

EC Audiovisual Sectoral Social Dialogue Committee

Joint Opinion on protecting creativity, innovation and jobs.

Introduction

The Internet represents a huge source of potential growth in the audiovisual sector. However, issues remain to be solved for such development to result in new jobs opportunities and actual revenues for creators and the industry players.

The enormous growth of unauthorised file sharing of copyrighted works and recorded performances is an increasing problem to the European economy in terms of lost job opportunities and revenues for the industry as well as for governments. This phenomenon potentially affects all categories of rights holders. Companies are faced with a loss of revenues and return on investment in the production and exploitation of creative contents. In addition, many authors, performers and other rights holders are deprived from a fair share of the benefits generated by the digital economy in practice.

In order to protect creativity, provide for sustainable jobs and ensure fair revenues to all right holders, the audiovisual industry needs adequate protection against Internet piracy. Social partners acknowledge that models of digital online distribution should provide for proper remuneration with respect to all parties concerned. Such models are vital for consumers and right holders alike and will be jeopardized unless the question of illegal file sharing and other unlawful use of protected content is seriously addressed.

Impact of unauthorised files sharing on the sector of culture and the media

The audiovisual sector is extremely important to the economy of the EU. For example, in the UK, the government (2008) reported that the creative industries as broadly defined now account for an economic output equivalent to over 7 per cent of UK GDP.¹

Anything which puts the sector at risk is thus a matter which requires serious consideration. An economic report from France values the economic impact in France of illegal copying (on cinema, music, television and books) to be a loss of €1.2 billion in 2007 with 10,000 job losses, taking into account the direct effects (from conception to distribution) on these industries. The report predicts a further 10,000 job losses by 2012.²

Such a report is all the more problematic as we are in the midst of a worldwide economic crisis where the need to protect existing jobs and create new ones is particularly acute. The competitive advantage in the economies of developed nations lies with sectors that create products and services whose value depends on the underlying ideas, creativity and know-

¹ http://www.culture.gov.uk/reference_library/publications/3572.aspx.

² Tera Consultants, Impact économique de la copie illégale des biens numérisés en France, November 2008

how and therefore on the protection and fair remuneration of industrial and intellectual property.

End-users who choose not to pay for protected contents need to be educated about their actions and choices, and should be the object of proportionate measures to prevent such misdemeanours.

Some member states are taking initiatives on the issue of unauthorised file sharing

The UK Government is committed to putting in place measures to significantly reduce illegal P2P file sharing by 70% in the next 2-3 years.

The Spanish Government has requested that ISPs and rights owners find a solution to deal with the problem of file sharing and if such a solution cannot be found, Government will intervene.

In Germany, Italy and the Netherlands the Governments have initiated roundtable discussions between ISPs and rights owners with a view to finding a solution to the problem of illegal P2P file sharing.

France has just adopted a new law on "Creation and Internet" which puts in place measures to reduce illegal dispositions.

Developments have also recently occurred with this respect in Ireland; one of the major ISPs in this country is working together with rights owners to introduce educational notice sending and proportionate deterrent measures for repeat infringers.

The consultation process needs to be extended to all right holders

Where national initiatives have been taking place on the issue of Internet piracy, all parties in the creation chain were not always consulted prior to report submissions or legislative updates. The undersigned strongly believe that a proper consultation of all categories of right holders is absolutely crucial for such process to reflect the common or respective concerns of the various players in the sector.

The Audiovisual Social Dialogue Committee's joint opinion

This Social Dialogue Committee of the audiovisual sector believes that the unauthorised file sharing of protected works and performances - as well as the need for all right holders to derive tangible benefits from the exploitation of their work – are important issues that need to be better recognised by the European Commission and other EU institutions. The EU should adopt policies aiming at preserving jobs and supporting income for all right holders in the audiovisual and other creative sectors. It should foster the creation of new employment opportunities, while nurturing the enduring value of creativity, culture and innovation in Europe.

Accordingly, the Committee adopts this formal joint opinion to explicitly ask the Commission to :

- undertake an extensive survey quantifying the economic effects of misappropriation of protected works and performances via the Internet. This study shall address current and future lost employment under current trends of Internet piracy and loss of revenue, respectively for each category of creators and for the investors.
- formally adopt a strong stance against unauthorised file sharing of protected works and performances, while at the same time substantially improving the legal framework for producers, broadcasters and creators to provide for lawful online offerings.
- acknowledge the need for effective enforcement of producers', broadcasters' and creators' rights that exist now or may exist in the future, as well as the principle that the exploitation of audiovisual content should generate tangible and fair benefits for the concerned right holders and if necessary consider introducing or reviewing EU legislation which seeks to protect these rights from fraudulent and illegal use.

DG Internal Market should lead the way so that:

- all member states have adequate laws in place providing for proportionate measures to prevent misappropriation of protected content and broadcasts;
- all member states ensure that the necessary infrastructure exists for effectively enforcing these laws;
- all member states increase their cooperation, through appropriate official channels, to reach the objectives stated above;
- all member states use appropriate means to encourage intermediaries involved in the distribution, shipment or sale of goods to take responsibility to minimize misappropriation of protected content and broadcasts;
- all member states ensure that ISPs have an obligation to work with all categories of rights holders and relevant public authorities with a view to prevent illegal P2P file sharing and other IP infringements through their services.

The Audiovisual Social Dialogue Committee recognises the urgency of this debate and is committed to participate fully in further discussions at the European level in order to maintain and protect a sustainable industry for the benefit of all employed in it.

Audiovisual Sectoral Social Dialogue Committee
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