



INTERNATIONAL ASSOCIATION OF SCIENTIFIC, TECHNICAL & MEDICAL PUBLISHERS

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INFSO-Post-i2010@ec.europa.eu

**STM submission on the Communication
"Post-i2010: priorities for a new Strategy for European
Information Society (2010-2015)"**

The International Association of Scientific, Technical and Medical Publishers ("STM") comprises approximately 100 publishers of journals and reference works, based in 26 countries, including in many Member States of the European Union. EU-based publishers publish 49% of all research articles worldwide (STM's members may originate approximately 2/3 thereof), employing 36,000 staff directly and another 10-20,000 indirectly, and make an Euro 3 billion contribution to the EU's balance of trade. Apart from publishing in print, STM publishers originate and disseminate online, books, journals databases and individual articles and contributions (hereinafter: "Content") of a multitude of European and international scientific, medical and technical authors and scholars. This creative Content is available widely in electronic and in print form for access by individuals, whether through academic and corporate libraries or directly, for use in research, education, in industry the professions and business.

STM welcomes this opportunity to make its submission as part of the consultation following the Communication "Post-i2010: priorities for a new Strategy for European Information Society (2010-2015)". STM answers below questions 5, 6 and 7 of the online Questionnaire provided by the EU. STM also submitted a shortened version of this submission online (STM's interest representative ID number is: 704612025371728109).

Question 5) Consolidating the online Single Market

A - Creating a level playing field in the European online market

5.1. Do you think further harmonisation of national regulations would be a way towards an easier access of consumers and businesses to a barrier-free European digital single market? -multiple choices reply- (optional)

- No
- Yes, in the field of consumer protection
- X yes, in the field of payment transaction costs
- X yes, in the field of VAT
- yes, in the field of waste of electrical and electronic equipment
- Other
- please specify:
- please specify: -open reply- (optional)

N/A

5.2. Do you think businesses, in particular SMEs, should be provided with more practical support to take advantage of the European digital single market? -single choice reply- (optional)

- No
- Yes, by harmonising access conditions
- yes, by providing legal support
- X yes by providing other kind of support
- please specify:

Education, on good citizenship and good corporate behaviour regarding intellectual property.

please specify: -open reply- (optional)

Education and awareness among SMEs and large corporation to comply with intellectual property, in particular copyright and licensing terms, could be helpful. Awareness remains low and this hurts SMEs in the cultural sector that do not have the resources to run their own information campaigns. Also many corporate networks are subject to insufficient rules

and may be abused for illicit purposes, such as computer crime, piracy and copyright infringements by employees or outsiders.

B - Improving consumers' trust and confidence in online services

5.3. How do you think transparency for consumers can be increased? - multiple choices reply- (optional)

- Further standardisation of terms and conditions
- X Easily understandable information summing-up legal information
- X Encouraging consumer feedback (Web 2.0 style) informing about service provider's practices
- X Others
please specify:

Finding a balance between privacy of consumers and law enforcement, including obliging ISPs to provide personal data in case of suspected infringements: When consumers realise that the Internet is not a law-free space they will trust in it more to use it for transactions of all kinds. Consumer information, perhaps the services of an ombudsman and clear contractual terms in layman's language that also inform consumer expectation and alert consumers to the potential remedies in case of abuses would be of great help.

please specify: -open reply- (optional)

N/A

5.3.1. Please give examples of how transparency for consumers can be increased. -open reply- (optional)

N/A

5.4. How do you think consumer trust and confidence in the digital single market can be increased? -multiple choices reply- (optional)

- X Through self-regulation such as codes of conducts
- X Through trustmarks aimed at disclosing the commercial practices of the online service provider

Through new regulatory measures
Other
please specify:
please specify: -open reply- (optional)

N/A

5.5. If you believe trustmarks would increase consumers' trust and confidence, do you think they should: -multiple choices reply- (optional)

X Be established EU-wide
Be controlled by a third party
Be subject to sanctions
Compliance with rules should be checked regularly
Other success criteria you would suggest
please specify: brand protection/identity of service protection
please specify: -open reply- (optional)

Publishers are agents of trust and in the field of scientific, medical and technical publishing, the use of journal brands and various trust marks allows consumers to assess the reliability of information. For example Crossref (www.crossref.org), is an industry association of publishers that develops a number of services to be trust-marked. One such service is "CrossCheck". It is an initiative started by CrossRef to help its members actively engage in efforts to prevent scholarly and professional plagiarism. Although there are several plagiarism detection tools already available, they are not well-suited to filtering academic content simply because they haven't had access to the relevant full-text literature to screen against. CrossCheck changes this by creating and continuously growing a database of current and archival scholarly literature.

5.6. Do you see other ways to increase consumers' trust and confidence? - open reply- (optional)

N/A

5.7. What are the main other challenges faced by online service providers to develop a digital single market? -open reply- (optional)

Online service providers, search engines and access providers need valuable content to supply access to consumers. The uncertain rules and frequent instances of piracy make many content suppliers hesitant to offer their content more widely. If there was greater legal certainty and enforcement how online service providers co-operate with content providers that would be a significant building block towards the smooth and secure circulation of content online.

Question 6) Promoting access to creativity at all levels

A - Affirming users' rights in the participative web

6.1. How can users be empowered through transparent information? - multiple choices reply- (optional)

Warrant new forms of transparency obligations for standard terms and conditions imposed by web 2.0 services to ensure that end-users are aware and understand their rights and obligations

Reshape privacy rules to guarantee that users have access and can effectively control over their personal data stored online

X Promote self-regulation

X Adopt stricter measures aimed at protecting minors in the social networking web

Others

please specify:

please specify: -open reply- (optional)

N/A

6.2. How can creativity be stimulated by building EU-wide easily accessible mechanism to allow users to clear rights and be free to work on existing content for non-commercial purposes? -multiple choices reply- (optional)

Ease the complexity of copyright management

Establish a rights clearance database to facilitate creation and distribution of content online

Make copyright law more flexible as regards non-commercial uses

Promote alternative open licensing schemes

X Others

Copyright enforcement needs to become certain, easy and fast, as opposed to uncertain, complex and slow. The copyright rules for the information society are adequate. Enforcement of those rights remains, however, relatively complex. and damage awards are no real deterrent for infringers. What is needed are better ways of enforcing copyrights and government support in shaping reasonable consumer expectation (copyright education and awareness) that does not succumb to the myth that "e is free". The current rules allow rightsholders to set up rights clearance mechanisms, whether single territory or multiple territories. In this regard, STM supports the Commission on its Recommendation regarding the online commercial music market. The challenge is to allow copyright rules to prevail that give maximum choice to rightsholders, how their rights are to be administered, without creating "price competition", ie a race to the bottom that will see the value for quality content falling below the level necessary to provide incentives its creation.

6.2.1. Please give examples: -open reply- (optional)

Voluntary solutions established by all stakeholders may hold the key to. A successful example is the i2010 High Level Expert Group (http://ec.europa.eu/infromation_society/activities/diital_libraries/experts/hleg/meetings/index:en.html)

6.3. A "fair" non-commercial use of licensed content should be free of technological restrictions in terms of interoperability. Should interoperability of content be left to the market or should users have a clear statutory right to play the content they paid for anytime, anywhere and on any platform? -single choice reply- (optional)

X Market
 Statutory right

B - Ensuring sustainable copyright

6.4. How could the EU assist the creative industries in shifting towards more sustainable business models? -open reply- (optional)

Sustainable solutions are best identified and put in place by the stakeholders themselves.

EU demand-side policies, eg definition of public sector information, procurement procedures and the commissioning of content should not undermine the private ownership of copyright-protected content and the value of investments made to bring this content to market, but take place within the framework of existing intellectual property legislation.

The Commission should continue to ensure a stable and predictable legal framework and encourage the use of tools available under the current legislative framework. The Commission should improve law enforcement and encourage not least internet service providers to find constructive solutions to a smooth circulation of copyright-protected content online.

The Commission should allow for experimentation in the market and continue to fund projects, such as the PEER project (<http://www.peerproject.eu/>) or ARROW (<http://www.arrow-net.eu/>).

C - Making digital content overcome borders across the EU

6.5. What would facilitate the emergence of business models not based on territorial copyrights? -open reply- (optional)

The current legislation is adequate. The Recommendation of the EU Commission regarding the online commercial music market shows the way, as long as the implementation of this recommendation does not lead to a race to the bottom.

D - Development of ICT sector and of European content industry to reinforce each other

6.6. How can we contribute to ensuring that the European content industry is able to meet the demands of audiences for a diverse digital content offering? -open reply- (optional)

The EU should oblige member states to keep the same preferential VAT rates for eBooks and eJournals, as they offer for paper products. This discrimination is like a tax on innovative products and provides a disincentive for electronic formats.

The European Commission can fund projects that allow the showcasing of diverse content and promote multi-territory licensing based on existing copyright rules (voluntary licensing). The European Commission can engage with stakeholders similar to the i2010 digital libraries High Level Expert Group on compatibility of national systems. Voluntary best practice codes and processes could be found that provide pragmatic solutions that are adaptable over time.

6.7. Considering that a growing number of countries worldwide share Europe' approach regarding the need to actively promote online creative content and digital creative industries, how can we initiate or reinforce synergies with these like-minded countries in order to improve our competitiveness in this sector? -open reply- (optional)

The European Commission can continue to support like-minded countries that promote a uniform and high level of protection for online creative content. The best promotion is a legal framework that facilitates the smooth circulation of content on secure networks, with easy redress against instances of piracy and deterrent penalties.

E - Digitisation of cultural resources

6.8. Which of the following issues are the most important to improve the digitisation of cultural resources and their enjoyment by users? (choose maximum 3) -multiple choices reply- (optional)

- Adapting copyright legislation
 - X Increasing funding, also through public-private partnerships
 - Providing large-scale digitisation facilities
 - Improving access to content, by encouraging digitisation at national and local level
 - Facilitating rights clearance for in-copyright material, orphan works and works out of print or distribution
 - X Providing multilingual search and retrieval
 - Making sure that digitisation of cultural resources is not left only in the hands of private partners
 - Others
- please specify:
please specify: -open reply- (optional)

F - Steps to open access to content to people with disabilities

6.9. For persons with disabilities, accessing cultural resources is not always possible as their right of access is often in conflict with copyrights. What can be done to ensure equal access to content for persons with disabilities? -multiple choices reply- (optional)

The exception foreseen in the Copyright Directive for ensuring access by persons with disabilities should be stronger

The right of access of persons with disabilities should prevail over the rights of the owner of the content

X Other

please specify:

please specify: -open reply- (optional)

The issue of access for the visually impaired is a multi-faceted one and the portrayal of copyright as a barrier to access is a myth, a pretext advanced by certain interest groups to weaken the international intellectual property system. Neither the Berne Convention nor the Copyright Directive 2001/29 are opposed or a barrier to the creation of exceptions benefiting the visually impaired, so long as the exceptions do not contravene the three-step test or simultaneously force rightsholders to provide access in a manner that puts their works at the risk of being pirated.

Copyright provides incentives the creation of content - which increases access potentially also for the visually impaired. Access problems are questions of standards and technology which are the same for in-copyright, out-of-copyright and open access publications. This alone shows that the questions of access have very little, if anything to do with copyright. Nevertheless, publishers want to see visually impaired among their readers and are making every effort to increase access in multiple ways.

The European Communities should fully support the considerable efforts undertaken in the WIPO VIP Stakeholder Platform by the private sector and institutions for the visually impaired. The minimum exceptions treaty proposed by Brazil and others posits a terrible and detrimental precedent for the successive abrogation of the international intellectual property system without yielding measurable benefits to those seeking access for

the visually impaired (In any case, Brazil to date has failed to legislate internally and has no exception for its population of visually impaired (!), yet demands multilateral solutions before implementing measures already available now under existing flexibilities. At EU level, the European Commission could open its own stakeholder platform to address access issues in a way that will be compatible with the efforts at WIPO. Moreover, the European Commission could lend financial support to the pilot projects for which members of the WIPO VIP Stakeholder Platform seek financial assistance.

7) Strengthening EU's role in the international ICT arena

A - Openness as a global issue

7.1. Which are the most important issues for future European policy on the global scene? (choose maximum 3) -multiple choices reply- (optional)

- Internet free of traffic restrictions
- X Internet free of censorship
- X Security and protection of critical infrastructure
- Standards
- Fight against inappropriate content and malpractice (SPAM, virus etc)
- International protection of children
- Global technical challenges (multilingual issues, address space etc)
- X Others
- please specify:
- please specify: -open reply- (optional)

Maintaining a high level of protection for copyright-protected works inside the EU and internationally.

B - European dimension in international research

7.2. What are the most important areas where Europe's international role should be strengthened? (choose maximum 3) -multiple choices reply- (optional)

- Internet governance
- International research cooperation
- ICT competitiveness

- ICT trade agreements
 - Stronger European representation in international ICT fora
 - X Others
- Please specify:
Please specify: -open reply- (optional)

Maintaining a high level of protection for copyright-protected works inside the EU and internationally.

C - European voice in international fora

7.3. How can Europe's voice and presence be best strengthened? -single choice reply- (optional)

- Establish clearer European representation in international ICT and internet fora
 - Strengthen information society representation within the EU delegations across the world
 - Develop a clear mandate for the European Commission to coordinate the European voice on global issues
 - X Others
- Please specify:
Please specify: -open reply- (optional)

Improve consultation ahead of international conferences and strengthen co-ordination with Member-States' representatives in international fora.

D - New models for internet governance

7.4. What could be the most important initiative Europe should take to modernise the international governance of the internet? -single choice reply- (optional)

- Support existing ICT and internet governance structures
 - X Support the reform of international governance bodies
 - Promote multilateralism
 - Others
- Please specify:
Please specify: -open reply- (optional)

N/A

E - Other global challenges

7.5. Should the EU be a leader in developing ICT solutions for global challenges such as: (choose up to 3 most important areas) -multiple choices reply- (optional)

- Environmental issues
 - Fight against poverty
 - Ageing society
 - X Cyber security
 - X Other
- please specify:

See answers under 6.4 above.

please specify: -open reply- (optional)

7.6. How should the international dimension and global challenges be addressed in a future information society strategy? -open reply- (optional)

The European Commission should ratify the WIPO Internet treaties of 1996. The current framework of international agreements, including TRIPS offers sufficient flexibility and strikes an appropriate balance between the rights of rightsholders and the interest of users. The European Commission should encourage work through stakeholder groups and facilitate the formulation of best practice guidelines by partners in the information chain. This could add to the reach of European solutions a further international dimension and at the same time provide adaptable and dynamic rules, vs static rules that are notoriously hard to change over time.

General Comment

Finally, STM supports the submissions of the Federation of European Publishers (FEP).

STM would be pleased to make further submissions and amplify on the present, should this be necessary or useful.

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Respectfully submitted
For and on behalf of the International STM Association
9 October 2009

Very truly yours,

Michael Mabe,
Chief Executive Officer

Cc: Federation of European Publishers
International Federation of Reproduction Rights Organisations