

Content Online



Today's market for online content is developing at a rapid pace. The consumer is increasingly accessing films, music, news and games through different networks and electronic devices. In order to support the growth of this new market across Europe, the European Commission recently published its views on how this could be achieved and what challenges lie ahead.

The Commission's document was published following close consultation with a number of stakeholders from across the creative online content sector. With the objective of stimulating the uptake of online content services ¹, it addresses issues such as distribution of content, multi-territorial licensing, Digital Rights Managements systems and piracy, from both a business and consumer perspective.

This paper from Fleishman-Hillard reviews the key points of the Communication, the next steps, and provides a brief analysis of its expected impact.

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Key points and impact

In its text (entitled "**Communication on Creative Content Online in the Single Market**"), the Commission has identified and defined the online creative sector as being made up of companies and organisations involved in online publishing, TV, music, film, radio, games, education and Web 2.0. The four most pressing challenges for creative content are identified as follows ²:

- **Availability of creative content** – The Commission wants to encourage content creators, telecoms companies and Internet service providers (ISPs) to work together to make more content available online, while making sure that intellectual property rights are protected. It plans to introduce codes of conduct between access/service providers, right holders, and consumers to ensure both the widespread availability of attractive content online, but also adequate protection of copyrighted works.
- **Multi-territory licensing for creative content** – In order to stimulate the cross border development of content services, the Commission would like to improve existing licensing mechanisms to allow for the development of multi-territory licensing. Discussions have shown that ISPs, digital media, publishers, film industries and some collecting societies are in support of a second multi territory licence as the way forward. On the other hand, the creative business sector defends the value of the territorial licensing system.
- **Interoperability and labelling of Digital Rights Management systems (DRMs)** – The Commission will work on a framework for better interoperability and labelling of DRMs and related online services, to ensure that consumers are properly informed of any usage restrictions placed on downloaded content. While some market players have decided to distribute online content without any copy-restriction mechanisms, the Commission and several stakeholders believe that DRMs will play a key role in enabling the content sector's digital shift.
- **Legal offers and piracy** – The Commission will push for the introduction of codes of conduct between access/service providers, right holders and consumers and enhanced cooperation in the fight against piracy. The aim is to ensure adequate protection for copyrighted works and the widespread offer of attractive content online. Preventing piracy and providing legal certainty remains a central issue for Brussels policy makers. Input from industry will be indispensable for policy makers in this rising problem.

¹ The revenues from online content will more than quadruple from 1.8bn in 2005, to 8.3bn by 2010, according to a Commission initiated study.

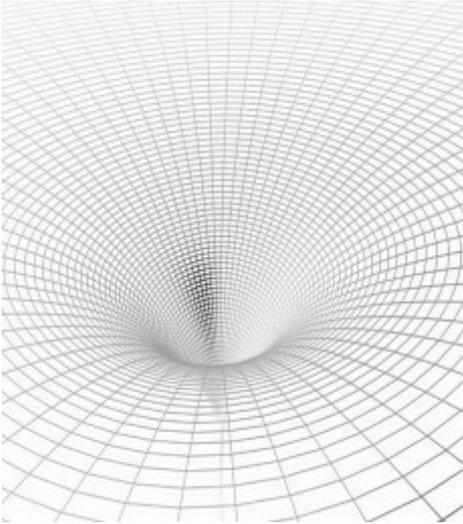
² It is important to note that some connected issues such as spectrum allocation are currently being addressed under the EU's e-comms framework review.

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Getting your voice heard: next steps

To help kick start the process, the Commission is launching a stakeholder consultation. It is widely viewed that the outcome of this consultation will set the political agenda for the years to come. It is therefore strongly recommended that all parties directly and indirectly concerned by creative content should take part in it. The deadline for submitting comments is **29 February 2008**.

Following the consultation, the Commission will prepare an EU Recommendation which should be adopted by summer 2008. This Recommendation will have no legal bite, but will set the agenda and push the debate forward in the coming year. It is unlikely that any binding initiatives will be launched in the current Commission's dying days, but if the Recommendation and the new Content Online Platform put forward strong enough arguments, these could be carried through into the next administration.

While the Commission's current trend is for voluntary industry actions, future binding legislation from the EU cannot be excluded in the long term – in particular if it views that industry has been unsuccessful in unlocking the competitive potential of Europe's creative content online market.

The deadline for submitting comments is **29 February 2008**.



A new stakeholder platform

In order to address the challenges outlined above, the Commission will set up a **"Content on line Platform"**: the main idea behind it is to encourage the creative content industry, telecom companies and ISPs to engage in cross-industry negotiations around issues related to the online distribution of creative content.

The Commission is currently looking for stakeholders that are keen on participating in the platform, and has final say on its composition. Businesses with an interest in joining are recommended to highlight this through their contributions to the stakeholder consultation. A final decision will not be made until after the consultation closes as to whether individual companies or solely industry associations will be allowed to join.

Why bother?

Overall, this text is a soft law instrument intended to guide rather than mandate. It is widely perceived that in the current political climate, and with European elections just over one year away, the EU does not want to risk upsetting national capitals by proposing binding legislation in such a sensitive sector.

However, the Commission's request for input from industry, via the public consultation and the content online platform, is an excellent opportunity for stakeholders who wish to contribute to the debate and position themselves amongst Brussels policy makers. In addition, interested parties can use this channel to bring up other issues to the attention of policy makers which are not covered in the existing text, but nevertheless of relevance.

