

Viviane Reding  
DG Information Society & Media  
European Commission  
B-1049 Brussels  
Belgium

11<sup>th</sup> November 2005

**By Post & Email**

Dear Commissioner Reding,

**COMMISSION STAFF WORKING PAPER**  
**Strengthening the Competitiveness of the EU Publishing Sector**

The Authors' Licensing and Collecting Society Limited ('ALCS') is the UK rights management society for writers of all genres of literary and dramatic copyright works. Established in 1977 and wholly owned by its writer members, ALCS is a not-for-profit, non-union organisation. The Society's governing body, the Board of Directors, is composed of elected Ordinary writer members, and writers nominated by its two Corporate members, the Society of Authors and the Writers' Guild of Great Britain. Since its foundation, ALCS has paid writers over £100 million in fees and today it continues to identify and develop new sources of income for writers.

We have responded to the parts of the questionnaire that we feel have a direct bearing on the interests of our members, and writers generally.

- Questions 1/2. We feel that the failure to acknowledge the vital role played by writers (both staff and freelance) in the publishing value chain represents a major omission in this analysis of competitiveness indicators within the publishing industry. We do not feel that designation of creative input as a publishing cost, under the general heading "content acquisition", is a correct or appropriate recognition of the economic contribution made by, and due to, writers.

Clearly any sector of publishing, in any territory, is reliant on an initial generation of creative content. If the terms and conditions on which this content is secured are unbalanced or inequitable, the incentive for further creativity diminishes. In debating the future threats and opportunities currently facing the European publishing industry, the EC must recognise the *three* key stakeholder groups in terms of published content: generators, providers and users.

- Question 3. In addition to providing publishers (and creators) with new delivery methods, digital technology also enables, in theory, greater potential for the re-use of a work, following the original publication. For example an article in an academic journal available in digital form (either by origin or conversion) may be linked to various on-line locations for access by a much wider user-group than that envisaged by the 'first sale.' In such an environment the licensing structures in place between content generators and content publishers need to be sufficiently flexible to permit both parties to receive (or, at least, have the opportunity to receive) a fair and reasonable reward for their respective creative and economic contributions from all stages of the various usage chains.
- Question 4. It is vital that all stakeholders within the publishing industry are clear in their understanding of the full potential of DRM systems. For example there is, within the specific area of the collective management of rights, clear potential for author-focussed DRM systems to enhance the current methodology by providing greater levels of transactional data. A perception by users and policy-makers that DRM is primarily a tool for commercial protection and the 'lock-down' of content can only harm the long-term aim to achieve a developed, broad-based and sustainable digital publishing environment.

If successful business models are to evolve, the role of DRM systems as an enabling technology providing more accurate data as to the actual usage of works – a fundamental criterion for dealing fairly with both rightsholders and users – will be crucial and should be emphasised in the current public debate.

- Question 5. We support the principle, stated in the recently adopted UNESCO Convention on the protection and promotion of the diversity of cultural expressions "of the complementarity of economic and cultural aspects of development". If appropriate business models are in place, digital technology should support diverse output from a publishing industry. While the competition offered by new media may, on the one hand, appear to work against the growth and sustainability of cultural diversity within this sector – authors share the concerns of publishers, reported on p.20, at the growth in discounted best-seller

deals - technology can also be a driver of diversity. The lower costs associated with the production and marketing of digital products should encourage and stimulate publishing within specialised sectors and niche markets.

- Question 6. It is important to differentiate between the kind of 'citizens' direct participation' permitted by digital technologies across various sectors of the media, and content generators who, through their own digital 'publishing' portals, are able to deliver valuable content to a particular market. Clearly the latter category may contribute significantly to both the economic and cultural health of any publishing industry.
- Question 7. In a future where 'publishing' will include, for example, the webcasting of mixed media products, it is more important than ever to recognise the principles of fair remuneration and treatment set out in our responses to Questions 3 and 4 above. More specifically, the development of reliable and universally adopted identifier coding schemes (to apply to the individual works comprising the digital product and to the creators of those works,) is, for both rightsholders and users, an essential component of a successfully converged media environment.
- Question 9. We see the engagement by the publishing industry in CSR practices as a key policy objective in the promotion of sustainable development in this sector. The 'special responsibility' of publishers, described on page 28, to ensure that freelance contributors are treated fairly, is vital for both CSR best practice and economic sustainability. Fair treatment for contributors extends beyond the payment of reasonable rates. With a far greater understanding of the nature of digital markets, than existed say 10 years ago, publishers should not feel the need to seek mandatory buy-outs of all-rights packages, but rather seek to establish licensing regimes that match the range of proposed uses.

In addition to ensuring that creative contributors have the opportunity to benefit from both the primary and secondary uses of their work, this more scientific approach should ultimately also provide publishers with the degree of flexibility needed to operate effectively in a digital publishing environment.

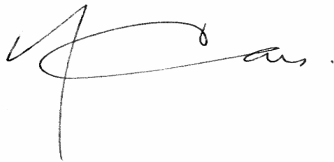
The same principle should apply equally in the context of an author's moral rights - to be identified as the author of their work and to preserve its integrity. It is vital, in a digital environment where an individual's work may be readily shared, manipulated, republished or simply plagiarised, that this further level of legal protection for an author's name and reputation is maintained and respected. Any publishing regime that routinely requires an individual to waive these

rights must re-evaluate such policies to adhere to the CSR principles described in the working paper.

We therefore support the policy suggestion that a dialogue is established within the European publishing sector aimed at identifying best practice in the field of CSR, provided that the appropriate amount of time and attention is given to the views expressed on behalf of creators.

We hope that our responses make a useful contribution to the policy discussions in this area, and will be happy to offer further information or assistance.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Jane Carr', with a stylized flourish at the end.

**Jane Carr**  
Chief Executive