



EUROPEAN  
VISUAL  
ARTISTS

To European Commission  
DG Information Society and Media  
[Info-taskforce-media@cec.eu.int](mailto:Info-taskforce-media@cec.eu.int)

**Consultation on Commission Staff Working Paper “Strengthening the Competitiveness of the EU Publishing Sector” the role of media policy, pre-released the 22.09.2005**

EVA gathers 22 collecting societies for visual arts in Europe under its roof. Its members manage authors' rights for over 50 000 painters, photographers, illustrators, designers, architects and authors of other visual works.

In general collecting societies are known to collect and distribute remuneration for their members for so-called secondary rights. These are for example reprographic rights, cable retransmission, public lending and renting or remuneration for press clippings to mention some examples.

Collecting societies for the visual arts also administer the so-called primary rights for authors of fine arts. These cover in particular the rights of reproduction and distribution. These are the rights needed for all kinds of publishing of works of art, such as posters, post cards, calendars, newspapers, magazines, art books, illustrated books and book covers, packaging of all kinds of products.

The licensees might be museums and cultural and educational institutions, publishers of all kinds of media and advertisement companies.

Our members also manage the online rights for fine arts. For the worldwide uses on Websites they have created in 2002 their own international one-stop-shop for licensing called OnLineArt. Thus, the users are provided with a tailor made international licensing service while the interest of the authors to be equitably remunerated is safeguarded.

**EVA G.E.I.E. 0461142849 1**  
**Rue du Prince Royal, 87**  
**1050 Bruxelles**  
**Phone: 02/ 551 08 90**  
**Fax : 02/551 08 92**  
**E-mail: [Info@evartists.org](mailto:Info@evartists.org)**  
**<http://www.evartists.org/>**



**EUROPEAN  
VISUAL  
ARTISTS**

With our submission to your consultation we would like to make you aware that a strong publishing sector is dependent on a lively cultural scene. The creators are in the centre of the content production and their fundamental input into the sector merits the attention of the EU institutions when considering modifications of the business conditions. The promotion of the publishing sector must go hand in hand with the protection and defence of the author's legal and economic situation if the high standard of European content publishing should be continued.

The cultural diversity of Europe is the source of content. Any policy of the European Commission in this field needs to be coherent with the very supportive Commission policy towards cultural diversity.

EVA is associate member of IFRRO and supports its position. From the perspective of visual authors we are adding specific observations and comments.

## **Consultation**

*This staff working paper*  
Question 1

We believe that the sector of publishing of works of fine art has not been addressed sufficiently. There appears to be already a lack of information and statistical material. We would therefore appreciate if the Commission would address this field with a specific consultation of our field and by in depth studies and enquiries.

Because of the different basic structure of the market for publishing works of art, much different results are to be expected.

Works of art are completed by the authors themselves and there is no further technical step necessary to enable the public to take notice of the work. Musical works, films and texts need to be fixed on a support which modifies manuscripts into copyright protected products (besides the performances of music and plays for instance, which are a different issue).

Works of art are in general original works which are sold by art dealers and galleries, which are exposed by museums and collectors. In general such works are exploited by the publishing sector only, when they are already successful and the artists are known.

The particular mutual dependence between an author of a text and a publisher is not the rule in the field of fine arts.



**EUROPEAN  
VISUAL  
ARTISTS**

One of the main consequences is that the authors of fine art only licence the particular use and do not share any further rights with an industrial partner. Therefore, further uses need additional licences and secondary rights remain entirely with the authors and their collecting societies.

Another consequence is that collecting societies play a significant role to defend the author's rights because there is no other rights holder acting in order to protect a common interest on the copyright protected product.

As concerns other author's groups, such as photographers and illustrators who enter into direct contracts with publishers we would appreciate if the staff working paper would include the interest of the large number of free-lance workers in the definition of the sector and treats them with particular interest. An ever increasing number of content creators is concerned with such contracts offering them only a very low level of copyright protection. As there is no copyright contractual law to protect the authors who find themselves regularly in a weak bargaining position and feel forced to transfer all rights related to the work they create. This is mostly the case with large international media conglomerates.

## Question 2

Given that still images become increasingly requested and used by consumers through new technical means we would not be surprised if also the industrial structures would change more significantly in the future. Quality of reproductions is significantly improved even by low investment. Works of fine art can even be scanned and digitised with consumer electronic devices.

However, some fields are unlikely to disappear or to change strongly. This is the case for decorative products, such as post cards, calendars and poster production. These products are affordable items which enable any private household to possess and decorate with copies of famous works. It might be, however, that in this field the methods of production will be modernised.

There might be new business models which link data bases of art collections with on demand print services.

For our sector it is most important that in any case of modification of this business field there is a quality control possible because differences in colour and cuttings of works are potential moral rights infringements. Furthermore, remuneration of authors must be ensured and circumvention of national copyright legislation must be excluded.



EUROPEAN  
VISUAL  
ARTISTS

### Question 3

Our members are most interested in the technical developments in particular if this is in the interest of authors for instance if they save administration costs. At the moment Digital Rights Management systems are still not a realistic option for the field of works of fine art because of a significant security lack. If legal digital copies were all marked with watermarks it would still be impossible to track illegal copies of works. It is easy to scan and digitise works from any illustration.

The EVA societies have created with OnLineArt a tool to better track illegal uses with its common server which registers all licenses granted by OnLineArt.

The use of DRM in the field of digital private copies does not ensure that all rights holders including the authors are equitably remunerated.

### *The nature of the link between diversity of ownership and diversity of content*

### Question 5 and 6

Within any process of modification of the publishing market the EU institutions should include in their activities the improvement and protection of diversity of content and of cultural diversity. Diversity of ownership is clearly an important factor. The entrance barriers for new market players should remain low.

Towards large International media conglomerates the authors are regularly in very weak bargaining positions and often forced to transfer all author's rights in buy-out contracts. Authors need to be rewarded properly in order to continue the creation of content and because this is a matter of justice and equal treatment.

We would like to remind at this point of the conclusions and requests of the European Parliament in its report (PE 332.581) on collective management of 11 December 2003 and would like to learn if any of the necessary measures are in preparation and if the policy envisaged in this staff working paper is coherent:

*“15. Notes, on the other hand, that the increasing vertical concentration of the media is the real challenge in the area of access to and dissemination of works and services protected by copyright or neighbouring rights, as also the exercise and exploitation of such works and services; calls therefore on the Commission to monitor the vertical concentration of the media and its effect on the exercise of rights and, where necessary, take the necessary measures;”*



EUROPEAN  
VISUAL  
ARTISTS

The IFJ/EFJ regularly publishes a report on the media concentration in Europe.

#### Question 7

Under this item we would like to emphasise that the co-existence of both is necessary and that we believe that the regulated broadcast media needs to be continued in order to maintain access to broad information of the public with content which is of high cultural value and not simply a commercial success.

*Advertising; integrated media policy*

#### Question 8

Works of art may be used for advertisement purposes. In some national legislation there are exceptions from the exclusive right of reproduction and making available right for works which are situated in public places. However, these exceptions do not include moral rights. Trans-border advertisement uses of works of art may be in conflict with different national legislation of exclusive rights and moral rights regimes.

Brussels, 15 November 2005

EVA G.E.I.E. 0461142849 5  
Rue du Prince Royal, 87  
1050 Bruxelles  
Phone: 02/ 551 08 90  
Fax : 02/551 08 92  
E-mail: [Info@evartists.org](mailto:Info@evartists.org)  
<http://www.evartists.org/>