

Comments of

The McGraw-Hill Companies

in response to

*Strengthening the Competitiveness of the EU Publishing Sector*  
*The role of media policy*

The European Commission  
Staff Working Paper  
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## Executive Summary

- Information is the cornerstone of knowledge and thus essential to creating a knowledge-based economy. The publishing sector creates and delivers products and services it provides to individuals, institutions of learning, government and business. Each has varying demands and needs for information – whether in terms of content, format or level of customization. Information service providers, like The McGraw-Hill Companies, have proven adept at adjusting business models to meet changing customer demands and can do so in the future.
- The McGraw-Hill Companies first began developing and marketing information in Europe in 1891. In 1919, what is now our education division began offering materials in the European market under the McGraw-Hill brand, and since that time our operations have expanded greatly. We now offer books, magazines, journals and periodicals, as well as specialized information products serving a broad array of customers. In 2004, revenues from our European operations comprised 12% of overall revenues and 59% percent of foreign revenues. Our focus is on delivering “actionable information” that facilitates decision making by individuals, institutions, government.
- As a general matter, the Commission should not adopt policies that discriminate between incumbent and new market entrants in the publishing sector. Policies should accommodate the needs of both traditional publishing models like print-on-paper and information services based on electronic products.
- Similarly, policymakers should not favor one business sector over another, e.g., technology providers over content owners, in an attempt to propel the Community toward a knowledge-based economy. Rather, market forces should determine how best to meet the growing demand for actionable information.
- Demographic changes in Europe will offer both challenges and opportunities for information service providers to create new content and develop new means of delivering information to meet customer needs.
- The Commission can help facilitate continued competitiveness among information service providers through sound policy initiatives, particularly in the areas of intellectual property and technology development. Government should assure strong protections for copyright owners that provide incentives to create and innovate. It should avoid wherever possible intrusive regulatory schemes and instead focus on developing new market opportunities that will lead to a successful knowledge-based economy.

## Introduction

The McGraw-Hill Companies (“McGraw-Hill”) respectfully submits the following comments to Directorate-General Information Society and Media in response to the Commission of the European Commission’s Staff Working Paper, *Strengthening the Competitiveness of the EU Publishing Sector* (“Paper”). McGraw-Hill commends the Commission for undertaking this effort and believes that the current and future competitiveness of the European publishing sector is key to realizing the primary goal of the Lisbon 2000 Agreement “to strengthen employment, economic reform and social cohesion as part of a knowledge-based economy.”<sup>1</sup>

Information is the cornerstone of knowledge. The publishing sector facilitates the spread of knowledge through the products and services it provides to individuals, institutions of learning, government and business. Each of these customer segments has varying demands and needs for information – whether in terms of content, format or level of customization. The publishing sector – the creators and owners of information content – are adept at meeting such needs and have proven their ability to adapt and innovate as technology, society and citizen requirements evolve. This sensitivity to the marketplace is the hallmark of any industry that is to remain competitive, defined by the Commission “...as the capacity of an economy or sector to create wealth.”<sup>2</sup>

As a general matter, government can aid in maintaining a competitive marketplace for the publishing sector by providing protections against unfair trading and incentives to maximize business opportunities. The current policy framework has three primary characteristics of benefit to the publishing sector: 1) adequate protections against abuse or theft of intellectual property; 2) minimal intrusion in the marketplace; and 3) encouraging the development of technology infrastructures that offer the publishing sector new means to create and deliver information. McGraw-Hill would encourage the Commission to reinforce this balance of beneficial policies as it determines how best to facilitate continued competition in the publishing sector.

## The McGraw-Hill Companies in Europe

Based in the United States, The McGraw-Hill Companies is a leading global information services provider serving the financial services, education and business information markets through a wide range of information products and services. Other markets include energy, construction, and aerospace and defense. Our operations consist of three business segments: McGraw-Hill Education, Financial Services, and Information and Media Services. The products and services we provide – whether in print or online – all deliver “actionable information” tailored to our customers’ needs. They can thus access a wide scope of information to aid in making decisions affecting their personal livelihoods,

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<sup>1</sup> *Presidency Conclusions*, Lisbon European Council, 23 – 24 March, 2000 <[http://www.europarl.eu.int/summits/lis1\\_en.htm](http://www.europarl.eu.int/summits/lis1_en.htm)>.

<sup>2</sup> *Strengthening the Competitiveness of the EU Publishing Sector*, European Commission, Commission Staff Working Paper, 22.9.05, p. 7.

their professions, and the society in which they live. Enhancing the ability of information content companies to provide such information is a core requirement for creating and sustaining a knowledge-based economy.

Our experience has also proven that actionable information is particularly in demand as social and cultural trends identified in the Lisbon 2000 Agreement come to fruition. The availability of quality, reliable information will be key in helping individuals, enterprises and government create a strengthened Union, including better communication and understanding of the diverse societies among Member States whose interaction can only enrich the Community as a whole.

McGraw-Hill established its first began creating and offering information in Europe in 1891, when founder James H. McGraw's Street Railway Publishing Company issues the first international number of the *Street Railway Journal*. What is now our Education Division first offered materials in the European market under the McGraw-Hill brand in 1919, and since that time our provisioning of and investment in the European publishing sector has expanded greatly.

Today, The McGraw-Hill Companies provides products and services customized for the European market from a number of our other business segments:

- *AviationWeek* also has European operations centered in the United Kingdom, and provides news and conferences focused on the aviation and defense industries.
- *BusinessWeek*, with offices in the United Kingdom, France and Germany, has a global readership of nearly 8 million. It offers its expert reporting and analysis in editions customized for the EU market, as well as several national editions for countries within Europe. *BusinessWeek* also sponsors renowned leadership forums, custom publishing and research services.
- J.D. Power and Associates, a global information marketing firm, conducts independent, unbiased surveys of customer satisfaction, product quality and buyer behavior. Through its facilities in the United Kingdom and Germany, J.D. Power offers syndicated and proprietary research to consumers and corporations covering the automotive, telecommunications and utilities markets.
- McGraw-Hill Education and McGraw-Hill Professional Publishing Group, has its regional headquarters in the United Kingdom, Spain and Italy. Our education division offers course textbooks in four languages; customized publishing solutions for educators; electronic assessment and learning tools; online courses; and English language testing courses.
- *Platts*, with European headquarters in the United Kingdom, provides information about energy markets, and offers its award-winning publications and expert research services on resource and business trends affecting the energy needs of Europe.

- Standard & Poor's has offices in France, Germany, Italy, Spain, Sweden and the United Kingdom and is one of the world's preeminent providers of credit ratings and numerous index services, including the S&P Europe 350 Index, recognized a need for quality information in the European bond market. The financial services provided by Standard & Poor's in Europe today comprise a wide range of rating and indexing services, as well as authoritative reports and analyses crucial to the investment community, governments, researchers and citizens.

Nearly 1500 McGraw-Hill staff, representing over 8% of the Corporation's global workforce of 19,000, are located in twelve nations of the European Union. Our EU operations comprised 12% of our overall revenues of \$5.3 billion in 2004, accounting for some 59% of McGraw-Hill's foreign revenues. We produce information in traditional print-on-paper, as well as electronic formats. Our divisions deliver content materials through the mail in the form of books, magazines and CDs, as well as transmit to portable communications devices or through Internet access. Our products and services are marketed and delivered to individuals, businesses, public and private sector research and educational institutions, and government agencies. McGraw-Hill's operations have grown steadily since we established our first European office and we anticipate continued growth and investment in the European publishing sector.

### The Changing Nature of Europe

The publishing sector must be aware of demographic and economic trends in order to continue successfully delivering actionable information content to its customers. In that regard, The McGraw-Hill Companies notes several important developments that it believes will affect the marketplace for information in the coming years within Europe.

Shifts in industrial and manufacturing sectors are already underway as a result of global trade and competition. Traditional manufacturing operations are becoming more reliant on technology to remain competitive with goods from markets where labor and production costs are lower. The changes affecting those business sectors require employees with new skills and knowledge, just as the growth of service industries demand differing workforce competencies. The publishing sector has a major role to play in facilitating these transitions by providing quality information to businesses and government to help guide economic adjustments with minimal negative impact for business and workers alike. Actionable information provided by corporations like McGraw-Hill in the areas of financial services, education, and sector-specific trends (e.g., energy, aviation and transportation) will be crucial in assuring that Europe remains a competitive market, capable of serving its citizens' needs and assuring its economic sustainability.

The integration of new member States in the EU 25 will generate other information needs. A knowledge-based economy such as that envisioned under the Lisbon strategy can only be achieved if all EU citizens have access to information in usable formats, tailored to address cultural diversity in the larger framework of common economic and

social goals. A pensioner in Slovakia will require different types and forms of information than a mathematics student in Belgium or a displaced laborer in Germany undergoing retraining. What all these citizens have in common is the quest for knowledge to guide decisions affecting their individual lives. Yet, as citizens of Europe, they will also want and need access to similar types of content that will aid in understanding pan-European developments affecting culture and the economy. Again, a competitive publishing sector – adept at providing both general and customized information in multiple formats – can help assure that citizens and business obtain the information they need to prosper, in the form most desirable and useful to them.

Adding to these challenges of developing economic and social frameworks for an expanded, more diverse Europe will be an increasingly mobile population, a general aging of the citizenry and likely diminution of public services. European citizens will want and need more and better information in order to make the most of new opportunities to learn, to find employment or change careers, and to assume greater responsibility for planning and saving for retirement. McGraw-Hill sees in these societal changes particular demand for producing educational materials – especially for purposes of retraining – and information services encompassing expert analysis of economic and investments trends across all business sectors.

#### Strengthening a Competitive Publishing Sector

The Paper identifies many policy strands, and The McGraw-Hill Companies commends the Commission for understanding and identifying the importance of sound policies to the growth of the publishing sector. While we will not address all areas discussed in the Paper, the comments we offer are based on our experience in policy debates within the United States and globally on many of the same issues highlighted in the Paper. Our goal is to further discussion in a productive manner.

In general terms, McGraw-Hill respectfully offers that the Paper ignores a fundamental truth facing information service providers: users of information have widely varying needs and demands – particularly regarding how they wish to receive information. Traditional print-on-paper remains the primary means of transmitting and using content, whether for newspapers and magazines, journals and periodicals, indexes or books. There is no doubt that individuals and institutions are increasingly using electronic content services, and those developments are providing new opportunities for information service providers to innovate. However, McGraw-Hill, like the vast majority of companies in the publishing sector, anticipates delivering our content materials in paper form for many years to come. The transition from paper to electronic products and services must be driven primarily by customer demand.

Thus, as the Commission examines policy options, we would urge it to remain cognizant of treating issues affecting the publishing sector in the broadest terms and assuring that print and electronic services are treated equitably. For example, differing regulatory and tax structures designed to favor either incumbent or emerging business models displace market forces. These economic inefficiencies can lead to short-term advantages for

certain participants but can often turn into long-term market disruptions. Policies that attempt to propel the publishing sector into electronic delivery of information, regardless of customer needs and expectations, will displace some publishers, leave many customers without crucial information sources, and redistribute business investment into areas that may not, in the long run, be sustainable. Likewise, favoring outmoded business models will not encourage content providers to continue exploring new technologies and introducing innovative products and services. The key is to strive for balance and equity, improving current deficiencies that hamper either incumbent or new participants in the sector, and developing sound, workable policies that provide opportunities and incentives for information service providers to develop services that contribute successfully to a knowledge-based economy.

There is a key set of policy strands that affect the entire publishing sector, and it is in these areas that McGraw-Hill will focus its comments:

- Intellectual Property Policy

Intellectual property protection comprises the most important policy strand for any business operating in the publishing sector. McGraw-Hill recognizes the forward-thinking policies already adopted in the European Union. Two recent Directives are particularly relevant in providing incentives and security for information service providers to remain competitive in the years ahead. *Directive 96/9/EC on the legal protection of databases* established new and workable protections for information products and services that because of the nature of the information they contain and organize may not enjoy the full protection for creative works under copyright. *Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society* contains minimal adjustments to traditional copyright protections applicable to electronic delivery and use of information. Together, the two Directives can only enhance economic opportunities for the publishing sector as a whole.

Both Directives are relatively new, and case law is still being developed. In some instances, legal developments may point the way to future adjustments,<sup>3</sup> but there can be little doubt that the Directives have created a set of policy guidelines that allows the publishing sector to plan and implement new services with greater certainty and thereby help facilitate the transition to a knowledge-based economy.

As long as information service providers can be secure in the laws that protect their hard work and creativity from unlawful uses, they can respond effectively to market demands. In addition to its sizeable print output, each of our three business segments provides information on or through the Internet, as well as in CD ROM format. In

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<sup>3</sup> The McGraw-Hill Companies finds last year's decision of the Court of Justice for the European Communities in the case of *The British Horseracing Board v William Hill* troubling; however, we would not advocate any changes in Directive 96/9/EC, unless the ruling proves to have adverse effects in the database market.

some instances, these electronic products enhance or complement our print products. In others, they constitute wholly new products and services. However, in each instance, they are delivered to the market in response to customer need only when we can be certain that underlying policy protections will support our own efforts to employ mechanisms that forestall violation of our property rights.

Along with providing basic protections, it is particularly important to electronic information service providers that they remain free to license their materials. Licensing provides additional means for content companies to offer products and services to accommodate particular or special customer needs. The ability to create licenses that permit special uses of our information services has proven crucial to McGraw-Hill's ability to assure delivery of quality electronic content without fear of having our content copied and distributed willfully without regard for our property rights. Licensing schemes will only become more important as users demand access to information in multiple formats and deliverable over a broad array of platforms.

Likewise, information service providers will continue to deploy technologies that enhance self-protection of their materials. The Digital Rights Management ("DRM") technologies mentioned in the Paper are but one example of marketplace solutions that can benefit both providers and users of electronic information. For content providers, DRM can provide tools to monitor and track customer behaviors. Many have viewed DRM only as a burdensome technology that providers will use to stifle customers' attempts to access and use information irresponsibly or in violation of owners' rights. It is equally true, however, that DRM can help providers better understand customer desires and strive to create new services that meet those demands. DRM technologies are still at an early stage of development, and much more work will need to be done before full deployment is possible. These tools can only be successful, however, if they do not intrude on customers' abilities to access and use the underlying content as easily and efficiently as today. As technology progresses and market behavior evolves, McGraw-Hill and other participants in the publishing sector will undoubtedly take greater advantage of DRM technologies.

For the moment, we believe that the intellectual property protections enacted in the European Union over the last decade will remain workable in the evolving electronic marketplace for information. McGraw-Hill encourages the Commission to continue monitoring the effects of the two Directives mentioned above and to make adjustments in those policies only when they no longer support market success and competitiveness.

### Technology Policy

The adoption of policies to encourage greater proliferation of technology, including high-speed networks, is of great interest to the publishing sector. McGraw-Hill favors the primary goal set out in *i2010 – A European Information Society for growth and employment*: "...completion of a Single European Information Space which promotes an open and competitive internal market for information society and



media.”<sup>4</sup> At the same time, however, we do not share the Commission’s vision of a “digital convergence of information society and media services, networks and devices.”<sup>5</sup>

While it is true that media – i.e., content services – coexist along with network and service providers, and indeed employ many of their tools to enhance production and delivery of products and services, the business models for the two sectors differ significantly. The last ten years of mergers and acquisitions in the information services sector demonstrates the point. Those organizations that have emerged in the market as hybrid content-technology enterprises have for the most part taken one of two paths to remain successful: operate the two divisions separately or eventually divest one segment in order to maximize economic efficiencies of the other.

McGraw-Hill favors the Commission’s plans to encourage further development of broadband and other high-speed networks, particularly by dismantling a regulatory environment that has sustained incumbent, monopoly providers. We would caution, however, that government enthusiasm for spurring such developments not translate into policies that provide undue or unfair advantages for existing and new technology providers to expand into other, related business sectors, such as publishing.

This concern is particularly relevant, given attempts by many in the technology sector to advocate special exceptions to well-established, exclusive intellectual property rights during debates on creating enhanced intellectual property protections for Europe’s information society. The McGraw-Hill Companies believes that the Commission and the European Parliament have developed workable and adaptable standards that both assure fundamental rights for content owners and do not encumber technology providers from developing their own, successful business models to serve customer needs.

However, some technology providers continue to advance business models that increase their profit margins by ignoring the guarantees of exclusive property rights that are the bulwark of innovation and creativity for the content industry. The most recent example is Google’s Print Library Project, a commercially-based service that would display digital versions of copyrighted works without permission of the copyright owner. The extent of the threat that the Project poses to copyright owners is clear from the lawsuits already filed in U.S. courts by authors and publishers who have been forced to seek expensive and time-consuming judicial confirmation of long-standing copyright principles. McGraw-Hill, along with four other publishers, is a party to one of the suits and is hopeful that the courts will reaffirm the principles

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<sup>4</sup> *I2010 – A European Information Society For Growth And Employment*, Communication from the Commission To The Council, The European Parliament, The European Economic and Social Committee and The Committee Of The Regions, 1 June, 2005, p. 2. <[http://europa.eu.int/information\\_society/eeurope/i2010/docs/communications/com\\_229\\_i2010\\_310505\\_fv\\_en.doc](http://europa.eu.int/information_society/eeurope/i2010/docs/communications/com_229_i2010_310505_fv_en.doc)>.

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<sup>5</sup> *Ibid.*, p. 1.

under current law that strike the proper balance between the rights of copyright owners to control use of their works and the desires of others to gain access to and use copyrighted materials in multiple formats without permission in order to enhance their content-based – as opposed to content-creating – enterprises.

We would encourage the Commission to continue monitoring developments in both the technology and publishing sectors, but not confuse or blur the differing policy requirements that have led to the development of successful business models for both. The Commission should be particularly cautious in developing policies that favor one sector over the other in an attempt to force convergence where none is necessary or beneficial to citizens.

- Regulation of Content Services

The publishing sector has generally remained free of regulation. As the Paper notes, however, the advent of high-speed data technologies makes it much easier for broadcast media to transmit signals over facilities that have thus far remained largely unregulated. McGraw-Hill, like most of those in the publishing sector offering online access, employs media as a complement to its content offerings. For example, users of the *BusinessWeek* site can read an article and view an interview on the same subject produced by BusinessWeek TV. Providing such services enhances the customer experience and increases the spread of knowledge. We would ask the Commission to keep in mind, however, that while multimedia offerings may have certain features in common with broadcast services, but their delivery and purpose is much different than those of the regulated media.

McGraw-Hill takes no position on the efficacy of the current EU regulatory environment as it applies to broadcast media. We are concerned only that imposing such regulations on content-based providers who use multimedia to enhance their electronic information services will stifle development of new products and perhaps even new entrants into the publishing sector.

As the Paper notes, there has been a proliferation of information sources, including blogs and other Internet sites reflecting direct citizen participation. Some of these reporting and commentary sites have grown in popularity and sophistication, demonstrating that the electronic information market is open to new entry and competition. There is little concern, from our perspective, over the emergence of these new information-based efforts.

To the contrary, new marketplace entrants often spur established information service providers to craft new products and services to serve existing customers better and to gain footholds in new customer markets. This has already been the case for McGraw-Hill in terms of its design of information products and services accessible via the Internet. We have noted significant increases in traffic on our Internet sites, which appeal to established customers seeking new services, as well as to many new

customers who generate new demands that in turn spur us to offer more innovative products and services.

We believe that the expanding number and types of information products and services we offer in the electronic marketplace is possible because the publishing sector has remained largely devoid of regulation. Government oversight and direct involvement in business operations can often stifle the desire and ability of service providers to respond to changing market forces. We would encourage the Commission to give careful consideration to any suggestions of imposing new regulatory regimes on the publishing sector and to proceed cautiously in proposing any such initiatives.

- Developing New Markets

Policymakers can be very effective in strengthening the competitiveness of the publishing sector by encouraging the development of new markets or effecting greater uniformity in certain customer segments. A good example of this type of activity is the Bologna Process. By helping set standards for higher education and professional degree requirements across the European Union and some twenty other countries, the Commission is supporting a process driving stakeholders towards the creation of new knowledge tools. As the stakeholders identify those learning tools and refine requirements, there will undoubtedly be new opportunities for information service providers to prosper and contribute even further to development of a knowledge-based economy.

McGraw-Hill Education has long experience in providing quality course materials sensitive to cultural diversity yet still applicable to helping students and educators conform to national degree requirements. Indeed, the goals and structure of U.S. educational system is very akin to the system emerging from the Bologna Process.

The Bologna Process should spur competition on the European education market for information services. There will certainly be new demands for course materials geared to new curricula. In addition, the focus on life-long learning needs and opportunities will require information service providers to deliver materials in formats suitable for use outside the traditional classroom setting. Information service providers are prepared to address these market changes as necessary. For example, McGraw-Hill and other publishers experimented with use of e-books very early in the market after development of that technology. Those early attempts proved unsuccessful, since the market could not at first sustain demand for the technology. Yet the lessons learned from those experiments have proven useful in meeting new demands of a maturing market for electronic education materials. This year alone, McGraw-Hill Education will offer some 600 titles deliverable as e-books.

As other needs in the education marketplace are identified and students and teachers employ information in new ways, the publishing sector will undoubtedly design and offer new forms of content and new delivery mechanisms that meet market demand. We look forward to monitoring further developments in this policy area and are

willing to partake in the discussion and provide insight into how the publishing sector can help achieve the ambitious goals set out in the Bologna Process.

### Conclusion

The McGraw-Hill Companies has found the EU publishing sector to be a strong and competitive market, due in large part to the Commission's development of policies that encourage the creation of new and innovative information services. Europe has a tradition of crafting and respecting rights regimes that provide certainty in the marketplace for both content providers and users and thereby encourage development of new means of creating and delivering information. Each of our business segments – McGraw-Hill Education, Financial Services, and Information and Media Services – has entered the European market and successfully met customer demands. We will continue to do so, both in traditional print formats and in electronic formats as technology and customer demand create new market opportunities.

The key to maintaining a competitive publishing sector in the future is to establish workable ground rules that allow the market to operate without undue government interference. Maintaining and adapting well-established principles of property ownership, such as fair and balanced intellectual property protections and the freedom to license, will encourage further innovation and keep market entry barriers low, so that new entrants can participate. Government should carefully analyze new content delivery services, such as multi-media delivered over the Internet or through access-controlled systems, and proceed cautiously before attempting to impose new regulations on the publishing sector based on models developed in other eras and for other business sectors.

McGraw-Hill recognizes that the publishing sector faces great challenges as Europe transitions toward a knowledge-based economy. The changing nature of the region – characterized by increased diversity within a 25-member Union, demographic changes including an aging population and a dynamic workforce, and diminution of government social services – will surely increase demand for information services across the broad range of book, magazine, journal and index providers. The proliferation of technology will also raise new expectations among customers for delivery and use of content, requiring increased vigilance on the part of providers about possible misuse of their property.

These same developments, however, provide important opportunities for information service providers. Greater diversity spurs the need to create new products and services that offer customized knowledge tools. Technology provides the means of discovering and exploiting market opportunities for using those tools.

In the long run, policymakers can best act to encourage a continued, competitive publishing sector by focusing its attention on creating market opportunities. It should not favor any one business sector over another, nor incumbent providers or new market participants, but rather assure a level playing field. In that manner, the Commission can

encourage information service providers to continue innovating and meeting the needs of a knowledge-based economy.

The McGraw-Hill Companies looks forward to further analysis and study by the Commission on the broad range of policy issues affecting the publishing sector. We stand ready to participate in providing information and insight in the debate over developing policies for the European Union.