



Joint letter on the Report on the Enforcement of intellectual Property Rights in the Internal Market

Our organizations represent the whole European electronic communications industry: fixed and mobile telecoms operators, ISPs and cable companies, national and pan-European players. Our industry lies on the heart of the democratic society, as we provide European citizens with access to information and communication technologies, most notably the Internet. Notwithstanding the economic crisis, we enable European businesses to grow and compete at national and international level, having delivered half of European productivity growth over the last 15 years. We envisage contributing to the EU Digital Single Market estimated to make up 4% of EU GDP in 2020 (as stated in President Barroso's speech on the State of the European Union, 7 September).

This contribution to the social and economic growth is dependent on a clear and reasonable set of rules for our industries, in particular the principle of mere conduit, allowing our members to transmit Internet traffic safely and efficiently. The mere conduit principle allows the current and future growth of the Internet, as ISPs are not liable for the information transferred across their networks. We do not support piracy over our networks and we are always ready to co-operate with authorities, courts and rights holders to fight against copyright infringement via current judicial and legal remedies.

We believe that the best way to protect copyright is the development of innovative legal offers that respond to consumers' demand. We do not agree with moving beyond this approach to a more restrictive regime without a new legal basis, as this would endanger European citizens' fundamental rights and affect the Internet in its whole. A targeted and proportional approach is needed to deal with counterfeiting, which can have serious implications for the health and safety for consumers, and on the other hand for non-commercial online copyright infringement, which does not constitute the same quality of harm. We must avoid a situation developing where we are running awareness campaigns to improve the perception of intellectual property, particularly in the digital environment, while at the same time proposing harsher sanctions and surveillance which, logically, can only serve to have the opposite impact.

Detailed comments on the current draft report as voted upon in the committee:

Counterfeiting, fundamental rights, IPR strategy (1-15)

We support the call for a single digital market for content, which would be an important step forward for the growth of the single market in general. We also fully support the need for EU legislation in this area to comply with European citizens' fundamental rights to privacy and free expression.

Observatory (16-20)

There is a clear need to gather objective data on the size, scale and effects of counterfeiting in order to achieve an evidence-based approach to the issue. We therefore welcome the creation of an Observatory by the Commission to examine this in more detail. It is important that the input and discussions in the Observatory's stakeholder sub groups is composed of a balanced representation of all interested parties, not just from rights holders' representatives. The work of Observatory on counterfeiting also needs to be clearly delineated from the investigation into online breaches of intellectual property rights, given their different nature. We also stress that the Observatory's role should be clearly focussed on observing developments and not lose focus by drifting into other activities.

Consumer awareness (21-24)

As an industry, we already support several awareness raising campaigns, including those for young people, on the value intellectual property. We also fully support moves to allow new payments services to develop in the EU, to allow a wider range of content available in innovative and consumer-friendly manner. However, we believe that education campaigns may realistically succeed, especially with young generations, when coupled with consumer's driven offers of legal content at affordable prices and conditions. In other words, education about appropriate user behaviour, on one side, and enforcement measures, on the other, are certainly part of the solution, but they are not enough. More legal offers must be developed and these have to be as easy to access, and as diverse, as content currently accessible through piracy. A competitive content market and an appropriate legal framework enabling easy legal access to content are therefore essential preconditions to the creation of a culture of legal, rather than illegal, consumption

Tackling online infringement (25-38)

Any voluntary measures must take place, in any case, within the boundaries of the legal framework and with the respect of the fundamental rights of citizens, including privacy. As previously stated, we fully agree with the current paragraphs 29 and 30: innovative consumer-friendly offers, and accompanying innovations in payment possibilities, are primary solutions to combating online copyright infringements – there is a demand for content, which is not currently being met by content owners. We also fully agree with the call for the Commission to examine the issue of copyright management, as this is one of the obstacles to creating new and more interesting offers for consumers.

We do not, however, agree with the idea of a levy to be placed on internet connections as a way of funding artists or somehow “compensating” them for illegal downloads. This tax on users is a relic of the levy system used on physical goods, and suffers from the same failings: it is not targeted at those who download illegally, it justifies illegal behaviour and destroys any chance of creating legal ways of consuming content, and is very unlikely to accurately compensate artists in the right way.

International dimension (39-46)

We support the Parliament's recent statements on the need for the current discussions on ACTA to be more transparent and take the needs of citizens and intermediaries into account.

I hope that you find our position of interest, and would be happy to answer any questions or comments you may have.

The European trade associations contributing to this joint statement are:



Cable Europe (www.cable-europe.eu), the European Cable Communications Association, is based in Brussels and groups all the leading European cable TV operators and their national trade associations throughout Europe. The aim of Cable Europe is to promote and defend the industry's policies and business interests at European and international level. The European cable TV industry provides digital TV, broadband Internet and telephony services to more than 73 million customers. Contact: Caroline Van Weede, Managing Director (+3225211763/caroline.vanweede@cable-europe.eu).



ETNO (the European Telecommunications Network Operators' Association - www.etno.eu) is the voice of the European telecommunications network operators with over a decade of experience in shaping EU telecoms policy. The association represents 41 companies located in 35 European countries. They account for an aggregate annual turnover of more than 250 billion Euros and employ over one million people across Europe. Contact: Fiona Taylor, Senior Adviser, Public Affairs (+ 3222193242/ taylor@etno.be).



EuroISPA is the world's largest association of Internet Services Providers (ISPs) representing the interests of more than 1700 ISPs across the EU and the EFTA countries. EuroISPA is a major voice of the Internet industry on information society subjects such as cybercrime, data protection, e-commerce regulation, EU telecommunications law and safe use of the Internet (www.euroispa.org). Contact: Andrea D'Incecco, Head of Policy (+32 2 503.22.65/ andrea@euroispa.org).



GSMA represents the interests of the worldwide mobile communications industry. Spanning 219 countries, the GSMA unites nearly 800 of the world's mobile operators, as well as more than 200 companies in the broader mobile ecosystem, including handset makers, software companies, equipment providers, Internet companies, and media and entertainment organisations. The GSMA is focused on innovating, incubating and creating new opportunities for its membership, all with the end goal of driving the growth of the mobile communications industry. In the European Union the GSMA represents over 100 operators providing more than 600 million subscriber connections across the region.

For more information on GSMA, please visit: Mobile World Live, the new online portal for the mobile communications industry, at www.mobileworldlive.com, GSMA corporate website at www.gsmworld.com, GSMA Europe www.gsmeurope.org. Contact: Martin Whitehead, Director, GSMA Europe (+32 2 792 05 50/ MWhitehead@gsm.org).