

Poland's comments on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Creative Content Online in the Single Market

General remarks

Polish Government confirms the necessity to undertake initiatives in relation to the access to content distributed with use of web-based technologies. Making the cultural, scientific and informative content widely available by using tools allowing every person to have access to it in a place and at a time of their own choice, certainly contributes to more complete implementation of the information society. As a complement to traditional forms of content distribution, it guarantees that this content's circle of recipients will be much wider than so far.

Polish Government supports Commission's initiative concerning public consultations, and simultaneously would like to present the following, as regards to challenges and proposals of actions, indicated in the document.

At the same time Poland would like to reserve its right to modify and supplement its position in future negotiations on issues mentioned in the Communication.

Availability of creative content

Wide access to the creative content is a condition for implementing the idea of the information society. This access must, however, take into consideration authors' and other rightholders' exclusive rights. In this respect, it seems to be justified to work out model solutions on licensing the online exploitation of content, including orphan works. Establishing the Platform to exchange information, experiences and best practices in this respect seems to be a good introduction to the discussion, which should result in recommendations for further actions.

Multi-territory licensing for creative content

Publishing content online has caused the necessity to enable granting licenses for cross-border exploitation of works and other subject matters. This certainly constitutes a challenge for reciprocal representation system, as it is functioning presently in national collective management societies. However, solutions proposed in this matter cannot strengthen the monopoly of large entities, which are able to provide EU-wide representation of its repertoire, while smaller organizations and less popular artists will be marginalized. They also cannot hinder users' access to the full European repertoire, which presently is secured by national collective management societies. It especially applies to the repertoire, which is less popular European-wide. Music industries' experience with 2005 Commission's Recommendation on collective cross-border management of copyright and related rights for legitimate online music services, will be vital in this respect.

Interoperability and transparency of Digital Rights Management systems (DRMs)

DRM protection cannot give reasons for an excessive and unjustified limitation of legitimate use of legally acquired exclusive right subject-matters. In this purpose, the appropriate interoperability and transparency of these systems shall be ensured, which should result in ability to access to the content by using different technologies, not only the technology imposed by the content provider. It is also necessary to inform consumers, in a reliable and comprehensible way, about electronic management systems applied by the content provider and all the limitations arising from them.

Legal offers and piracy

Poland supports all initiatives aiming at cooperation and exchange of experience concerning combating piracy, particularly on the Internet, and expresses its willingness to exchange information in this respect within the Content Online Platform.

Conclusions

Poland supports establishing the Content Online Platform for discussion on distribution of online content.

However, as regards announced European Parliament's and Council's recommendation, we would like to bring attention to the fact, that certain issues (e.g. interoperability and transparency of DRMs) may require harmonization by means of binding Community instruments. At the same time Poland supports preparing above-mentioned recommendation with active cooperation of European Parliament and Member States.