



A.F.I. - Associazione dei Fonografici Italiani
Italian Association of Phonographic Producers

Contribution of A.F.I.
the Italian Association of Phonographic Producers
to the consultation launched the 3rd of January 2008 by the
European Commission, DG Internal Market on the
Communication
“Creative Content Online in the Single Market”

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A short presentation of A.F.I.

Founded in 1933, A.F.I - the Italian Independent Phonographic Producers' Association - represents and defends the interests of Italian SMEs of audio and video music producers and publishers.

A.F.I. collects and distributes to its members their neighbouring rights and promotes their activities in Italy and abroad.

A.F.I. supports all policies at national and international level that help independent producers to increase their market share and enforce the protection of music rights against any kind of infringement and piracy. A.F.I. is particularly active in promoting initiatives aiming at developing business models suitable to the SMEs of the music industry and at strengthening the cooperation with other right holders organizations and collecting societies.

In the last years A.F.I. has introduced the first experimental license for the streaming in the web (2000), has shared in founding the Italian Music Observatory (2001) and in launching EMCA, the European Music Copyright Alliance (2003, www.emcaweb.net).

A.F.I. has shared in founding, at the end of 2005, C.A.P.I. European Federation A.S.B.L., an association which aims at being a forum for all the players operating in the creative sector for instance authors, producers, performers, publishers.

A.F.I. welcomes the initiative of the European Commission to consult the stakeholders concerning the recent communication about Creative Content Online in the Single Market.

A.F.I. is particularly interested to this issue and holds that an important contribution can come from its experience as partner of the Axmedis project (www.axmedis.org) co-financed under the 6th Framework Program for Research and Development.

All the four topics emphasized by the Communication have been deepened by the Axmedis consortium.

1. Availability of creative content

Axmedis affects the entire value chain of the digital contents' market, from the production to the distribution: one of its main goals is to make the access to the digital contents' market and the exploitation of its resources easier and cheaper. This represents a clear advantage for SME, the main players when it is about cultural diversity.



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2. Multi-territory licensing for creative content

Axmedis structure is based on a P2P platform which can represent a suitable and easy means to grant or to obtain a license on any creative content.

Therefore, if properly applied and extended, Axmedis could give an important contribution in order to meet the need of a multi-territory licensing for creative content. Its core definition is based on MPEG-21 aspects and licenses.

3. Interoperability and transparency of Digital Rights Management system

The Axmedis consortium has developed a new model of DRM which is fully interoperable. It exploits and largely extends the MPEG-21 standards allowing to:

- protect any content formats and types;
- control the exploitation of rights;
- collect and report information about exploitation of rights.
- Interoperability among different devices and content formats
- Interoperability among different DRM solutions

4. Legal offers and piracy

Axmedis is a P2P platform which aims at the development of a contents' legal market among business actors and consumers.

What are the main characteristics of the Axmedis Project?

The Project, which was started in 2004, is now developed by a Consortium of more than 25 partners and about 40 partners including those that are now affiliated.

This consortium regroups, together with A.F.I., research centres and universities, producers, distributors, contents integrators, television and telecommunication operators of the European Union including, among the others, BBC, TISCALI, Hewlett Packard, EUTELSAT, TEO, Telecom Italia, Giunti and ELION.

Axmedis represents also an example of cooperation with third countries in the field of research: the University of Peking and the South Korean Electronics and Communication Research Institute are partners of the project.

Axmedis is coordinated by Professor Paolo Nesi of the University of Florence (Distributed Systems and Internet Technology Lab - Department of Systems and Informatics).



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What are the main goals of the project?

The main goal is the development of technologies aimed at allowing the automatization of activities of production of cross media and multi media contents suitable for all distribution channels (for instance internet, mobiles, broadcasting terrestrial and satellite, P2P, VOD, etc.) with an important reduction of costs and allowing the development of strongly interactive and creative digital contents. It also integrates a B2B trade solution by means of the creation of a P2P platform among business actors.

One of the most innovative aspects of the project is the development of an interoperable DRM (Digital Rights Management system) which allows the management, protection, licensing and distribution of contents at a B2B level, based on standard models such MPEG-21 and OMA.

On one hand, this enables consumers to enjoy the use of audiovisual contents, from simple to complex cross media, legally acquired, on different kind of devices and on the other hand it allows right holders to control and monitor the exploitation of all licences granted.

A.F.I. is available to deepen further with the European Commission the main characteristics of Axmedis.

Answers to the questions posed in the consultation

Digital Rights Management

1. Do you agree that fostering the adoption of interoperable DRM systems should support the development of online creative content services in the Internal Market? What are the main obstacles to fully interoperable DRM systems? Which commendable practices do you identify as regards DRM interoperability?

A.F.I. holds that the most peculiar characteristic of the digital contents' market is flexibility from simple content to complex cross media and multimedia content. A number of different business models are being created, providing a number of options to the consumer. Therefore both contents with DRM and "DRM free" should be available on the market.

Of course, focusing on DRM systems, interoperability should be the first requirement to be taken into account.

It should be noted that, under a technological point of view, there is no obstacle anymore to fully interoperable DRM systems, considering that the Axmedis consortium has succeeded in developing such an interoperable solution. Now it needs to be adopted by the market.

2. Do you agree that consumer information with regard to interoperability and personal data protection features of DRM systems should be improved? What could be, in your opinion, the most appropriate means and procedures to improve consumers' information in



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respect of DRM systems? Which commendable practices would you identify as regards labeling of digital products and services?

A.F.I. holds that consumers information's need, in relation to interoperability, is very important but quantitatively and qualitatively quite basic.

We do not think that consumer enjoys to receive excessive information about this topic, he/she simply needs to know if he/she will be able to enjoy the content which he/she is purchasing on his/her device.

Therefore the labeling should be simple and fair and in particular the drafting should be adequate to avoid misunderstandings and misinterpretations.

Moreover it is worth making clear the distinction between DRM and TPM.

DRM systems are exclusively aimed to manage the exploitation of a content (e.g., a DRM could simply pursue the goal of counting the copies made from the content, to define licenses, to manage relationships among licenses, etc.).

TPMs are, on the other hand, measures aimed to protect a content from not authorized uses: a clear distinction might be helpful for a balanced debate. In some cases, the adoption of a DRM present some integrated TMP solutions especially for the certification and authentication of user and devices.

Thus, DRMs are often understood as TPMs but this is not correct: clarifying this misunderstanding (even changing the acronym) could help to clarify properly the different positions on this issues.

3. Do you agree that reducing the complexity and enhancing the legibility of end-user licence agreements (EULAs) would support the development of online creative content services in the Internal Market? Which recommendable practices do you identify as regards EULAs? Do you identify any particular issue related to EULAs that needs to be addressed?

Legal issues related to copyright and licensing are very complex and this represents a problem not only for end-users but often also for right holders in the B2B framework.

This is the reason why EULAs' text should be assessed using a basic "fairness criterion", simplifying the drafting and verifying that they provide the essential information to the end-user in the most "easy to understand" way.

In general we would like to express our doubts about the impact of EULAs' drafting on the consumer's decision to purchase or not a content he/she likes.



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4. Do you agree that alternative dispute resolution mechanisms in relation to the application and administration of DRM systems would enhance consumers' confidence in new products and services? Which commendable practices do you identify in that respect?

A.F.I. represents music producers and is well aware of the fact that consumers are our clients.

Any option which is able to improve consumers' confidence in our products (old or new, modern or traditional it does not matter so much), is most welcome.

We would welcome in particular any agreed solution between the different stakeholders of the digital contents' market: in particular we could think of ADR which take into account the different positions as expressed by representatives of the different parties involved (DRM producers, content producers and consumers)

5. Do you agree that ensuring a non-discriminatory access (for instance for SMEs) to DRM solutions is needed to preserve and foster competition on the market for digital content distribution?

We share this point of view. The non discriminatory access to DRM technology could be not enough for the SME since some of the DRM solution may be affected by very expensive patents not only on the core concepts but also on the simple implementations. Effective solutions mainly royalty free should be used to effectively open the market.

Multi territory licensing

6. Do you agree that the issue of multi-territory rights licensing must be addressed by means of a Recommendation of the European Parliament and the Council?

Our opinion is that the digital contents' market needs flexibility and therefore a soft law option is more adequate than an hard one, once that a legislative initiative will be really considered as necessary.

In any case, before doing such a step, a careful analysis under a technological point of view would be very much welcome: projects, financed or co financed by the E.U., as Axmedis, could provide the Commission with useful and neutral contributions.

This is not only about the well functioning of the Single Market (economy), this is also about cultural diversity and, according to art. 151 of the Treaty, the analysis should be handled with care, taking into account both perspectives.

7. What is in your view the most efficient way of fostering multi-territory rights licensing in the area of audiovisual works? Do you agree that a model of online licenses based on the distinction between a primary and a secondary multi-territory market can facilitate EU-wide or multi-territory licensing for the creative content you deal with?



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The question is not clear but it seems to restrict its scope to the audiovisual sector and not to music producers (A.F.I. represents music producers and publishers).

In general we would like to emphasize that, if this issue is linked to the activity of collecting societies, the role played by small collecting societies should be recognized and preserved.

We think that facilitating the creation of few collecting societies doing this activity in the on line framework (at the end of the day: an oligopoly) would severely harm cultural diversity: we think that it is quite likely that there would be a discrimination in relation to the administrative costs requested for the perception of rights of more commercial and less commercial repertoires.

Under this point of view the Axmedis project might offer a non discriminatory option.

8. Do you agree that business models based on the idea of selling less of more, as illustrated by the so-called "Long tail" theory, benefit from multi-territory rights licences for back-catalogue works (for instance works more than two years old)?

Under an economic point of view, this makes sense.

Nevertheless it would be very much helpful for back-catalogue works the extension of the right of the music producer to 95 years: this would allow the producer to amortize his/her investment in a longer period and would encourage him/her to new investments.

This measure has been constantly supported by C.A.P.I. European Federation, quoted in the first part of this contribution.

Legal offers and piracy

9. How can increased, effective stakeholder cooperation improve respect of copyright in the online environment?

The first message which should be widely supported by all the stakeholders is that copyright and related rights represent the remuneration of a worker (the artist) for a creation and not a burden or a tax.

Once agreed on this, common actions for educating young people to the respect of copyright could be organized.

Under this point of view please visit the web site www.emcaweb.net , one of the initiatives of A.F.I., together with the Italian partners SIAE and IMAIE, to stimulate among the students in the schools the respect for the copyright, using quiz and other games.

The Spanish, German and French collecting societies (SGAE, GEMA and SACEM) joined this initiative.



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10. Do you consider the Memorandum of Understanding, recently adopted in France, as an example to followed?

The Memorandum of Understanding represents the attempt to find agreed solutions, respecting the right of all the stakeholders and establishing a “public referee” (the Authority).

We look with great interest to such a solution.

We would like to emphasize that the in any case the collaboration of the ISPs is necessary: it is in this direction that go the initiatives coming from the UK (recent legislative proposal for the termination of the internet connection for a user caught infringing copyright laws for three times) and Australia.

11. Do you consider that applying filtering measures would be an effective way to prevent online copyright infringements?

This is for sure one of the solutions to experiment.

This is not only our opinion but is supported also by the judgment of the Tribunal de première instance in Brussels in case *SCRL Société Belge des Auteurs Compositeurs et Editeurs (SABAM)/SA Scarlet*, pronounced on June the 29th 2007.

In this judgment the Court considered as effective 7 particular filters in order to prevent online copyright infringements.

Also in this case, technical solutions such as Axmedis should be considered as examples of tools to perform the monitoring and/or filtering.

A.F.I. looks forward to deepening with the services of the European Commission the content of this contribution.