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'CREATIVE AND MEDIA BUSINESS ALLIANCE' (CMBA) POSITION ON EUROPEAN DIGITAL LIBRARIES EN VUE DES DEBATS PARLEMENTAIRES

The 'Creative and Media Business Alliance' represents media companies and associations as well as cultural industry. CMBA was launched in November 2004 and speaks in the name of all those sectors. More information on the CMBA can be found on the website www.cmba-alliance.eu

Through its wide range of members, CMBA is well placed to comment on the European initiative on Digital Libraries. Indeed, the creative industry sectors represented by the CMBA offer precisely what citizens are looking for on the net: a range of varied, multilingual and quality content.

CMBA members support the European goal to preserve and facilitate citizens' access to our European cultural heritage. Publishers, broadcasters, producers and distributors of literary, scientific, musical and audiovisual works - who together with the authors generate this heritage, are well aware of its cultural and economic value.

A study http://ec.europa.eu/culture/eac/sources_info/studies/economy_fr.html commissioned by DG EAC, demonstrated that the creative sector contributed 2.6 % of EU GNP in 2003. Moreover, the added value of the sector has increased by 19.7% between 1999 and 2003. However, we would like to point out that the Commission Communication does not mention the competitiveness of the European Media and Cultural industry.

Given the economic and cultural value of the media and creative industry, EU institutions and Member States should help promote services offered by our sectors to European citizens.

More and more, media and cultural industries offer their products to European citizens in physical or digital format which are available on a commercial basis by downloading from the Internet including music, movies, audiovisual programmes, newspapers, periodicals or books.

This is why it is vital that future European digital libraries do nothing, under any pretext whatsoever, to prejudice the services our sector is already making available - and will continue to offer, to European readers, viewers and listeners. Any initiative financed by the EU within the i2010: Digital Libraries project should not compete directly with projects financed by private capital.

It is fundamental for CMBA members that digitalisation and the making available of works online through libraries is only authorised for works in the public domain or, as far as in-copyright works are concerned, with



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the willing consent of rights holders, granted through individual license or incidentally by collecting societies.

The 2005 Commission Communication underlines a range of challenges: financial, organisational and technical, which might hamper the realisation of the i2010: Digital Library initiative. CMBA members consider that the achievement of such a goal requires first an answer to those challenges before providing solutions to the so-called legal barriers which are also identified as a barrier to digitalisation. One of the main challenges is the financing of digitisation and the making available of works online. Another major challenge is how to elaborate and enforce standards that enable legitimate circulation of digital content from one technical platform to another, by giving standardised grammar and vocabulary defining and describing the terms and conditions of using and accessing intellectual property rights.

CMBA members wish to emphasise their full support of systems which allow for the statutory or voluntary deposit of creative works or a sample thereof with recognised institutions like national libraries for their preservation for future generation. Conditions of access to such works in those institutions must respect EU copyright legislation and more particularly, the exclusive rights of distribution and communication to the public.

Regarding other institutions not concerned by legal or voluntary deposit, it is important for CMBA members that they work directly with rights owners to agree terms of preservation, access and use.

For orphan works, solutions put forward by the different sectors are largely similar but differ in practical aspects such as the way in which access to information can be granted that allows for the makes it clear which works for which rights holders can not be identified or located. CMBA members wish that instruments and methods of research are established in order to allow libraries to make a diligent search in good faith. Moreover, if the right holder is known, the work should be withdrawn from the digital platform or an equitable remuneration should be made to the right holder. Audiovisual producers could collaborate with interested parties to find solutions that would allow recognised institutions to make available to the public orphan works, respecting the rights of the author. For publishers, it would be more appropriate to create a structure that would validate the diligent search process of Librarians.

For out-of-print works, solutions will also differ by sector and will continue to evolve. The idea of voluntary contractual agreements between rights holders and public institutions willing to give online access to works should be supported. Here, again, every stakeholder must be consulted in order to propose contractual solutions adapted to different types of work.



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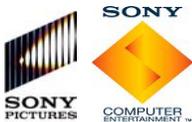
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CMBA members regret that neither the Communication, nor the Commission Recommendation or Council Conclusions address the issue of protection of works within a secure online environment. Digitalisation, online access to content and digital preservation, go hand in hand with the need to guarantee a secure online environment. This is vital in order to maintain business models of the cultural industries and respect for authors rights. Without secure protection measures, the most damaging practices in the online world include in particular the circumvention of terms and conditions of use and access, unauthorised content distribution and illegal modification of content.

CMBA members would also like to highlight the forthcoming Communication on Access to Scientific Information. In the current debate, there is an unacceptable tendency to disregard the role of scientific publishers in the validation and distribution of scientific research in the fields of pure science, social and human sciences. European academic publishers are world leaders in a very dynamic, efficient and innovative sector of publishing; an industry that for the past ten years has transformed publication of research from print to highly sophisticated electronic communication platforms though investment in the latest technologies. In order to avoid inappropriate proposals, it is essential to conduct a full review and objective assessment of both the positive and negative effects on authors and of the research itself, in order to prevent damage to the fundamental structure of peer-review.

CMBA members finally insist that any EU action to be taken within the i2010 initiative respects the subsidiarity principle of article 5 of EC Treaty and is based on reliable impact assessments.