The Response of European Digital Rights to:

the European Commission's Green Paper on the Online Distribution of Audiovisual Works

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Executive Summary

- EDRi welcomes the focus given to the state of the legal market for audiovisual works and the opportunity to respond to this consultation. The EU needs a clear, simple and harmonised legal framework, in order to achieve a digital single market.

- The current market is a mosaic of regulatory systems, which creates artificial barriers to a functioning European market. These barriers prevent citizens from accessing audiovisual content, content providers from being able to develop the most compelling online services, and creators from reaping the benefits of a harmonised market.

- There is a lack of consistency across, and harmonisation of, the EU copyright system.

- The copyright exceptions and limitations are currently based on an optional system put into place by the 2001/29/EC Directive on the harmonisation of certain aspects of copyright and related rights in the information society. This inevitably created disparities within the EU Member States and has a negative effect on technological innovation, availability of legal content, and, ultimately, the European economy.

- EU policy makers should ensure that access to culture is encouraged and not restricted.

- Remuneration for artists and creators must be fair and adequate. There are a number of ways to improve the environment creators face, including minimising the complexity and waste generated by intermediaries and examining the relationship between artists and labels, studios and other rightsholders. We also suggest that micro-payments should be looked at as one innovative proposal.

- We fully support the focus on the efficiencies or otherwise of the market. Consumers still face a weak, poorly serviced market for audiovisual goods in the EU. Developing legal platforms, creating a sufficient legal framework for cross-border licences, enabling an easy and clear access to licensing information (a “one-stop shop” and embedded electronic data) are crucial steps to create a European digital single market attractive both for creators and consumers.

- We recommend that a core initiative should be a detailed study of consumers' use of audiovisual works in the digital age, the results of which should inform any policy.

- Such efforts should not be undermined by incessant efforts to create new restrictions over the use of content, for example by limiting existing exceptions and limitations in the digital environment.

- Equal access to cultural work for persons with disabilities is essential. In order to remove the discrimination they are facing, the optional copyright exceptions and limitations to provide disabled persons access to culture should be made mandatory.

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1 Introduction

1.1 Founded in June 2002, European Digital Rights (EDRi) is an association of 28 privacy and digital civil rights organisations from 18 different European countries. Members of EDRi have joined forces to defend civil rights in the information society[1].

1.2 EDRi welcomes the opportunity to respond to the EC Green Paper on audiovisual online content. To a large extent, our submission will focus on the protection of fundamental rights of consumers/end users.

1.3 We fully agree with the Commission that major problems are currently interfering with the establishment of a digital single market. These problems should be solved and, indeed, should have been identified and eliminated a long time ago – the failure to do this has profoundly damaged the legitimacy of the current intellectual property regime in the eyes of many citizens.

1.4 For the last 16 years, the Internet has been dramatically growing, while provision of legal digital services[2] and the legal framework have lagged behind. This means that a generation of individuals grew up with a wide and open access to a vast amount of cultural content existing parallel to an indefensibly limited "legal" offer. The use of legally obtained material is being restricted in too many cases: devices and files are frequently designed to restrict the use of legal content. At the same time, legislation, licensing and inappropriate applications of copyright exceptions prevent a flexible use of the materials.

1.5 To create a sound, defensible and legitimate regime for audiovisual online content, adequate access to cultural goods at the right price, with the right reuse conditions and in the right format is essential. Flexible legal services for audiovisual works must cover the consumer demand. The offer must be attractive both for the creators and the consumers and must not be undermined by repressive measures, which thusfar have only served to reinforce the perception that citizens and content providers are on the opposite sides in a battle.

2 Structure of the document

2.1 The first section addresses the crucial question of rights clearance. The current EU digital single market is characterised by divisions, borders and barriers. Legislation should be harmonised and must strive to create an innovation- and user-friendly environment. The rules need to be clear, simple and unquestionably legitimate to enable the completion of an efficient digital single market.

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1 Transparency Register Number: 16311905144-06

2 According to the 2010 IFPI report, in 2003 i.e. 8 years after the creation of the Internet, the music industry only offered less than 50 licensed services: http://www.ifpi.org/content/library/DMR2010.pdf (page 6); a recent study from the Open Rights Groups shows a lack of provision for audiovisual online content and we believe that more investigation is needed on the subject: "*Can't look now: finding films online"* http://www.openrightsgroup.org/blog/2011/cant-look-now:-finding-film-online

2.2 The second section deals with rightsholders' remuneration for online exploitation of audiovisual works. We strongly support a more consumer-friendly approach, favouring a minimisation of intermediaries and allowing a more efficient and adequate payment for creators. We also support the creation of legal platforms and the establishment of an effective framework for pan-European offers.

2.3 The final section deals with access to online audiovisual content for persons with disabilities. We support an equal access to cultural materials for person with disabilities, and we believe that the current legal framework has proven adequate to achieve this objective.

3 Policy approaches – Rights Clearance

3.1 The digital environment offers new perspectives, new possibilities and new opportunities not only for the industries – accessing an ever broader audience – but also (and more importantly) for citizens. EU consumers have a huge cultural sector on their doorstep, but the barriers preventing them from accessing content are overwhelming. The Commission says that the EU consumers *"can benefit from the economies of scale offered by the digital single market"*[3]. We also believe they *must* benefit from it.

3.2 In its current form, legislation covering copyright represents a barrier to the digital single market more than it positively serves to harmonise the market – its very legal basis is dubious in many cases. The development and the completion of the digital single market are endangered by different approaches adopted by EU Member States, with the root of this problem being an EU legal framework which entrenches rather than eliminates barriers to a single market. Relevant national legislation is far from being harmonised. This creates artificial boundaries dividing the European single market. The EU has a long way to go before it reaches full harmonisation.

3.3 The current system of territorial copyright licensing should be considered as an obstacle to the completion of the EU single market and therefore should be addressed under single market legislation law; Such obstacles cast strong doubt on the credibility of the single market and should be subject to the same scrutiny as other geographical restrictions.

3.4 This fragmentation is obvious when it comes to copyright exceptions, for example. The 2001/29/EC Directive on the harmonisation of certain aspects of copyright and related rights in the information society provides 21 non-mandatory exceptions or limitations to the right of reproduction for copyright works[4]. Each Member State can decide to transpose these exceptions (or not). This means there are 2,097,152 different ways[5] of implementing a Directive[6] whose legal basis is harmonisation. This is clearly absurd and legally indefensible in an instrument whose legal basis is the harmonisation of the single market..

3 http://ec.europa.eu/internal_market/consultations/docs/2011/audiovisual/green_paper_COM2011_427_en.pdf -Green Paper on the online distribution of audiovisual works in the European Union: opportunities and challenges towards a digital single market - page 4

4 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:167:0010:0019:EN:PDF – article 5

5 Even more taking into account the fact that similar exceptions can be implemented for the right of distribution.

6 http://www.smarimccarthy.com/2011/08/copyright-combinatorics/

3.5 The fragmentation of the market has important consequences for the economy of the EU. A clear example relates to technology based on exceptions. According to recognised experts, "*innovation may be blocked and growth hampered when unduly rigid applications of copyright law enables rights holders to block potentially important new technology*"[7].

3.6 The disharmony created by the Directive makes it more attractive to launch a technology based on a copyright exceptions in the US than in the EU. A service launched in the US has to deal with one decision on "fair use" while a European startup would risk legal proceedings in 27 Member States with 27 different interpretations of the relevant Directives. In this environment, the only rational choice for a European innovator with a product that relies on exceptions or limitations is to build their business in the USA and come back to Europe once the company has grown large enough to cope with the barriers in the European market. This risks the creation of an "innovation and investment drain".

3.7 The virtual video recorder case is a relevant example to further corroborate the idea that the current EU copyright policy hinders technology. In 2008, 'Wizzgo' released the first online digital video recording in France. The device allowed users to obtain copies of free-to-air programmes broadcast on terrestrial television channels. Users had a monthly quota of hours. The program was only recorded if the copy was ordered before the program started (i.e. analogous to a traditional video cassette recorder). It should therefore have been covered by the private copying exception – implemented in France – and funded by the private copy levy. However Wizzgo was sued for copyright infringement by the digital terrestrial channels. Wizzgo argued that not only was the device covered by the private copy exception[8] but also that the reproduction was covered by the mandatory exception in the Directive for "temporary and transient or incidental" copies[9]. However the French judge decided differently and rejected the benefit of these exceptions. The argumentation was essentially based on economic grounds, arguing that no exception can be claimed when a copy has an evident economic value[10]. Wizzgo subsequently suspended its services.

3.8 Another illustration of the "innovation and investment drain" due to the inconsistent European protection of copyright is given by the recent *Yahoo!* case in Italy[11]. *Yahoo!* had a video service which included user-generated content. Videos were classified by genre. *Yahoo!* Italia was sentenced for distributing TV videos protected by copyright without authorisation. In a case brought by Reti Televisive Italiane S.p.A. (part of the Mediaset Group) the Court of Milan judged that *Yahoo!*'s liability could not fall under the liability exemptions for service providers established in the E-Commerce Directive 31/2000/EC[12], as *Yahoo!*

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7 "Digital Opportunity – A Review of Intellectual Property and Growth" Independent Report by Professor Ian Hargreaves - http://www .ipo.gov.uk/ipreview-finalreport.pdf - page 43

8 Articles L 122-5, 2° and L 211-3, 2° of the French Code of Intellectual Property

9 Articles L 122-5, 6° and L 211-3, 5° of the French Code of Intellectual Property- implementing the Directive 2001/29/EC

10 Paris *Tribunal de Grande Instance*, August 6 2008, *Metropole Television v Wizzgo* (Case 08/56275) ; Paris *Tribunal de Grande Instance*, November 6 2008, *France 2 v Wizzgo* (Case 08/58349) ; Paris *Tribunal de Grande Instance*, November 6 2008, *TF1 v Wizzgo* (Case 08/58348) ; Paris *Tribunal de Grande Instance*, November 10 2008, *NT1 v Wizzgo* (Case 08/58864)

11 *Tribunale di Milano*, 9 September 2011, R.G. 79619/09

12 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:178:0001:0001:EN:PDF

Provides, according to the court "active hosting,"[13] which went beyond the limits of the protections in the E-Commerce Directive. This decision is particularly illustrative as the Court of Madrid rejected similar arguments on a case introduced by Telecinco (also part of the Mediaset Group) against *Google/Youtube*[14].

3.9 Conversely, in June 2010 the federal judge in New-York rejected Google's liability in a copyright infringement lawsuit against Google's YouTube[15]. The judge decided that Youtube was protected by the "safe harbour" provisions of the Digital Millennium Copyright Act[16]. As a result of the unpredictable rulings in the EU, *Yahoo!* decided simply to stop providing a user-generated video service in Europe.

3.10 Because of the lack of consistency and harmonisation within EU copyright systems, some video services prefer taking down their user-generated content in Europe. Therefore, they avoid potential liability on copyright infringement cases for content uploaded by users on their website and on which they do not have full control.

3.11 Perhaps the best example of the way in which the EU legal framework lets down European citizens is Lawrence Lessig's YouTube video "What is cc for". The video contains a small amount of background music, which is permissible in the US under its "fair use" rule. When the "owner" of the music, NBC, complained to YouTube, the video was blocked for *all* European citizens, as YouTube had no interest in guessing (and risking being wrong about) which Member State legislation would permit the video and which would not.

3.12 The current EU system stifles the development of new technology in Europe and denies the benefits of innovation to European users.

3.13 Concerning the "country of origin" principle, we do agree with the EC Green Paper that this approach "*could easily entail regulatory arbitrage with regard to the choice of country of establishment of the service provider*"[17]. A country of origin approach can only be implemented in an effectively harmonised market.

3.14 EU policy must facilitate services that enable consumers/end-users to obtain legal content in the right format and at the right price.

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13 The Italian Court based its argumentation on Recital 42 of the E-Commerce Directive which states that the exemptions from liability covers only "only cases where the activity of the information society service provider is limited to the technical process of operating and giving access to a communication network over which information made available by third parties is transmitted or temporarily stored, for the sole purpose of making the transmission more efficient; this activity is of a mere technical, automatic and passive nature, which implies that the information society service provider has neither knowledge of nor control over the information which is transmitted or stored."

14 http://www.elpais.com/articulo/tecnologia/Desestimada/demanda/Telecinco/Youtube/elpeputec/20100923elpeputec_2/Tes

15 http://techcrunch.com/2010/06/23/youtube-declares-victory-in-viacom-case/

16 DMCA's "safe harbour" provisions, 17 U.S.C. §512 (c), (m) and (n)

17 http://ec.europa.eu/internal_market/consultations/docs/2011/audiovisual/green_paper_COM2011_427_en.pdf - Green Paper on the online distribution of audiovisual works in the European Union: opportunities and challenges towards a digital single market – page 12

4 Rightsholder's remuneration for online exploitation of individual works

4.1 Rightsholders' remuneration is important for creation and innovation. However, we question whether the current remuneration system implemented in the EU is the best for artists and consumers and whether it is the most appropriate for the digital era. Licensing difficulties, a lack of innovation in legal services, and problems in creators' relationship with intermediaries are significant obstacles to the proper remuneration of creators in the digital age. It is hard to disentangle licensing reforms with an improvement in creators' ability to be remunerated in the digital age.

4.2 Creators will be remunerated appropriately when consumers' demand for works is satisfied by services which can innovate around clear and transparent markets for the rights to exploit audiovisual works. We believe that providing catalogues of the work administered and the artists represented should be mandatory for collecting societies. This is an ideal to which the European audiovisual markets have some way to travel to achieve. It is welcome that the EU is focusing attention on this ecosystem.

4.3 To promote the remuneration of creators for the use of their work, we strongly believe that greater innovation is needed to improve improve and simplify the purchase and clearing of copyright.

4.4 The European Union should create a legal framework for multi-territorial and pan-European offers to be effective and developed. We welcome the decision of the European Court of Justice, on 4 October, in the *Premier League* case. The court ruled that a system of licences for the broadcasting of football matches which grants broadcasters territorial exclusivity on a Member State basis and which prohibits television viewers from watching the broadcasts with a decoder card in other Member States is contrary to EU law[18]. In our view, this judgement is a step toward an effective digital single market.

4.5 A cross-border licensing system would have a positive effect for both consumers and creators. For the latter, it would increase the possibility of licensing individual works directly, improve routes to target markets and provide clarity with regard to licensing terms and conditions. For consumers, it would offer more choice, better services and more acceptable prices. For the users seeking to use copyright works, it would be quicker to identify the rightsholder and to secure a licence.

4.6 Wherever possible, an easy and clear access to licensing information for both commercial and private users must be guaranteed: efforts must be undertaken to achieve a "one-stop shop" for rights information. A one-stop shop is the right solution both for the creators and EU consumers. Indeed it reduces the involvement of intermediaries and therefore allows an adequate and effective payment of the artists and reduces the price paid by consumers.

4.7 We believe that minimising the number of intermediaries and improving their transparency are other important steps in achieving this goal.

18 ECJ C-403/08 and C-429/08 Football Association Premier League and Others v QC Leisure and Others and Karen Murphy v Media Protection Services Ltd

4.8 One way of achieving this, for digitised works, could be through embedding copyright information in digital content. This could be more profitable for artists than paying intermediaries such as collecting societies.

4.9 Consumers are ready to pay to obtain desegregated materials when the price is right – as clearly shown by the mobile phone "ringtone" market, for example. The circulation of cultural knowledge would be facilitated by this approach: consumers would be given easier access to content, to user-friendly payment systems, a large choice and quality materials, whilst creators and artists would receive a fair remuneration. The development of micropayments (such as these supported by the creator of the World Wide Web, Tim Berners-Lee[19]) could enable easy payment for consumers and give a fair remuneration for creators. This approach should be further explored.

4.10 The use of embedded payment information should not be used as a means to restrict the freedom of the end user to use the purchased content in legitimate ways, for example by restricting exceptions. No exception to copyright should be overridden by contract[20].

4.11 This issue is relevant to considerations of further 'technical measures' to manage or restrict the use of and access to audiovisual works – measures which are often referred to as 'Digital Rights Management' (DRM). We are concerned that such technologies lead to problems of competition in technology innovation, to restrictions on the legitimate use of content that are in line with exceptions to copyright, and that they ultimately only serve to inconvenience legitimate consumers, pushing them towards and legitimising the use of unorthodox methods of accessing the same material. We suggest that policy makers do an urgent review of the use DRM and its effects on consumers and competition in the technology market ahead of any further policy positions are taken on the issue.

4.12 A wider range of well served legal platforms is essential to achieve an adequate and efficient digital single market. As an example of the problem, the market for films online is particularly weak. The Open Rights Group recently looked at the market for films online in the UK, and their findings suggest very poor provision that is leaving consumers 'with the digital equivalent of empty shelves'[21]. The findings are indicative only given the scale of the research, but suggest clearly that an audit of the provision of film, and in particular European film, online is needed, alongside an analysis of the reasons behind this market sclerosis.

4.13 Regarding innovation in services, there is, for example, a lack of legal file-sharing services. Users want to have direct access to digital content. In Europe people often pay €5 to €10/month for Virtual Private Networks (VPN)[22], which circumvents geographic blocking. Rightsholders do not receive any royalty for these uses and both citizens and creators would prefer for the money to be

19 http://www.euractiv.com/infosociety/web-inventor-snooping-authorities-threaten-internet/article-187987

20 cf "Digital Opportunity – A Review of Intellectual Property and Growth" Independent Report by Professor Ian Hargreaves - http://www.ipo.gov.uk/ipreview-finalreport.pdf page 51 "Making Exceptions Mandatory"

21 'Can't look now: finding film online'. October 19th 2011, http://www.openrightsgroup.org/blog/2011/cant-look-now:-finding-film-online

22 http://www.tvproxy.co.uk/join.tpl is one of many examples.

going to creators rather than these technical intermediaries

4.14 This failure to permit European citizens to pay for online content compares badly with the situation in the USA. In the United States Netflix offers a legal streaming platform for approximately the same price as a European VPN service. A recent study shows that in the U.S. Netflix now uses more bandwidth than BitTorrent[23]. People are ready to pay for a safe and legal access to movies and TV-shows.

4.15 Without policy that reforms markets for audiovisual goods in Europe, the EU will have to explain to EU workers living outside their country of origin why it is justifiable that their national TV station's content, which is free online for citizens living in their home country, is still inaccessible to them and why downloading it is unacceptable "theft". They will have to explain to EU citizens why they have access to broadcast programmes from another EU country on their television but cannot access the online content to watch the same programmes. They will also have to justify the different release dates of online content from a EU country to another. Citizens will always in all contexts feel free to break laws that are visibly and demonstrably indefensible and illegitimate. It is easier and more effective to reform illegitimate law rather than

4.16 The EU should focus on removing the barriers to Netflix-similar services being launched in the EU, rather than looking to create new repressive enforcement measures that have already been shown to be ineffective and which further undermine the credibility of copyright law. The drop of 27% (in just one day) of the Netflix share price as a direct result of the costs of entering just one European market (UK), shows how much work there is to be done.

4.17 We strongly believe that more repressive enforcement measures would be extremely counterproductive as they would lead to render the copyright system even more illegitimate in the eyes of citizens. Simplified copyright clearance and harmonisation are more important in pulling down existing barriers and fostering a better market environment.

4.18 The proportionality, necessity and effectiveness of enforcement cannot be judged properly in an environment in which legal markets for goods are so fragmented.

4.19 We are particularly concerned about further liability for intermediaries. For example, notice regimes for the takedown of content should properly balance an efficient means of having content removed with the need to promote and encourage the development of innovative services. Extending liability of intermediaries risks creating disincentives for developers of new services.

4.20 There is currently a 'legitimacy gap' between policy and citizens' expectations. This has been created by the distance between consumer or citizen behaviour and the realities of the market. It is evidenced by poor legal offers and overly-strict applications of copyright laws, a situation that sees dangerous website blocking measures pursued whilst online stores for content flounder in the face of complex and opaque licensing environment. EU policy should be aimed at understanding the reasons this gap exists, and working to close it. We believe it must be closed by bringing provisions closer to consumers' expectations, rather

23 http://www.wired.com/images_blogs/epicenter/2011/05/SandvineGlobalInternetSpringReport2011.pdf

than punishing consumers for routing around a backward online legal market.

4.21 Overall, the EU should commit to a sound evidence base, to which this consultation will clearly form a part. This evidence base should include deeper appreciation of consumer behaviour and use of audiovisual works, to ensure that markets are developing in ways that match new consumer expectations and behaviour.

4.22 Furthermore, when considering new enforcement measures, it is essential that there is evidence at a granular level to ensure not only that policy is proportionate, necessary and effective, but also to make sure policy is clear about the sorts of behaviour that need to be addressed. 'Infringement' is not a singular activity, and the concept urgently needs to be unpacked and explained in more detail in EU policy making.

4.23 To do this, clear-headed analysis of consumer and citizen attitudes and behaviour with regard to audiovisual works must be the basis of policy. That analysis must itself be based on robust evidence of a high standard.

5 Special uses and beneficiaries – Accessibility of the online audiovisual works in the European Union

5.1 Accessibility of online audiovisual works for persons with disabilities is another example of the incomprehensible lack of common sense in EU copyright legislation. The regulatory framework not only disadvantages EU citizens but, even worse, it unjustifiably restricts disabled persons' access to cultural works.

5.2 Unfortunately it seems that the Commission, even in such an obvious situation, is not ready to review its approach on exceptions/limitations and to make the accessibility to cultural content for disabled persons a general mandatory exception to copyright[24]. We strongly regret that position and hope that such measures, which are damaging of themselves and also damaging for the credibility of the whole legal framework, will change.

5.3 EU policy must, in our view, provide a legal framework enabling equal access to audiovisual online content for persons with disabilities. The latter should enjoy the access to all cultural materials like anyone else.

5.4 Directive 2001/29/EC[25] only provides optional exceptions or limitations to copyright for the benefit of people with disabilities[26]. In most cases, though, because the exception to copyright has not been implemented, access to a wide source of information/content is denied to disabled people as they are not able to copy such materials for their personal use, for purpose of education, training and leisure[27]. We believe that an optional exception is not enough and that the

24 In March 2011, the EC Commissioner for Internal Market and Services, Michel Barnier, refused to support the WIPO Treaty for blind people and persons with reading disabilities. http://keionline.org/sites/default/files/barnier2pescod_2march2011.pdf

25 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:167:0010:0019:EN:PDF

26 Article 3(b) Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society

27 "Key elements of EU Information and Communication Technology policies and understanding how disabled people are affected" – European Disability Forum (2004)

limitation should be mandatory.

5.5 Article 7 of the Audiovisual Media Services Directive (AVMSD)[28] states that: "*Member States shall encourage media service providers under their jurisdiction to ensure that their services are gradually made accessible to people with a visual or hearing disability*". Access to media services for people with disabilities must be mandatory and EU Member States should have an obligation of making sure that the works are available for disabled people.

6 Conclusion

6.1 New perspectives, possibilities and opportunities continue to appear in the digital market both for rightsholders and EU consumers. In defining the policy, a balance should be found between economic objectives and social goals, the interests of creators and the benefits for consumers[29]. The current framework somehow manages to fail on all levels. EU policy must be user-friendly, innovation-friendly and creation-friendly.

6.2 Access to culture is essential. Broad access to audiovisual works for EU consumers must be guaranteed. The current EU market is too divided: the copyright legal framework creates even more barriers to access, use and enjoyment of cultural content. The levels of infringements described by the Commission, if accurate, can only lead to the conclusion that citizens largely consider copyright law to lack legitimacy. Legitimacy must be nurtured and developed and not (because it cannot be) imposed by repression.

6.3 EU policy should create a market through which inventors can develop their technology, where creators can offer a wider range of services and online content and in which EU end-users find their demand for the use of audiovisual works satisfied. We believe this ecosystem is being blocked by overly strict applications of copyright that work against the goals of innovation as well as indefensible and ineffective repressive enforcement measures..

6.4 Legal platforms to access, share and stream audiovisual content are essential to achieving the European digital single market, as well as a cross-border licensing system and pan-European offers. These would have positive effects both on creators and consumers/rights users.

6.5 The EU must embrace the opportunities offered by the digital environment. It does not need more repressive enforcement measures which will risk making the EU legal framework seem even more illegitimate. A clear, simple and harmonised legal framework must be put into place to achieve an efficient and legitimate EU digital single market.

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http://epikoda.ee/include/blob.php?download=epikmain1&id=0663 - page 9

28 Directive 2010/13/EU http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:095:0001:01:EN:HTML

29 cf "Digital Opportunity – A Review of Intellectual Property and Growth" Independent Report by Professor Ian Hargreaves - http://www.ipo.gov.uk/ipreview-finalreport.pdf - page 98