The Association of Learned and Professional Society Publishers
Shaping the Future of Learned and Professional Publishing

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ALPSP response to the stakeholder consultation on European Commission draft Communication 'Creative Content Online in the Single Market'

To:
Audiovisual and Media Policy Unit
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European Commission
Brussels
Belgium

From:
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1   Introduction

The Association of Learned and Professional Society Publishers (ALPSP) is the international trade association for non-profit publishers and those that work with them. ALPSP is the only international trade association that represents scholarly publishers across all disciplines of academic endeavour. Its broad and diverse membership includes publishers of journals operating on author-side payment models, subscription models and hybrid business models combining these. ALPSP has more than 360 organizational members in approximately 40 countries who collectively publish more than 10,000 journals – around half the world's total - as well as books, databases and other resources.

ALPSP's mission is to play an active part in shaping the future of academic and scholarly communication, and we welcome the opportunity given by the European Commission to comment on the draft Communication 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' (COM (2007) 836 final). This submission - which has been prepared with the help of the ALPSP Copyright Committee - will only comment on those questions which we consider relevant to the ALPSP membership.

2   Comment on the General Scope of the Communication

We have noted that the objective of the Communication is to 'launch further actions to support the development of innovative business models and the deployment of cross-border delivery of diverse online creative content services'. While we welcome the European Commission's interest in encouraging and facilitating online content services, we would also urge an element of caution. Distribution and availability of content online must be supported by sustainable business models and there are already many experiments, initiatives and other activities underway to identify, test and implement new business models in the online environment. Many of these are in the early stages of development and we believe that time is needed to enable these experiments to continue and for an assessment of their merits (or otherwise) to be made.

In reviewing the scope, the definition of 'online' is unclear and we are unsure whether the intention is to include the online content (journals, monographs etc) that ALPSP members publish and that ALPSP therefore represents. With that in mind, we feel it appropriate to respond in two ways:

- to the four specific challenges cited by the Commission
- and in particular to those questions posed at the end of the Communication that are directly relevant to its members

3   The Four Challenges

3.1 *Availability of creative content*

In the Communication, it is stated that the lack of availability of creative content for online distribution and lack of active licensing of rights on new platforms remain major obstacles for the development of online content services. ALPSP would strongly disagree with this claim and we cite below a number of clear examples that demonstrate the willingness that academic publishers have shown in encouraging creative content to be increasingly distributed online. In scientific publishing in particular publishers have been quick to move to online publishing and sales models such as consortia and multi-site deals. ALPSP has been actively engaged in encouraging the development of new business models to enable creative content to be much more widely accessible in the digital environment. 'Package' deals have also dramatically reduced the cost of access

per title and per article and increased availability in a way which has proven to be a 'win-win' for academics, librarians and publishers. Indeed, ALPSP itself has facilitated a cross-publisher collaborative collection package, the ALPSP Learned Journals Collection, which contains 728 titles from 53 publishers meaning that this approach is not just the preserve of larger publishers.

The journal publishing industry was an extremely early adopter of digital technology and the Internet for the distribution of current content. In addition, many publishers have also carried out an extensive - and often very costly - exercise of retrospectively digitising their entire publishing archive. There is also a great deal of activity in the e-book area among our members.

Publishers have also been very quick to introduce new models which make it easier for content to be accessible in emerging markets. In particular, the HINARI, OARE and AGORE initiatives have been very successful in increasing the availability of scientific content in the developing world.

In cooperation with other trade associations, the ALPSP Copyright Committee has been actively engaged with various recent initiatives ease the process of permission clearances. For example much work has been done in the area of orphan works including the recent STM/ALPSP safe harbour document (available from the ALPSP website; www.alpsp.org).

This combined with the efforts that publishers put into improving discoverability and the authority bestowed by their brands has dramatically and rapidly increased the availability of e-content of all kinds.

3.2   Multi-territory rights licensing

ALPSP does not believe that there is a need for additional legislation or European Commission intervention in order to encourage the development of multi-territory rights licensing. Any interest and take-up of this should ultimately be driven by the market and we believe that the existing legal environment is sufficient to facilitate this. There are already numerous examples of multi-territory rights licensing in existence at present within the world of academic journals including the pan-European *Knowledge Exchange* initiative (www.knowledge-exchange.info). In addition to this, there is sufficient evidence available to suggest that the 'long tail' model is already a successful one with many ALPSP members having witnessed a significant increase in online dissemination of their content.

3.3   Interoperability and transparency of Digital Rights Management Systems (DRMs)

In responding to the first challenge cited in the Communication, it would also be right to respond to the relevant questions posed about Digital Rights Management (DRM). Where appropriate, Digital Rights Management tools can play a valuable role in enabling rightsholders to protect their content in the digital environment - a position fully set out and supported in Directive 2001/29/EC (the Copyright Directive). While ALPSP remains neutral on the issue of business models and which are appropriate, it supports the right of its members to be able to decide whether DRM has a role to play for them. We believe that interoperability and the development of standards is a key issue in guaranteeing the successful implementation of DRM systems and in enabling rightsholders to digitally manage the rights that they have in their content. For example, much work has been carried out to develop the ONIX for Licensing Terms standard (see: www.editeur.org/onix_licensing.html). This freely available standard enables rightsholders to express their licensing terms to users in a machine readable, standard XML format. The Automated Content Access Protocol (ACAP) project (see:

www.the-acap.org) is another example where rightsholders of all kinds including publishers, publisher groups and other stakeholders have successfully worked together to develop a non-proprietary standard to better express rights digitally. ALPSP is extremely interested in encouraging the development and success of these standards and believes that they are instrumental in enabling the dissemination of scholarly content to be maximised whilst ensuring that copyright is respected.

With regard to end-user licence agreements we are not aware of any particular common issues that need to be addressed. We therefore feel that any individual issues regarding end-user licence agreements should be left to the rightsholders to resolve.

3.4 Legal offers and piracy

ALPSP sees piracy as a major threat to innovation and creativity and thus to the vibrancy of creative content. We would welcome greater collaboration among the various stakeholders in order to raise and maintain an awareness of the importance of copyright for the availability of content. We would certainly value the contribution of entities such as eBay, Amazon and other sites on which physical products are sold as well as file sharing websites and Internet Service Providers (ISPs). We believe that there are many issues such as piracy, unauthorised file-sharing and parallel imports which can only be resolved effectively with input from all effected stakeholders. In the digital environment, we recognise the great concern that our members have about piracy and the potential threat that this poses to their content and indeed to innovation and creativity.

4   Summary

In summary, ALPSP:

- Asserts that scholarly publishers have an impressive and exemplary record of increasing the online availability of creative content including 'born digital' material and content which has been retrodigitized. Innovative sales models and experimentation with new business models have further increased availability.

- Does not believe that there is a need for additional legislation with respect to multi-territory rights licensing and that a market driven approach is appropriate.

- Believes that DRM tools may have a *bona fide* role to play in protecting rightsholders' content and that publishers should be free to choose whether or not to implement DRM solutions depending on their needs and business models.

- Is strongly supportive of standards based approaches to the machine readable expression of rights, for example ONIX for Licensing Terms and the Automated Content Access Protocol (ACAP) project.

- Believes that the Commission should encourage all stakeholders to collaborate on measures to combat piracy and in the promotion of copyright as essential to innovation and creativity.

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ALPSP

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