- Legal offers and piracy: the Commission sees piracy and unauthorised up- and downloading of copyrighted content as ‘a central concern’ and considers it right to instigate cooperation procedures between access/service providers, right holders and consumers in order to ensure a wide online offer of attractive content, consumer-friendly online services, adequate protection of copyrighted works, awareness raising/education on the importance of copyright for the availability of content and close cooperation to fight piracy/unauthorised file-sharing.

Areas of action

Action points

To start to address these areas of concern, the Commission:

- launched a public consultation with 11 questions relating to: transparency (labelling) of DRM systems; encouragement of innovative licensing regimes; legal offers and piracy
- announced that it will create a stakeholders’ discussion and cooperation platform (to be called the Content Online Platform) devoted to content-specific or cross-industry negotiations, for example those relating to availability of content, improvement of rights clearance mechanisms, development of multi-territory licensing, management of copyright online and cooperation mechanisms to improve respect of copyright in the online world.

Commentary

Wherever you sit in the online content food chain — rights owner, aggregator, distributor — we would encourage you to participate: online content is a growth area with significant revenue streams at many levels. Even as a user these issues should not go unnoticed — the Content Online Platform also envisages producing a guide for business and consumer users.

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Digital proposals to legalise private copying

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The government has launched a consultation on proposals to legalise personal copying by consumers. These proposals risk causing

confusion to consumers about their rights and unfairness to some rights holders.

Existing copyright law means that it is illegal for individuals to transfer content that they legally own from, for example, a CD to an iPod (so-called 'format shifting'). In practice, this law is widely flouted, as was recognised in the 2006 Gowers Review of Intellectual Property. The consultation focuses on how to implement the recommendations made by Gowers, including the proposal that the law on private copying be re-examined.

Format shifting

Format shifting

The government is proposing that format shifting by consumers should no longer be illegal. But the new law would not allow consumers to sell, loan or give away the copy that they make, or to share the work through a file sharing system or via the internet. Nor is it proposed to allow consumers to make multiple copies.

Areas of interest

Areas covered by the consultation

The government is seeking views on the following:

- The classes of work to be covered. The Gowers Review focused primarily on music and film. The consultation asks whether there should be similar exceptions for other works (like photographs, broadcasts and books).
- How many format shifts should be allowed? Although multiple copying is not proposed, the consultation recognises that there may be a need to allow additional format shifts to take account of the evolution in technology.
- Should the new rights take effect only for works purchased after the change in the law? Or should consumers be allowed to transfer back copies? The consultation favours the second of these options.

Implications in practice

Some rights holders in the music and film industries already accept the need for a change in the law. But policing the new law may prove difficult, particularly for the proposed restrictions on multiple copying and sharing copies. The new law will have to be clearly explained to consumers so that there is no gradual creeping acceptance of copyright infringement that goes beyond personal use.

The government is not proposing to introduce consumer levies to compensate rights holders for the potential loss of sales. This might be all right for the music and film industries who have already priced in private copying to their financial models but, if the new exception is widened to other works, will the industries affected be given time to adjust their pricing models?

DRM dilemma?

There are no proposed restrictions on rights holders incorporating DRM (digital rights management) into their works. But will consumers be clearly informed about what is and is not DRM protected when they purchase a work?

Other copyright exceptions

The consultation also seeks responses on amendments to other copyright exceptions such as:

- Proposals to allow educational establishments to make broadcasts and excerpts of published works available remotely to distance learning students and to allow these excerpts to be communicated through interactive whiteboards.
- Proposals to extend the private copying exception for research purposes to cover all forms of content, not just literary, artistic, dramatic and musical works.
- Proposals to allow libraries to make copies of sound recordings, broadcasts and films as well as literary, dramatic and musical works for archiving and preservation purposes.
- Proposals to introduce a new copyright exception for the purpose of caricature, parody or pastiche.

Deadline

The government has set a deadline for responses of 8 April 2008.

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Television: Modernised TV directive

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AVMS passed

The Audiovisual Media Services Directive (AVMS) has been passed by the European Parliament. It is aimed at extending the former TV Without Frontiers Directive (TVWF) to keep pace with technological advances, particularly web-streamed television services.

TV on-demand

TV on-demand is covered by the AVMS (although it is not subject to the advertising restrictions), but the AVMS will not affect sites