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Audiovisual and Media Policies  
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Information Society and Media

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Ihr Zeichen, Ihre Nachricht vom

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EU/06/PP/Ra  
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Durchwahl  
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Datum  
12.10.2006

## Public Consultation on Content Online in the Single Market

Dear Madams/Sirs,

The Austrian Federal Economic Chamber (Wirtschaftskammer Österreich - WKÖ) is the legal representative of the entire Austrian business community. Membership is regulated by law and comprises all Austrian companies. Some 360.000 businesses drawn from the areas of crafts and trades, commerce, industry, banking and insurance, information and consulting, tourism and leisure industries, transport and communications are represented by the organisation. Due to this structure, the Austrian Federal Economic Chamber represents the common interests of the whole Austrian business community, forms part of the Austrian social partnership and works with all policy makers on a national, European and international scale.

The WKÖ thanks for the possibility to comment on the assessment and proposition of possible future regulatory measures regarding the development of a pan-European Market for electronic creative content. From a business perspective, it is clear that electronic creative content will play an increasing role in the development of a European technology-based society. Increased access to such content as well as interactive and technologically advanced user-devices will lead to a widespread usage of ICT technologies and the connected services. The delivery of such content via broadband infrastructure and the development of the technological environment towards an information network which is available at any time and at almost any geographic position will change the way creative content is distributed. At the same time, it will increase the volume and variety of electronic creative content consumed and will thus increase the economic importance of the sector involved. In the light of these developments, we would like to present the following remarks:

### Questions 3 to 6

The present environment for delivery of electronic content is marked by short innovation cycles on the level of technology and business models. This speed is mainly due to the fact that - from a regulatory point of view - the IP-infrastructure (which is the main delivery channel for electronic creative content at the moment) is largely build upon civil law and thus enjoys a flexible regulatory system which is directly driven by the interests of users and companies

involved. Such regime allows for rapid reaction to new technological developments. Since network effects and user-driven interests are especially important for IP technology, interoperability, network security, and other public interests mentioned in the questionnaire are sufficiently addressed by the civil-law based regime complemented by market forces. Therefore, on the basis of IP-based infrastructure, self regulation and the civil law approach should be maintained.

#### Questions 12 and 13

Business payment systems for electronic creative content are mainly implemented via collecting societies. Business use of content is dependent on the payment of adequate levies. The levies are negotiated between collecting societies, which act on behalf of right holders and organisations representing different business interests. Copyright levies are then paid to the collecting societies and distributed amongst the right holders by way of self-administration. This system is flexible and at the same time allows for efficient consideration of all interests involved via representation of the relevant stakeholders. Therefore, extended regulatory intervention is not necessary and should not be foreseen.

#### Questions 14 and 15

The benefit of Europe-wide or multi-territory licensing and clearance regimes is limited. On the one hand, it would not perceptibly change the current position of producers of electronic creative content. On the other hand, as long as worldwide repertoire solutions can be offered by national collecting societies, users of the system do not currently have a pressing interest in Europe-wide or multi-territory licences, since cross-border offers can already be handled efficiently under the current system.

#### Questions 21 to 22

Piracy - and in particular Internet piracy - constitutes an ever growing problem for Austrian business. New software technology such as newsgroup clients, peer-to-peer networks and their availability on an increasing number of hardware devices makes it more and more difficult to control delivery of electronic creative content and thus to guarantee adequate remuneration for the right holder. The Internet plays an important role in piracy. Estimates show that currently about 60% of piracy incidents are conducted over the Internet. Due to the nature of Internet communication, the problem involves upload and download activities as well as small and major piracy offences. It is noticeable that incidents increasingly involve cross-border activity. This is especially true for Austria and Germany, where the lack of language borders furthers piracy activity even more.

Against the background of these numbers, anti-piracy measures are necessary in order to guarantee an adequate remuneration of right holders. Information and awareness campaigns are already conducted. However, up to now no reliable numbers on the efficiency of such campaigns is available for the Austrian market. Therefore, due to the cross-border nature of the problem, an evaluation of the impact of information and awareness campaigns is needed in order to assess the scope of such instruments. If the current trend remains and such assessment does not lead to sufficiently precise conclusions, extended regulatory measures against piracy, and online-piracy in particular, should be taken into account.

#### Question 23

The film industry points out, that it already provides different distribution and access channels for its products, such as controlled peer-to-peer technology (eg.: [www.in2movies.at](http://www.in2movies.at)). It is expected that such offers will slightly reduce online piracy.

Questions 25 and 26

Digital Rights Management technologies potentially constitute a major step towards secure and efficient distribution of electronic creative content over electronic networks. However, at the present state of development, their application is limited to certain types of content and content distribution. This is due to the fact that licensing and the documentation involved is still burdensome and prohibitive for certain applications. However, it is likely that this limitation will be overcome as technology evolves.

Yours faithfully

Dr. Rosemarie Schön  
Head of the Unit

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