



INTERNATIONAL ASSOCIATION OF SCIENTIFIC, TECHNICAL & MEDICAL PUBLISHERS

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To: Audiovisual and Media Policy Unit
Directorate-General for Information Society and Media
European Commission
Brussels, Belgium
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**STM SUBMISSION
ON THE EUROPEAN COMMISSION'S COMMUNICATION ON
CREATIVE CONTENT ONLINE IN THE SINGLE MARKET**

The International Association of Scientific, Technical and Medical Publishers ("STM") includes 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), they employ 36000 staff directly and another 10-20,000 indirectly, and make an Euro 3 billion contribution to EU's balance of trade. Apart from publishing in print, STM publishers originate and disseminate online, books, journals databases and individual articles and contributions ("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 the opportunity to comment on the Communication on Creative Content Online (the "Communication") and the fact that the Commission is seeking further input of stakeholders in view of the adoption of a Recommendation on this issue.

STM supports the responses of the Federation of European Publishers (FEP), the Collective Media and Business Alliance (CMBA) and the International Federation of Reproduction Rights Organisations (IFRRO). STM wishes to complement these submissions by contributing on issues specific to scholarly communication and STM publishing.

- **Availability of Creative Content – STM publishers maximize the exposure of European Creative Content**

STM publishers contribute significantly to the 1st objective referred to in the Communication, namely to allow European creative Content to reach its full potential:

STM publishers have embraced digital technology and offer online, or in digital form, much of their material. Access to almost all journal and database Content, and to an increasingly large number of books provided through online services, including pay-per-view (download) or other individual transactions. The foregoing not only applies to “born digital” Content, but also to a very large degree to retro-digitised Content, ie materials originally published in print form, but now available also electronically online.

STM believes that the historic achievement of providing more access to more Content to more people than at any other time before is due to a number of factors, including a relatively well developed copyright system and the persistence (so far) of a trusted environment in a culture and tradition of respect for copyright in the scholarly community.

STM is of the view that the above hard-won successes should not be jeopardized and that the publishing environment remains fragile. Therefore experimentation should be the order of the day, but not the casting in stone of legislation. The Commission should be slow to recommend the making of laws with policy decisions hard to reverse. It is essential to preserve the freedom to develop, experiment and adopt business models, including Open Access and other pay to publish models, for European Creative Content to continue to thrive.

- **Multi-territory Licensing – STM publishers support the Commission's market-driven approach**

STM always has and continues to support the Commission's determination to allow and encourage multi-territory licensing by individual rightsholders in a competitive and market-driven environment. The only limitation in this regard must be that a high level of copyright protection is preserved and is not replaced by a “race to the bottom”. STM publishers regularly issue licenses that transcend national borders and frequently enable their agents and distributors to do so as well. Where appropriate, STM also supports voluntary collective licensing of Content in order to facilitate multi-territory rights clearance. In this regard, STM also supports the Principles for Repertoire Exchange Mandates recently adopted by IFRRO.

- **DRM and Transparency – STM believes in consumer choice and “informed consent”**

Consumers should have the ability to choose from a variety of business models offered by publishers. In some cases publishers will offer products with more limited

usage rights (for example restricting the number of copies made) but a lower price, or a product with greater comfort, ie greater usage rights, at a higher price. Consumers that take advantage of the lower-priced product in this example must accept that the context of the sale contemplates a limited set of rights. Whenever possible, language and terminology used in business-consumer transactions should be consumer-oriented.

- **DRM and Interoperability - STM supports interoperability**

STM supports Digital Rights Management (DRM) and the use of Technical Protection (TPM) Measures, as STM believes these technologies can be very useful in not only enhancing the user-experience (eg through constantly updated and better navigable Content) but also positively expressing rights for users and are often used only to prevent wholesale copying outside of private uses. Publishers should carefully consider and apply DRM or TPMs so as not to interfere, confuse or frustrate legitimate customer expectation.

Consumers should be permitted to reproduce STM Content that they have purchased to enable the material to be used on another device. Essentially this is limited to a private use for the own personal purposes of the person who purchased the STM Content. Consumers should however refrain from further distribution or copying to *other consumers* (or businesses or institutions), for any reason. Such copying is likely to violate the licence terms and conditions as well, and may also violate copyright laws.

Thus, consumers should be able to read, view or listen (in the case of audio-books) to the published digital material that they have purchased for their own personal and private use, on a variety of devices and in a variety of environments. We share the view expressed by many consumers and consumer groups that the making of a copy of a purchased product to enable the consumer to enjoy the product on a different technical device should in general be permitted, unless the lack of interoperability is made crystal clear. Consumers should be informed in a visible, prominent and obvious way, prior to the purchase or paid access, what terms and conditions would apply, and what choices they may have with respect to products and services.

Consumers should also have a right to sell to another party the original electronic product that they purchased for their use, but in this case should not make or keep a copy for their own use. This however does not mean that a consumer may sell an online subscription or access agreement (only an original physical manifestation, like a CD-ROM).

- **Legal offers and piracy – Safety for consumers, but no “safe haven” for crime**

STM strongly supports the following statement:

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"Growing global piracy and counterfeiting threatens the competitiveness of innovative industries, the livelihoods of creative artists and workers, and the health and safety of consumers in the European Union, the United States and beyond."
(Extract from press release of EU-US Ministerial Conference of 2005, http://europa.eu.int/comm/external_relations/us/sum06_05/declarations/index.htm)

In the field of STM publications, safety of the consumer is enhanced by copyright rules that favour the smooth circulation of genuine high quality and up to date Content. In order to harness European creative Content, the Commission should seek to strengthen the enforcement of copyright online and offline, where necessary, foster private-public partnerships and the co-operation of Internet service-providers (ISPs) and search engines with rightsholders.

ACAP, the Automated Content Access Protocol is a market driven solution that is being developed by some publisher's associations in an effort to help make digital content widely available. As the Commission recognises in its Staff Working Paper, ACAP represents a win-win situation for all stakeholders.

While STM recognizes the consumer's legitimate expectation to have their privacy respected, considerations of privacy and the sanctity of personal data must have limits. As is the case in the offline world, in the long run, some forms of law enforcement measures will have to be tolerated, if not accepted by consumers (eg cameras in supermarkets). Sadly, the perceived anonymity of the Internet is not only coveted by consumers, but abused for the purpose of infringing copyright and for the commission of various forms of cybercrime (eg, various types of fraud, child pornography and related offences). A balance and mechanisms must consequently be found. ISPs and Search Engines hold a special position and are well-placed to facilitate, rather than obstruct, a culture of copyright compliance. Similar perhaps to banks and financial institutions in relation to money laundering and other improper transactions often times involving personal or private information, ISPs and Search Engines must do more to uphold the law and to explain to their customers not to confuse the Internet with a lawless environment in which copyrights can be infringed with impunity.

Very truly yours,



Michael Mabe,
Chief Executive Officer

Cc: Federation of European Publishers
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