Fédération des Editeurs Européens
Federation of European Publishers

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To: EUROPEAN COMMISSION
Information Society and Media Directorate-General

FEP submission to the
Public Consultation on Content Online in the Single Market

The Federation of European Publishers (FEP) is the association representing national book and learned journal publishers' associations from 25 European Union Member States and European Economic Area. Thus FEP is the voice of the great majority of publishers in Europe. Founded in 1967, FEP deals with European legislation and advises publishers' associations on copyright and other legislative issues.

INTRODUCTION

The Federation of European Publishers welcomes the consultation launched by the European Commission on the future Communication for Content Online.

The publishing industry plays a vital role in Europe in several ways; first of all in spreading culture and learning and second as a contributor to European economy. Tolerance and understanding are closely linked with the dissemination of culture, facilitating intercultural dialogue in Europe. Furthermore, the European publishing industry is a key sector to achieve a competitive and healthy European economic landscape. According to the last industry statistics[1], the annual sales revenue of publishers within the EU and the EEA is approximately 22.268 million Euros, which makes it the biggest cultural industry in Europe. A total of around 123,000 people are employed full time by book publishing.

EU policies should therefore encourage sustainable business models which in turn will act as an incentive to create and disseminate further EU creative content. Moreover, we fully agree with the introduction of the Commission consultation paper when saying that new online services *"need the twin advantages of economies of scale and cultural diversity which the EU internal market brings… Furthermore self-regulation must keep on playing a key role in the online environment".*

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[1] http://www.fep-fee.be/FEP%202006%20Stats%20Final-FEPcomments.pdf

Types of creative content and services online

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.)?

In order to respond to consumer's demands, FEP members are increasingly offering creative content online. The characteristics of the publishing industry are substantially different depending on the sector we refer to and therefore the evolution of each sector is also varied. The type of content publishers offer online goes from academic and professional content, educational books, e-learning for higher education and training (which are often based on huge interactive databases), encyclopaedias, reference books, dictionaries, professional books to more recently trade publishing (such as audio books). Nevertheless the situation is very different from one sector to the other, while the academic sector has extensively gone online (it was the one which evolved first to online services in most EU countries), the trade sector is still only starting to go online and it remains to be see when will it fully take off and how.

Some examples of the evolution of content online in the publishing industry are, the increase of turnover in Italy for online databases of legislative and fiscal content which has developed from 9,0 million Euro in 1998 to 51,0 million Euro approx in 2005. The French market for electronic professional information has grown 29, 75% between 1997 and 2004[2]. Moreover, most publications from the Scientific, Technical and Medical (STM) field can be said to be online works nowadays (often still supplemented by print versions).

In the field of specialised publishing, publishers have been developing comprehensive sets of interactive services, including continuous update of the information, which go far beyond mere digitisation of content. Indeed, in the online environment, publishers can offer tailor made solutions (pay per view, rental, subscriptions etc) and manage these works accordingly to the benefit of all. In trade publishing, the content of online works is not substantially different from printed publications in the sense that publishers are digitising their own already high quality backlist and making them available on the networks. We urge the European Commission to support publisher's trials to encourage increased access to European books and innovative business models.

In this respect, we would like to refer you to the initiative of the Börsenverein des Deutschen Buchhandels called "Volltextsuche" which is the necessary response to ensure publisher's control of the full-text digital files of their works when these are made available in the internet. In Denmark the Publishers Association has participated closely in the development of an e-book portal - ebog.dk - which is expected to be launched in January 2007. To begin with the portal will mainly focus on text-books. Similarly, MPS Technologies (part of the Macmillan group of companies) has developed "BookStore" which is a digital warehouse allowing publishers to make content available for search and purchase online, while retaining control of all copyright, metadata, licensing (including price, territory and duration), payments and customer data. Furthermore, many individual publishers are already selling their eBooks on their websites (for example Taylor and Francis: http://www.ebookstore.tandf.co.uk/html/index.asp). Publishers are well aware of the importance of developing new online offers and they are working every day in new digitisation projects (For more information see Annex which includes some digitisation projects carried out by publishers)

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. As we have mentioned above, the type of content which publishers offer (and will increasingly be offering) online goes from academic and professional online databases, educational multimedia content to interactive encyclopaedias, reference books, dictionaries, audio books or even trade publishing. We believe the definition of content and services included in the Communication should be flexible enough to be adapted to future developments due to the rapid changes we are facing.

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[2] Data gathered by the "Groupement Francais de l'industrie de l'Information" (GFII)

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. Strong copyright protection is paramount to the take-up of new online services and it is the basis for the business model of publishers. Existing legislation is already the result of a balance achieved between the interests of all interested parties and we believe that it is the proper environment to allow new creative business models to develop.

One of publisher's main concerns is security in the network and fear of violation of protected online content. Publishers are concerned by the fact that the making of identical copies is extremely easy in the digital environment and there is a higher risk of piracy. It is therefore important to foster trust among right holders by reassuring them that the present legal environment will not be changed and enforcement of existing rules will be fully carried out. In this sense, we believe cooperation with ISPs can be improved. We publish 500.000 new books each year and each of them can be illegally uploaded several times. Thus, we need simplified procedures to collaborate with ISPs on a true basis. Tools such as the Enforcement Directive (Directive 2004/48/EC) are the way forward to provide rights holders with the means to fight piracy and it needs to be fully and correctly implemented in all EU countries. As to price systems, the more we go in the direction of micro payments the better for the development of new business models. The issue of pay per view might become a popular model and therefore micro payments need to be further developed.

Also VAT needs to be addressed. If discrimination between electronic and paper publications continues, it will inevitably have an influence on the newly born online publishing market. VAT rates for online publications should be lowered while ensuring that printed publications are not endangered of losing reduced rates.

In regards to lack of interoperability between devices, we need to have more devices designed for the publishing industry although it is difficult to predict where the market will go in the future. In any case, interoperability should not be at the expense of less protection for rights holders and their content.

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? The primary purpose of being a publisher is giving access to knowledge and information to the widest number of readers provided we are remunerated so that we can sustain our business models. We need to maintain the balance between a sound economic situation and the public interest because these two elements are necessary to achieve the so called Lisbon Agenda which is the key to Europe's future. Furthermore, we believe Europe has already put in place the necessary instruments to maintain this balance and any further intervention would result in detriment to the European economy.

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? We support interoperability between devices, respect of copyright and the use of DRM (provided the rights holder wants to make use of them). Interoperability between devices is essential in the online environment and we do not believe it is incompatible with security and safety in the net. Moreover, we rely on the ISPs to act as interface and therefore responsibility of machine manufacturers and technology developers is paramount for the future of the industry.

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? In our view, cultural diversity can and should be fostered online. Publishers are amongst the largest contributors to cultural diversity in Europe. According to the latest FEP statistics (from 2004), it can be assumed confidently that the number of titles available from publishers throughout the EU is not less than 3,959,000.

Respect for copyright should be the common basis both for works for which investment is needed. There are around 80 million pages in the internet and therefore enough room for all. For example, while Wikipedia has become a very popular tool to search for information, the Oxford Dictionary of English is still is one of the most important, widely used and paid for, dictionaries for English language.

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 Commission working paper on the competitiveness of the publishing industry[3] reports that the productivity of the publishing industries in the EU is higher than in the US. The paper acknowledges that the sector is under strong pressure due to the increasing digitisation of content which is changing modes of distribution. We believe it is important to strengthen the competitiveness of the European publishing industries in the digital era by providing the necessary protection to secure investment. In this sense, a positive step at EU level has been the introduction in 1996 of the "sui generis"[4] right which achieves this goal for non-original databases.

Another positive aspect of the European competitive advantage in the content market is the predominance of European publishers in the global market. The largest US publishing houses are owned by European publishers (e.g. Bertelsmann owns Random house/ main STM publishers such as Elsevier or Walter Kluwer are European)

Moreover, if we compare the European publishing industry with its main partner, the US, we have to take several aspects into account. As a Commission study on "Commercial exploitation of Europe's public sector information"[5] says "*public bodies are by far the largest producers of information in Europe. This information is recognized as a major, but so far under-exploited asset, which could and should be a fundamental block of the new economy in the information society*". The US has had a much more open approach to the exploitation of Public Sector Information, allowing the private sector to have access to this information. According to the above mentioned study the commercial exploitation of PSI has contributed significantly to the US economy. The EU has adopted a Directive to open up the PSI market (2003/98/CE) which has entered into force the 1 July 2005 but the deadline for the full implementation is not until 31 December 2008. The effects of opening the PSI market in Europe have therefore not had any visible results yet.

An example of the negative impact in the publishing industry in terms of competitiveness is the creation of public bodies such as Cendoj in Spain or Légifrance in France. These bodies make laws and case law available without any cost in the internet (for non-commercial uses) while charging publishers high prices for the same information. Indeed, even though we understand that governments should publish for free raw information within their public service mission, the same information should be provided in the competitive sector against payment if it has been enriched (indexing, comment, consolidation, search engines, thesaurus, hypertext links…). Such situations entail problems for legal publishers who republish that information and who are charged excessive prices for this material.

Other differences between the US and the EU are the different legal systems, taxation issues or simply the general economic situation. Finally the fact that in the US they have a single language and a much larger territory also influences the publishing market and allows for a more harmonised commercial strategy and a much quicker return on investment. In Europe, the many languages in which the market functions inevitably slow down the pace of growth (21 "official" languages so far).

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[3] Brussels, 8.10.2005, SEC (2005) 1287, page 29
[4] Directive 96/9/EC on the legal protection of databases
[5] "Commercial exploitation of Europe's public sector information". Prepared by: Pira Internacional Ltd. University of East Anglia and KnowledgeView Ltd. 20 September 2000.
European Commission DG- Information Society. www.cordis.lu/econtent

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? Publishers see multiple opportunities for new online content creation and we envisage multiple possible business models (See answer to question 1 and Annex). Nevertheless it is still premature to anticipate how the market will develop. Some initiatives such as Curriculum Online in the UK or DigiScuola in Italy show that opportunities are there. DigiScuola was launched by the Italian Government and it will consist in providing funds to schools to acquire learning objects. Publishers will then invest in those products in order to have the best offer and competition will be fostered in a positive way for the users. This will create a market place for learning objects for schools that any provider might offer.

Another example is BookBank, a British commercial platform which provides publishers with the means to store, manage, market and deliver their intellectual property through its secure and user-friendly digital backbone, entirely online. BookBank belongs to the book manufacturer CPI publishing. BookBank gives publishers control over their content. Publishers set the levels of authorised access. Publishers can use BookBank to store text files, illustrations, audio files, covers, jackets and marketing materials. Such platforms and the very many other ones, some emerging everyday or almost, will provide access for libraries to full search of the book and will offer a number of different business models. You will be able to acquire electronic books or hire them, to print some chapters or download the text on an electronic reader based on the e-ink technology, to have a print on demand copy made available to you. It will also allow an improved access for print disabled persons as we are currently developing software which will translate electronic files into Braille or large font. The sky is the limit provided that we have proper protection enabling the vast investments in this digital technology. Online availability of books needs to take place through varied networks of actors, as it is already the case today for printed books where you can either go to a bookshop or to a library. Publishers are very keen to support booksellers in this new virtual environment. Publishers are also willing to work with libraries to find licensing solutions which will allow everybody to remain competitive!

Most platforms of electronic books make the works available in the whole of Europe. Finally, in regards to the obstacles, we are still not certain what difficulties might appear but a possible problem might arise when publishers try to acquire the rights for multimedia works in order to distribute them at EU level (video, music and text).

9. Please supply medium term forecasts on the evolution of demand for online content in your field of activity, if available.
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.
One of the main barriers is technical unreliability. While digitisation of backlists entails substantial investment, technical changes take place even before any return on investment occurs.

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? As we have mentioned above it is still too premature to know within the publishing industry what kind of difficulties in terms of technical barriers or securing revenue streams we will have to face. It will surely depend on the segment of publishing with most of the STM publishing being already online and educational publishing increasing. Publishers of educational multimedia contents are especially facing difficulties to get any return on investment, and the adoption of IT by pupils and schools may be further delayed if public authorities concentrate their policies only on infrastructures and too little on the acquisition of content. For trade publishing to really take off, it will probably depend on the availability of devices and the uptake of the general public. It is necessary to sustain a healthy book chain where a European Digital Library complements commercial offerings and not supplement them.

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? We envisage different payment and pricing systems possible in the online publishing environment such as pay per view, subscriptions, rental, browse inside etc. These new products and services are being tested at the moment and the market is not mature enough to draw conclusions.

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? European publishers have not encountered any problems concerning licensing and / or effective rights clearance. It is possible to clear the rights world-wide without difficulties.
In the publishing industry, individual management of rights is the natural starting point for rights holders to manage their rights whenever feasible or possible. One basic difference with other cultural industries is that Reproduction Rights Organisations (RROs) were established by rights holders to license photocopying and their mandates have accordingly usually been limited to reprographic reproduction (secondary uses). On the one hand, some rights holders, especially large publishing houses, have been actively experimenting and investing in new digital publishing models themselves. On the other hand, other rights holders may decide that RROs might play an important role in the sense that a rights holder may benefit from their services because their digital rights will be better managed collectively. In either case, the key issue is that rights holders have the freedom to choose how to manage their digital rights and they can withdraw them whenever they deem appropriate. For all these reasons multi-territory licensing and clearance is not a problem in our sector. Each linguistic version of a book has worldwide rights attached to it (except English language).

In order to facilitate the identification of rights holders (and therefore clearance of rights) the Spanish publishing community has promoted the creation of a technological platform for the management and distribution of bibliographical and marketing information for Spanish books in print (for more information see: https://www.dilve.es/dilve/dilveweb/dilve_english.jsp)

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.)? Remuneration for rights holders for the distribution of online content should always be governed by contractual provisions. Moreover, some EU countries have included in their national legislation an exception for private copying. In these cases, the user is exceptionally allowed to copy without the rights holders' permission and levies offer them compensation. Especially in the analogue/reprographic area, it is impossible for publishers to control reproduction from paper to paper and therefore usage-related collective licensing (voluntary or statutory) provides for fair compensation. The same could apply to uses concerning copying from analogue format to digital format (e.g. scanning a book). When considering copying from a digital format to an analogue format it depends on the circumstances and it should be assessed on a case by case basis. Sometimes, the reproduction of a work is uncontrollable and levies are the only way to compensate copying (e.g. scanned short abstracts of a book or a scanned article printed on a printer). In some other cases copying could be dealt with thanks to DRMs and therefore there might be no need for levies to apply (e.g. short abstracts of a DRM protected eBook printed on a printer). However, publishers should remain free to use or not DRMs as part of their commercial policy. It should be noted that a majority of contents in the publishing sector are not copy protected yet, and will remain so for a long time, given that the publishing industry still relies a lot on the paper format and therefore levies offer an acceptable solution for publishers when in place.

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?
One of the barriers that can be identified in the publishing industry is the fact that publications have different Value Added Tax treatment according to whether these are printed or electronic. Printed books in 23 of the 25 European Union Member States enjoy a reduced VAT rate and despite the gradual transformation of the European publishing sector towards digitisation, the European Union has systematically refused to accept the arguments for lowering VAT rates for online books and journals. To the opposite these publications bear standard rates.

Copyright protection sustains investment and this is increasingly true for electronic publications. Publishers believe that the current EU copyright laws provide for an essential basis for the development of sustainable business models, while responding to consumer's demands for a diversified supply of content online. FEP does not believe it necessary to further legislate or to revise EU copyright legislation since many of the current "copyright acquis communautaire" has just been implemented. In this sense a possible barrier which would hamper the development of online works is the lack of stability in the legal framework. Revisions of EU legislation should not take place before allowing existing rules to come fully into force or before the market is given the chance to develop. We urge the Commission services to keep on monitoring the effective implementation in Member States of those rules which have been adopted at EU level such as Directive 2004/48/EC of the European Parliament and of the Council on the enforcement of intellectual property right. This Directive, which should have been implemented by all European countries earlier this year, will provide for effective remedies against those engaged piracy and so create a level playing field for right holders in the EU. Unfortunately many EU countries have not implemented it yet or have not done it properly.
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? Book publishers have not so far applied "release windows" to its business model but it is a possibility which might arise in the future. We are vigilant to developments in other industries.

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? European publishers have traditionally been suffering the effects of analogue unauthorised reproduction or translation of their protected copyright work and unfortunately online piracy (both uploading and downloading) has become an issue for our sector in the last years too. According to figures released by a UK anti-piracy company last year, it is estimated that between 25,000 and 30,000 pirated book titles from the UK are available on the web. Nevertheless, most worrying for the media is the individual file sharing which has so far severely damaged the film and music industry. But illegal file sharing is also increasingly damaging the book market with illegal downloads and file sharing of audio books, eBooks or scanned articles or books. The audio book market is a growing one in many countries like Germany, Sweden or UK. In Germany the audio book industry has seen a total turnover of approximately 150 million Euro in the last few years and only in the first half of 2006 downloads of audio books represent 2,7 million Euro of turnover in Germany. Unfortunately, the number of illegal copies of audio books is also increasing in illegal P2P networks or simply being sold in online auction sites.

They key issue is not whether pirates are "big" or "small" but rather the fact that unauthorised uses of copyrighted works cannot be tolerated and should be pursued (as confirmed by the EU "Enforcement Directive" and the TRIPS agreement).

We would also like to insist that respecting data privacy including the right to read anonymously should not act as a shield to illegal activity. In a number of countries, publishers have been working closely with Internet Services Providers to develop efficient and fast track procedures to improve the fight against piracy. In the UK, a scheme of Notice and Take Down of illegal websites has been set to the satisfaction of both parties. In 99% of the cases the illegal works are taken down without any problem. The UK Publishers Association is also working on a database to identify those who offer illegal downloads of works in order to be able to track them down. This needs to be extended to other countries.

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? Education and awareness-raising campaigns are essential to fight piracy both in the analogue and in the digital world. Unless readers understand the true value of intellectual property and respect it, it will be difficult for publishers, often dealing with low print-runs, to give them a really attractive offer and an efficient service as publishers will not have the financial means to achieve these goals. Copyright industries are already carrying out education campaigns in the different Member States but more support from Governments (both at national and community level) is needed to raise awareness and understanding of copyright and to fight the myth of "free access to information and culture".

Some practical examples of actions taken by the industry to raise awareness are the anti-piracy working group created in Germany. This working group is created by representatives of the publishing industry such as German book publishers, booksellers, audio book publishers and publishers of electronic content. This group has been set up to raise awareness of the importance of copyright among users and ISPs, to pursue copyright infringements and as information source for publishers who want to react against online piracy of their works. Moreover, as part of this awareness raising campaign, the group has created a web page with relevant information and is actively looking for new ways to educate on the importance of copyright such as the use of logos on copyrighted material to catch the attention of users. (For more information on this campaign please see www.original-legal.de)

Another example of constructive ways to limit piracy is a code of conduct sent by the UK Publishers Association to ISPs or certain web sites when an illegal work is online in order to raise awareness of the importance of copyright respect (This "tool kit" is currently being sent in cases of illegal audio books being available online).

Further examples are the action plan in defence of intellectual property launched by the Spanish Government in 2005 which was supported by all creative industries. Moreover, CEDRO (Spanish Reproduction Rights Organisation) has successfully launched this year with the support of the publishing community, a campaign intended for the whole of the educational community to encourage reading, textual creation and respect of author's rights (for more information see: www.esdelibro.es). The Spanish Publishers Association is also very active in raising awareness of the importance to respect copyright both in Spain and in South America where books in Spanish are alarmingly pirated.

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. There is no experience so far in the publishing industry with this type of technology so it is difficult for us to foresee if this technology will be applied and how.

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)

Digital Rights Management systems (DRMs) involve technologies that identify and describe digital content protected by intellectual property rights. While DRMs are essentially technologies which provide for the management of rights and payments, they also help to prevent unauthorised use.

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? In the digital environment, market-driven options of rewarding authors and publishers should be explored first. From the individual right holder's point of view the fairest remuneration, is that which is paid directly to the individual right holder by the user. Sophisticated DRMs when in place will allow such direct remuneration for the use (acquisition, rental…) of digital works, whether it is licensed on an individual basis or through voluntary joint licensing. In any case, rights holders must retain the freedom to decide if, when and how, DRM be implemented. Because DRM are still being developed and since in a foreseeable future within the publishing world a majority of works will be printed publications, any shift should be closely determined on a case by case basis

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? The DRM market is still an emerging one and the only possible assessment should be done on a case by case basis of specific devices and services. In any case, it will be up to the right-holders to pay for DRM related services and therefore to determine whether their use ends up being more profitable for them than other remuneration schemes.

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?
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? While publishers are engaging in the development of international interoperable standards as primary enabling tools, they should be allowed to those encryption systems which suit their business model best. Nowadays, it seems that many publishers – notably those offering databases via subscription – tend to use DRM for authentication purposes only.

29. Are there any other issues concerning DRMs you would like to raise, such as governance, trust models and compliance, interoperability? We want to insist in the fact that publishers see DRM technologies as consumer enabling technologies which will permit a potential infinite number of business models giving the reader what he/she wants. Publishers do not want to lock up content; to the contrary they want sell their books to the widest possible audience. Also, we see Interoperability as paramount for a proper development of the online market. Publishers are increasingly working on solutions such as the ACAP (Automated Content Access Protocol) project which will develop and pilot a technical framework which will allow publishers to establish mutually beneficial business relationships between publishers and search engine operators, in which the interests of both parties can be properly balanced. This pilot project was presented during the 2006 Frankfurt book fair. Participating in the project are newspaper, magazine, learned journal and book publisher associations.

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? We believe that non-commercial services can complement commercial offers in the publishing sector as long as those services avoid disrupting the delicate balance which allows publishers to invest into content creation and dissemination. In book publishing, successful publications are cross-subsidising other works. Similarly, in STM journal publishing, smaller or less financed science communities benefit from the success of other journals. The system is sustainable and access to science has been greatly improved thanks to electronic publishing. Therefore, the rationale for institutions to divert research funding into publication costs associated with open access journals or repositories should be thoroughly examined, notably in terms of fairness of competition towards publishers. In our view, EU policy should work to sustain and promote an efficient and healthy publishing industry essential to maintaining effective dissemination of quality research journals. In any case, publishers want to provide access to the maximum number of possible readers.

Concerning legal deposit, FEP has established jointly with the Conference of European National Libraries a set of voluntary guidelines recommending that publishers deposit their electronic publications, both online and offline in

deposit libraries. Deposit libraries ensure the preservation and long-term access, therefore it has been agreed that any further access within the premises of the deposit library, must be negotiated with rights holders. Concerning this latter issue, one can mention initiatives aiming at the long term preservation and wide access of scientific publications based on the voluntary participation of publishers and on conditions agreed with them, such as the French-Belgian Cairn portal (http://www.cairn.info).

Finally, initiatives such as the EU project"2010: digital libraries" are welcome by the industry as long as access to copyrighted works is provided under contractual solutions and in full cooperation with all stakeholders and respect of copyright legislation.

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.)? European equipment and software manufacturers could improve the interoperability of their products so as to allow the consumer to read as many contents as possible via such devices.

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.)? It is fundamental that public authorities invest as much in infrastructures and the development of broadband as in the support of the creation of rich and diversified contents and their acquisition.

National governments should always respect the principles of the three-step-test (Art. 5 (5) of the Information Society Directive) and take it into account when establishing new copyright exceptions since they might hinder the development of new markets in the online environment.

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 essential role in fostering new business models in the online environment in providing funding facilities for rights holders to develop their own digitisation programs which would allow them to offer legal online services to users. Another important role of public authorities is to educate in the importance of copyright and raise awareness of the damage online piracy causes to the creative sector and to all society in general. We need support from the National Governments to teach future generations that content is not for free just because it is online.

At EU level, the above mentioned suggestions can apply but we also want to encourage the European Commission to keep carrying out initiatives such as "eContentplus" facilitating funds to develop metadata enriching existing contents or "Culture 2000" facilitating the development of translations or organisation of events. Nevertheless, there are currently no EU programmes foreseen to support the publishing industry in particular so we urge the Commission to include a real book support policy for the development of digital content in the coming "Culture 2007" programme.