

## **Contribution to the Public Consultation on Content Online on behalf of the Publishers Association**

Following the line set by i2010, the Commission's initiative, in our view, cogently identifies the importance of the content sectors and their tremendous potential for growth in what is a particularly exciting phase of their development.

In our industry the present focus is on the evolution of new business models, operating on the firm basis provided by copyright and aimed at exploiting the opportunities offered by digital convergence and the new technologies which are proliferating around it. As cases in point, we mentioned the investment in digital repositories such as Volltextsuche in Germany and Bookstore in the UK, and the development of electronic content management standards such as ONIX, and most recently the Automated Content Access Protocol (ACAP) which will provide a versatile permissions language.....that can facilitate access and use of the content available; enable us to work in partnership with the search engines; allow the integration of library licensing systems; give faster access to new content for disadvantaged groups such as the Visually Impaired; and eventually help to operate the access portal of the European Digital Library. At the same time, new delivery platforms are enabling us to increase the range of products that we can offer (and we await the impact of new user friendly e-book readers).

Developments such as these are generating a major market "surge" in the pace of the content sectors' approach to the challenges and shifts which our industry is facing, and in working out the practical and competitive solutions that will take us forward.

However, while the present situation is highly dynamic and there is, of necessity, considerable experimentation and risk investment, we are not encountering any market failure that would seem to require early intervention. While we clearly share the Commission's objective therefore, and particularly the desire to add value wherever this might be achieved, we would advise against any premature intervention while the market itself is developing its own solutions. Experience has taught us that intervention (particularly in the form of regulation or legislation) too early in a period of accelerating shift, can actually have the unintended consequence of constraining the development it was intended to support, and that in times when the market is in a state of rapid but constructive flux it serves the purpose best if frameworks are allowed to grow organically in a way that allows the evolution of systems and practices most appropriate to purpose and deriving from the accumulating experience. We can foresee industry developing operating standards and codes of practice, and as these are proven in the market place, we would look to the Commission - and to our national governments -- to support and encourage them. Problems that may turn out to be transitory will be resolved through a process of innovation and development. Mature players will learn to explore new markets and develop new relations with their customers. We shall then have a better idea of what is needed, whether in terms of legal certainty, education or measures to encourage our International competitiveness.

That said, we would look to the Commission and national governments to address such barriers to progress and competitiveness as are identified within

the current dialogue. A case in point, for example is the approach which governments take to the exploitation of Public Sector Information (PSI). In Europe this could be argued to be an under-exploited asset, when compared to the more open approach adopted in the USA. This ability to exploit PSI has contributed significantly to the US economy, and it is this, as much as the existence of the sui generis right which affects our competitiveness in relation to America.

We also look to the Commission and national governments to sustain a strong and stable IPR regime that can provide the basis of legal certainty which underpins the extensive investments by the sector in the new products and systems that we need to adopt and exploit.

We shall welcome the intended Communication because of the recognition that it will extend to the increasing importance of the content sector as a major contributor to the European Economy, and because of the clear indications which you have given that the Commission stands ready to give positive support to these industries. We hope that such policies and instruments as may emerge over time will in due course consolidate the systems and standards that we are in the process of devising, and importantly, proving, so that we will eventually achieve that synergy between policy and the market place which will offer the best platform for progress in developing our international competitiveness and delivering the i2010 objectives.

We note that the development of DRMs continues to occupy a significant place in the ongoing debate, and I therefore attach a paper which sets out the approach of this Publishers Association. It demonstrates, that our preoccupation has been with developing an electronic content management system as a totality, aimed primarily at becoming an access mechanism based around permissions and not merely protectionist. The ONIX and ACAP family of standards are the products of that approach. We are of course vulnerable to piracy, and I attach also a summary of this issue as we see and approach it, which will provide you with some background into the development of the Notice and Take Down system.

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