sector-specific regulations.

**2. Are there other types of content which you feel should be included in the scope of the future Communication? Please indicate the different types of content/services you propose to include.**

The Commission list implicitly includes almost everything (“Other creative cultural services”, “etc...”) but we would suggest to include more explicitly “scientific, academic, technical, medical, legal etc...content” and “lifelong learning content” as part of “Educational”, as “Educational” is too often restricted to primary and secondary education.

## **Consumption, creation and diversity of online content**

**3. Do you think the present environment (legal, technical, business, etc.) is conducive to developing trust in and take-up of new creative content services online? If not, what are your concerns: Insufficient reliability / security of the network? Insufficient speed of the networks? Fears for your privacy? Fears of a violation of protected content? Unreliable payment systems? Complicated price systems? Lack of interoperability between devices? Insufficient harmonisation in the Single Market? Etc.**

The eLIG response to the i2010 Commission Consultation on how to foster Growth and Jobs in the Information Society<sup>1</sup> provides a list of 10 recommendations related to the Educational Content Sector. The 5 most important ones are still valid and hereafter summarized.

### **Better balancing of public investment**

A major reason for the slow take-up of eLearning in Europe is that public investments generally have neglected the necessity to focus on the kinds of knowledge needed for the EU Content Industry to compete at the world level. The result has been a lack of public investment in stimulating high quality content for eLearning, usable in a wide range of member states. Europe has to stimulate new eContent publishing and distribution models for education which are economically viable, technologically advanced and pedagogically sound in an international, pan European eLearning content publishing market, preserving cultural differences, yet underpinning efficient localisation & distribution processes.

#### *Recommendation to the Commission*

Public investment should be based on a **coherent strategy** and should better balance the four key elements of an eLearning public policy (infrastructure, open standards, quality content and services, and teacher training) in order to maximise the benefits to the end users. Public authorities can also help to accelerate the deployment of eLearning by using their purchasing power to **aggregate demand** and provide a crucial pull for new networks. In addition, public authorities should **take the lead by implementing eLearning policies for their own employees**.

### **Supporting Europe's cultural and linguistic diversity**

See our response to Question 6 of the Questionnaire.

### **Managing Intellectual Property Rights and Licensing Conditions and encouraging Public-Private Partnerships in line with applicable competition law**

The ability to offer sustainable development of quality learning resources, respecting intellectual property rights, is a key skill for the EU, capable of generating many, many jobs, but capacity-building here has a cost, just as does the development of specific learning resources. Editorial content production costs a lot of time and effort and requires resources and technologies that are available for established companies.

Unfortunately, there is a possible imbalance in the allocation of EU funds, towards business-incompatible and hidden-cost models of Open Content production, called “free” but often made possible only through the institutionally- untracked use of public funds

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<sup>1</sup><http://www.elig.org/downloads/i2010%20Fostering%20European%20eLearning%20Content.PDF>

(e.g., to pay the salary of teachers or professors who author “free” content, sometimes including previously published material in their “new” content but not always bothering to secure permission of copyright holders to re-use that material).

eLIG is concerned about expectations of some education groups to rely only on free forms of “open content” and considering non-commercial approaches as the only solution to linguistically and culturally diverse European education content market.

Public sector publishers producing or distributing content (either on a free or a paid-for basis) may also raise fair competition issues. In particular, public sector broadcasters in Europe often hold a unique position in the eLearning market, having been granted permission (and in some cases, strongly encouraged) to produce quality editorial materials distributed on a commercial basis.

#### *Recommendations to the Commission*

ICT deployment public policies should combine funding and appropriate balanced licensing conditions regarding the purchase of Educational resources. Funding should not be viewed as a substitute for licensing. Different content development types may give rise to different models of funding and development.

Public-private partnerships including public and private sector publishers should be encouraged and their respective contributions should be assessed in line with the applicable legal competition framework for publishing public-sector information, which may vary from one Member State to another.

On this issue see also the eLIG response to the public consultation on the future of publishing<sup>2</sup>.

#### **EU level harmonization: towards a Common Core of content -rich applications**

Such a concept may seem contradictory to the multi-lingual, multi-cultural and multicurricula nature of the EU and the fact that education policy largely remains a matter for each Member State. However, a knowledge-based economy also requires skills and competencies that are not currently central to most national, subject-based curricula. Higher education, adult training and lifelong professional development are more and more handled on an international basis in order to meet the market requirements of a highly skilled and mobile workforce. Education and training content in the areas of Mathematics, Science, Reading and learning of some other generic competence could be based on similar principles. Games technology is an excellent example of how generic skills such as communication; problem solving, reasoning, creativity, motivation, teamwork and the ability to learn are being developed in informal learning situations. Digital games have a truly global spread and their penetration has transcended national boundaries.

#### **Recommendation to the Commission**

The European Commission should explore the possibility of a Public, Private Partnership based approach to define a Common Core of Content (in terms of skills) needed to achieve the Lisbon goals. That is, creating partnerships between the content industry, national governments and research institutions (universities etc) aimed at providing this core content on a centralised basis. Centralisation here does not refer to a particular administrative decision level; it simply means that dedicated budgets are allocated to

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<sup>2</sup> [http://europa.eu.int/information\\_society/media\\_taskforce/doc/contributions\\_swp/eelig.pdf](http://europa.eu.int/information_society/media_taskforce/doc/contributions_swp/eelig.pdf)

schools for the purchase of selected resources. Public support and funding should remain focused on the traditional approach where pedagogy and skills depend on subject, language and curriculum-specific content. Public support for the Common Core approach could complement the traditional approach.

**The importance of interoperability and open standards for content exchange, re-usability and re-localisation**

See our response to Question 5.

**4. Do you think that adequate protection of public interests (privacy, access to information, etc) is ensured in the online environment? How are user rights taken into account in the country you live / operate in?**

Regarding public interest to access and use cultural works and information services in a learning context, we believe the EU copyright legislation based on international treaties and multilateral agreements provides an adequate balance of interests between the individual rights of users and authors.

The creative content sector has become a major source of next-generation jobs across the world. This sector provides true added value to the information society, and Europe must foster innovation, growth and prosperity for this industry as part of the Lisbon process. Exceptions to copyright or Fair Use conditions must remain exceptions that do not compete with the normal exploitation of protected works.

**5. How important for you is the possibility to access and use all online content on several, different devices? What are the advantages and / or risks of such interoperability between content and devices in the online environment? What is your opinion on the current legal framework in that respect?**

Too often eLearning solutions “lock-in” users to single vendor solutions whilst Europe, through a strong commitment to interoperability and open standards, could seize the opportunity to lead in helping eLearning to reach the tipping point where new technologies change existing usage patterns, application and business models. Increasingly governments are adopting such opportunities by developing national application profiles for their eLearning content challenges, addressing vertical interoperability at a local level; national publishers and content developers may greatly benefit from governmental guidelines helping to inspire sector compliant solutions and offerings. Many central government policy makers have started large structural and multi partner projects addressing national grids and infrastructures to collect, index, maintain and exchange e-content for learning, training and other forms of scholarship.

To compete in the Knowledge Society the European educational system should rapidly take up a common and concerted approach to promote and define interoperability standards for eLearning technologies and content able to grant cross-border mapping to favour pan-European content localisation and distribution models and influence technology offerings.

*Recommendation to the Commission*

To achieve a sustainable economy of sharable, reusable content for eLearning, content should

be based upon open industry standards. Deployment of an interoperable eLearning platform that supports international educational content standards needs to be on the eLearning strategy and reflected in the public procurement standards within the European Community. We would recommend that publishers and eLearning technology providers be involved in that standardisation process. While education systems are country-specific, European standards bodies should work with international industry groups to evolve the standards and define Pan-European profiles (IEEE, CEN/ISSS...).

Systematic usage of new technologies (e.g. XML, Web services and Semantic Web technologies), architectural solutions (e.g. Learning Content Management Systems, LCMS), content design approaches (e.g. Learning Objects) and interoperability standards (e.g. interchangeable specifications for Content Indexing, Packaging and Sequencing), must be rapidly promoted amongst stakeholders of the European Educational Publishing Industry. It is not enough to design content according to agreed standards, it is also important to make sure that the various content repositories are made available for search and retrieval in a standard fashion. This issue needs specific funding to make sure that all the hidden materials available in most education communities can publish themselves to a centralised or federated learning resources repository. Issues like multilingualism, shared metadata schemes and Digital Rights management must be included.

Additional funding should be dedicated to research and rollout activities aimed at delivering workable solutions to improve content design and storage with a view to automating reusability and facilitating relocalization based on licensing conditions. Such R&D activities are clearly the way forward to develop a European market for learning content. It would not create European content independent from national cultures but it would certainly offer the technical conditions needed to foster the circulation of learning materials.

## **6. How far is cultural diversity self-sustaining online? Or should cultural diversity specifically be further fostered online? How can more people be enabled to share and circulate their own creative works? Is enough done to respect and enhance linguistic diversity?**

A particular challenge is the provision of quality pedagogical cross-media, cross-platform content in digital multilingual format covering all member states. Members of eLIG feel a social obligation to meet the needs of all of those groups, but this results in extremely high fixed costs, which must be recouped in order for the industry to develop. While Europe's linguistic and cultural diversity must be cherished, it should be recognised that it is also a challenge to the development of a European educational content industry that meets the needs of all Europeans. Significant EU funding has already been allocated to the development of educational content large-scale pilot projects through the e-Learning Programme, eContent and now eContent+, as well as support for R&D activities through targeted IST call for proposals. Publishers of educational materials have taken advantage of some funding opportunities. However, large scale and R&D-driven projects are not really adapted to the fragmentation of the publishing industry.

### *Recommendations to the Commission*

If the EU is to promote the European dimension of education in a multilingual and multicultural context, greater and significant resources must be allocated to the development of pedagogical content and tools to generate, maintain, use and access that content. The next

generation of IST programmes should include significant action lines for the production of quality multilingual eLearning materials.

Next, EU Policies should foster:

- Technology Transfer plans for migrating successful eLearning solutions and models,
- Virtual migration of students and teachers across different online educational offerings,
- the setting- up of International Thematic networks with cross border online curricula accreditations,
- Planning of eLearning initiatives aiming to provide equal access to eLearning and enhance cooperation amongst all actors interested in local development (schools, digital libraries, families, local communities, small and medium enterprises, Non Governmental Organisations),
- Government funding for Digital Libraries across the EU.

See also the eLIG response to the public consultation on the future of publishing on this topic<sup>3</sup>.

### **Competitiveness of European online content industry**

#### **7. If you compare the online content industry in Europe with the same industry in other regions of the world, what in your opinion are the strengths and weaknesses of our industry in terms of competitiveness? Please give examples.**

The fragmentation of the European learning content industry demands specific types of interventions: leading US educational publishers do not face the commercial obstacles we face in the EU, if we are to meet the linguistic and cultural obligation that citizens expect us to meet. US publishers operate primarily in English in a much more harmonized internal market of 300 million people. They can take advantage this domestic market plus the global market for international content in English such as scientific publishing, law and now more and more basic educational content. In Europe, we have hardly begun to harmonize higher education curricula and encourage student mobility through Erasmus programmes. As for primary and secondary education, curricula remain and will continue to remain in the foreseeable future, highly national, if not regional (Spain has gone recently from 1 national curriculum to 22 regional applications of this curriculum). Pedagogy is still also highly culturally based. The fragmentation of the EU's learning content industry mirrors that of the market. This context implies that the consolidation of the industry is slow and its competitiveness is clearly at risk.

On this topic, the eLIG also invites the Commission to refer to its response to the public consultation on the future of publishing<sup>4</sup>.

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<sup>3</sup> [http://europa.eu.int/information\\_society/media\\_taskforce/doc/contributions\\_swp/eelig.pdf](http://europa.eu.int/information_society/media_taskforce/doc/contributions_swp/eelig.pdf)

<sup>4</sup> ibid

## **New business models and transition of traditional ones into the digital world**

**8. Where do you see opportunities for new online content creation and distribution in the area of your activity, within your country/ies (This could include streaming, PPV, subscription, VOD, P2P, special offers for groups or communities for instance schools, digital libraries, online communities) and the delivery platforms used. Do you intend to offer these new services only at national level, or in whole Europe or beyond? If not, which are the obstacles?**

Based on various development strategies, eLIG members prepare themselves to take advantage of new opportunities to develop and promote ICT-based learning in all industry segments: within schools at home or lifelong in various contexts. Services targeting the academic community are also quite common as the academic community is historically the most advanced when it comes to information access through the Internet.

Regarding online publishing and distribution of learning content, the subscription-based business model (flat fee per individual user for a limited period of time) eventually supported by single authentication mechanisms is currently the most common business model. However EU R&D partnerships also explore super-distribution schemes of learning resources through secured P2P networks where full DRMs are used to manage re-use rights. These models may be more adapted to some learning communities where users and producers are more intrinsically linked.

Publishers of learning materials generally face no copyright obstacle to the development of pan-european online distribution services where such services are relevant and commercially viable. Indeed, publishers are generally free to choose their way of managing rights and they primarily rely on individual management of exclusive IP rights. As far as they have acquired proper rights over the content, publishers do not face contractual or legal obstacles as those identified by the Commission in the music industry for instance. However for textbooks publishers relying on iconographic databases managed by some collecting societies, obstacles have been identified.

**9. Please supply medium term forecasts on the evolution of demand for online content in your field of activity, if available.**

NA

**10. Are there any technological barriers (e.g. download and upload capacity, availability of software and other technological conditions such as interoperability, equipment, skills, other) to a more efficient online content creation and distribution? If so, please identify them.**

A major technological barrier to the development of pan-european eLearning services lies in the multilingualism constraint. Publishers must design and structure their content by taking into account this requirement from the start. Multilingual, multi-curricula and multicultural metadata must be generated, which also requires mapping and reference tools allowing for metadata to correspond from one language to another. More generally, there is a lack of technological tools allowing for automated cross-screening of European publishers catalogue to facilitate re-localization and re-use of raw content assets.



### *Recommendation to the Commission*

Existing programmes such as eContent+ calls and the next generation of IST Programmes provide some support for the development of such tools and metadata generation. However there is a concerning trend towards supporting numerous initiatives that are too much research-oriented or simply not scalable/viable as future commercial services. Further efforts should be done to support more industry-oriented projects aimed at creating pan-european multilingual educational content services.

#### **11. What kind of difficulties do you encounter in securing revenue streams? What should in your view be the role of the different players to secure a sustainable revenue chain for creation and distribution online?**

See our response to question 3. In many cases, the lack of public procurement schemes and appropriate licensing and funding mechanisms or even unfair competition coming from public content produced at hidden costs is the most important threat to revenue streams and sound business planning.

### **Payment and price systems**

#### **12. What kinds of payment systems are used in your field of activity and in the country or countries you operate in? How could payment systems be improved?**

#### **13. What kinds of pricing systems or strategies are used in your field of activity? How could these be improved?**

See our response to question 8.

## **Licensing, rights clearance, right holders remuneration**

**14. Would creative businesses benefit from Europe-wide or multi-territory licensing and clearance? If so, what would be the appropriate way to deal with this? What economic and legal challenges do you identify in that respect?**

**15. Are there any problems concerning licensing and / or effective rights clearance in the sector and in the country or countries you operate in? How could these problems be solved?**

For both questions see our response to question 8. Publishers can already benefit from such a licensing scheme as they decide their licensing conditions and they are in a position to license content on a pan-european basis where appropriate. The only issue identified in textbook publishing should be primarily settled by industry agreements.

**16. How should the distribution of creative content online be taken into account in the remuneration of the right holders? What should be the consequences of convergence in terms of right holders' remuneration (levy systems, new forms of compensation for authorised / unauthorised private copy, etc.)?**

In the publishing industry DRMs and levies do complement, not substitute, each other:

1. DRMs generally support individual management of exclusive rights as part of a normal (primary) exploitation of a work. Publishers must remain free to decide whether or not to use such systems.
2. Levies on blank storage media or recording hardware are intended to compensate for some exceptions to copyright in particular private copying. Exceptions mandatory provisions that come in addition to normal exploitation of a work and must not substitute this normal exploitation, hence the compensation is complimentary.
3. DRMs may control some private usage but it cannot be said they are in a position to manage legal exceptions to copyright, for two legal and practical reasons 1. DRMs must accommodate legal exceptions schemes, so they do not “control” them, the opposite is true and, 2. Whatever their future development, DRMs will only account for a portion of born-digital works whilst the vast majority of available content subject to private copying practices will remain paper-born. The case for publishers is quite different from the one of the Music industry on this point.

### **Legal or regulatory barriers**

**17. Are there any legal or regulatory barriers which hamper the development of creative online content and services, for example fiscal measures, the intellectual property regime, or other controls?**

See our response to question 3 as regards regulatory issues.

In addition, unnecessary discriminatory VAT scheme for online content tends to hinder the development of commercial services. It is our customer view that an e-book or an online newspaper meets the same kind of demand as the demand for paper-based books and traditional newspapers. Our customers, be they individual end-users or private or public organizations subject to VAT, do not see online as different. Neither do publishers...actually only the Commission and some Member States continue to see a difference which becomes every day more and more difficult to justify. The question is raised as to whether the Commission would like to take the lead for a strategic move to foster the growth and competitiveness of European cultural industries or stick to its traditional position and implicitly acknowledge that low VAT rate on books and newspapers is not intended to promote access for all to culture, but subsidizing the printing industry.

**18. How does the country you mainly operate in encourage the development of creative online content and services?**

### **Release windows**

**19. Are “release windows” applicable to your business model? If so, how do you assess the functioning of the system? Do you have proposals to improve it where necessary? Do you think release windows still make sense in the online environment? Would other models be appropriate?**

Publishers, whether online or offline, do not rely on release windows.

### **Networks**

**20. The Internet is currently based on the principle of "network neutrality", with all data moving around the system treated equally. One of the ideas being floated is that network operators should be allowed to offer preferential, high-quality services to some service providers instead of providing a neutral service. What is your position on this issue?**

## **Piracy and unauthorised uploading and downloading of copyright protected works**

**21. To what extent does your business model suffer from piracy (physical and/or online)? What kinds of action to curb piracy are taken in your sector/field of activity and in the country or countries you operate in? Do you consider unauthorised uploading and downloading to be equally damaging? Should a distinction be made as regards the fight against pirates between “small” and “big” ones?**

Educational publishers have long faced illegal copying practices in the physical world of paper-based textbooks. The most economically damaging one is clearly the abuse of photocopying of textbooks or academic contents by students and teachers. In several EU Member States, fair compensation schemes have been put in place managed by collecting societies.

In the digital offline world, the most economically damaging piracy form is the illegal reproduction of CD-ROMs or DVD-ROMs for the benefit of third-parties whether or not for commercial purpose. Such illegal copying directly conflicts with normal exploitation of works hence must be curbed by judiciary procedures.

In the online environment the situation is not easy to figure out. In some areas of publishing, including education and reference materials, piracy of paper or born-digital works is of serious concern. However, when shifting online or developing new online services, publishers of learning / information services tend to rely on dynamic database architectures (XML format, etc...) Such web-based architectures are generally quite difficult to reproduce since editorial work becomes continuous (editorial workflow). Products are made of complex and intricated links as opposed to isolated works such as books, music, movies. The richest content formats are not made available to the public online. In other words, it is quite hard to imitate the work of an online publisher without acquiring the assets and skills that are necessary to perform publishing tasks.

The question as to which of illegal download or upload is the most damaging one is irrelevant, as in essence P2P consists in both acts. What is downloaded is technically available for upload at the same time it is downloaded, thus no practical distinction can be made between both acts.

Regarding the question as to whether a distinction between “small” and “big” pirates should be made, the eLIG is the view that the Commission should stick to the Enforcement directive principles based on TRIPs multilateral agreement and international copyright law. Competent jurisdictions are in charge of determining appropriate sanctions. The law should not make such a distinction.

At last in the online environment and for educational publishers, piracy is not the most economically damaging form of unfair competition. The most concerning one comes from some open-access contents produced at hidden costs and in violation of fair competition principles (see our response to question 3, point 3).

**22. To what extent do education and awareness-raising campaigns concerning respect for copyright contribute to limiting piracy in the country or countries you operate in? Do you have specific proposals in this respect?**

In the education arena, the most urgent awareness issue about copyright is not necessarily the need to respect copyright per se. The real issue we face is the myth of free access and usage. The idea is deeply rooted in some educational communities that the right to education implies free access to work or access at a price that does not reflect costs. In some countries, the concept of “Fair Use” is understood as a right to use works for free almost without limitations, for instance without buying a legal copy of a work or without restricting usage to excerpts. In other words, exceptions to copyright are taken –in good faith belief- as rights granted which scope is considerably wider than what the law actually provides. The idea is deeply rooted among some teachers communities that they should benefit from specific privileges for educational purpose.

Against this backdrop, it is pretty obvious that the very meaning of the WIPO 3-step test for instance, cannot be understood. As the 2001/29 Copyright directive is being implemented, this lack of awareness is concerning because competent courts may have to use case law as pedagogy at the expense of users. It is therefore critical to speed up awareness efforts to help people really understand this apparently obvious sentence “should not conflict with the normal exploitation of a work”.

**23. Could peer-to-peer technologies be used in such a way that the owners of copyrighted material are adequately protected in your field of activity and in the country or countries you operate in? Does peer-to-peer file sharing (also of uncopyrighted material) reveal new business models? If so, please describe them?**

P2P technologies are not by nature averse to copyright, they can be used in respect of copyright, see for instance how Kazaa evolved, and before such move, how Napster was turned into a fantastic new business opportunity based on secure P2P file sharing by Bertelsmann. See also our response to question 8.

P2P technologies indeed reveal new business models such as super-distribution schemes where content and rights are simultaneously used and content can be re-used supported by appropriate rights management technologies. The concept of super-distribution of content online is not entirely new but P2P technologies can help it spread widely among the general public, blurring boundaries between authors, users, publishers, distributors.

**Rating or classification**

**24. Is rating or classification of content an issue for your business? Do the different national practices concerning classification cause any problem for the free movement of creative services? How is classification ensured in your business (self-regulation, co-regulation)?**

## **Digital Rights Management systems (DRMs)**

**25. Do you use Digital Rights Management systems (DRMs) or intend to do so? If you do not use any, why not? Do you consider DRMs an appropriate means to manage and secure the distribution of copyrighted material in the online environment?**

Online educational publishers using subscription-based business models do use basic and user-friendly DRMs such as Single Signed-On systems (SSO) to authenticate users and manage individual subscriptions, not IP rights. Publishers distributing individual resources to identified customers (eg. Sales of e-books, online publications in an isolated format...) also use in most cases basic technical protection measures that only prevents unauthorized copying or use. Full DRMs tools managing IP rights do exist but they are not widely used as they only seem to be useful for super-distribution schemes or B2B distribution such as trade in rights.

DRMs in a broad sense (basic TPM and full rights management systems) provided they take into account publishers requirements, are an appropriate means to secure the distribution of copyrighted material online and more generally normal exploitation of works. However they may not be suited to manage or compensate for exceptions to copyright which are more efficiently handled by collecting societies. Among publishers requirements about DRMs: these are just tools and not an end. Publishers must remain free to use them (or not)

**26. Do you have access to robust DRM systems providing what you consider to be an appropriate level of protection? If not, what is the reason for that? What are the consequences for you of not having access to a robust DRM system?**

Level of protection is generally sufficient and simple SSO systems are convenient to manage subscription-based models.

From a publisher point of view, progress has yet to be made regarding full DRMs in terms of interoperability and flexibility.

**27. In the sector and in the country or countries you operate in, are DRMs widely used? Are these systems sufficiently transparent to creators and consumers? Are the systems used user-friendly?**

Basic SSO systems are widely used by online publishers in subscription-based business models and they are generally regarded as user-friendly.

**28. Do you use copy protection measures? To what extent is such copy protection accepted by others in the sector and in the country or countries you operate in?**

Actually SSO systems we use in most cases are closer to TPMs than DRMs as they do not manage IP rights. Consumers generally consider SSO as authentication mechanisms, not as TPMs. SSO are better accepted than TPMs which are often associated with CDs' copy protection.

**29. Are there any other issues concerning DRMs you would like to raise, such as governance, trust models and compliance, interoperability?**

Interoperability and user-convenience must be improved, they are key prerequisite to foster adoption of DRMs by publishers.

## **Complementing commercial offers with non-commercial services**

### **30. In which way can non-commercial services, such as opening archives online (public/private partnerships) complement commercial offers to consumers in the sector you operate in?**

On this topic we would encourage the Commission to refer to the responses to the Commission Consultation on Digital Libraries provided by the Federation of European Publishers<sup>5</sup> (who is a member of the eLIG), its french arm Syndicat National de l’Edition<sup>6</sup>, and Editis<sup>7</sup>, member of the eLIG.

Please see also FEP and SNE responses to the Commission consultation on scientific publishing<sup>8</sup>.

There are numerous existing good PPP initiatives of academic and research publication archives and services, such as Cairn (<http://www.cairn.info>) for human sciences publications in French, Volltextsuche in Germany by Börsenverein (German publishers association) or UK’s Bookstore developed by MacMillan.

The Commission should build on existing viable initiatives and not reinvent the wheel. Successful and viable models are all based on cooperation and agreements between publishers and academic institutions or libraries respecting copyright. Agreements imply that such archive and orphan work services must not compete with normal exploitation of works by publishers.

In this context, “non-commercial” should rather be understood as “not for profit” since there is no rationale for considering the nature of this activity as “non-commercial”.

## **What role for equipment and software manufacturers?**

### **31. How could European equipment and software manufacturers take full advantage of the creation and distribution of creative content and services online (devices, DRMs, etc.)?**

By improving interoperability of devices and DRMs so as no to lock-in end-users to a proprietary solution while they generally want to access as many content catalogues as possible with the same functional device – not the other way around.

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<sup>5</sup> [http://europa.eu.int/information\\_society/activities/digital\\_libraries/consultation/replies/consult\\_results/fep\\_a302619.pdf](http://europa.eu.int/information_society/activities/digital_libraries/consultation/replies/consult_results/fep_a302619.pdf)

<sup>6</sup> [http://europa.eu.int/information\\_society/activities/digital\\_libraries/consultation/replies/consult\\_results/fr\\_pub\\_assoc\\_a302791.pdf](http://europa.eu.int/information_society/activities/digital_libraries/consultation/replies/consult_results/fr_pub_assoc_a302791.pdf)

<sup>7</sup> [http://europa.eu.int/information\\_society/activities/digital\\_libraries/consultation/replies/consult\\_results/editis\\_a302917.pdf](http://europa.eu.int/information_society/activities/digital_libraries/consultation/replies/consult_results/editis_a302917.pdf)

<sup>8</sup> [http://ec.europa.eu/research/science-society/document\\_library/pdf\\_06/federation-of-european-publishers.pdf](http://ec.europa.eu/research/science-society/document_library/pdf_06/federation-of-european-publishers.pdf) and [http://ec.europa.eu/research/science-society/document\\_library/pdf\\_06/syndicat-national-de-l-edition.pdf](http://ec.europa.eu/research/science-society/document_library/pdf_06/syndicat-national-de-l-edition.pdf)

**What role for public authorities?**

**32. What could be the role of national governments / regional entities to foster new business models in the online environment (broadband deployment, inclusion, etc.)?**

**33. What actions (policy, support measures, research projects) could be taken at EU level to address the specific issues you raised? Do you have concrete proposals in this respect?**

Public authorities can play an key role in fostering adoption of innovative content distribution and usage models by removing obstacles and stimulating investment in content creation in the educational sector in particular.

See eLIG policy recommendations to the Commission detailed in our responses to Questions 3, 5, 6, 10 and 17.



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