

**Viviane Reding**

Member of the European Commission responsible for Information Society and Media

**The Digital Single Market: a key to unlock the potential of the knowledge based economy**

Check Against Delivery  
Seul le texte prononcé fait foi  
Es gilt das gesprochene Wort

EDiMA's White Paper on Policy Strategy for the Development of New Media Services 2009-2014 – Launch Breakfast Event

**Brussels, 1 October 2009**

Ladies and Gentlemen,

Thank you all, and especially thank you to the European Digital Media Association and to the Honourable Member of the European Parliament Malcolm Harbour for inviting me to this breakfast today.

I received EDiMA's White Paper on the first of July and I appreciated very much this inspiring input and the strategic vision behind, particularly in this period in which we are consulting the general public on the new Digital Europe initiative – the follow-up of our i2010 strategy –, and on the priorities of the Information Society for the next five years.

The White Paper on policy strategy for the development of new media services hits the bull's eye of the future ICT strategy, for I believe that it should focus on the achievement of **a Digital Single Market for consumers, creative industries and Internet service providers alike**.

### **Need for action to boost digital services and content**

All our work aimed at modernising the rules of telecommunications, at promoting the take-up of Internet broadband, at developing ultra-fast, competitive and secure next generation networks would be almost useless if we don't promote the take-up of internet based services and of content distribution via the web. Why would you build an oil pipeline if you don't have oil to flow in it?

Well, in my vision, the Digital Single Market is the oilfield, the source of all the range of services that will lead our economy to a knowledge based, fully digital economy.

Today the free movement of digital services in Europe is severely hindered by fragmented sets of national rules. Unless we tackle this problem, we will never reach the full potential of the knowledge economy for both businesses and consumers.

Let me just give you some figures on the state of eCommerce in the EU: last year, one consumer out of three in Europe bought at least one item online, but only 7% of European consumers have dared to do so in another Member State. The same goes for businesses: three quarters of EU retailers sell over the internet domestically, but only one in five enters cross-border markets. It is clear that here the main problem is the lack of confidence in cross-border transactions, often caused by complex and fragmented rules.

Addressing this problem of lack of confidence on the consumer side, Commissioner Meglena Kuneva and I launched, earlier this year, as a first step, the **eYouGuide**, an information tool that explains to consumers their rights in the online environment. It is a regularly updated and expanded online guide.

Even if informing means empowering, I agree with EDiMA that, to boost the confidence of all operators of the eCommerce market place, **the adoption of the draft Consumer Rights Directive that proposes fully harmonised rules in the retail market, should be prioritised**. To this end, I call on the European Parliament, who, in the legislative process of the SMS and Data Roaming Regulation, has shown the decisive role it can play in leading to a swift adoption, in particular where there are tangible benefits for a competitive Single Market and for European consumers

The gaps of the Single Market for digital services become even more evident if we look at the cross-border provision of digital content.

**As digital technologies allow easier communication of creative works, traditional practices for licensing rights, often limited to the territory of individual Member States, seem to have reached their limits.**

Digital technologies bring new actors and new roles into the value chain. Previously separate services are converging, thus radically changing conditions for the production and distribution of creative content, bringing in their wake the integration of mobile operators, internet service providers (ISPs), telecoms companies, broadband technology companies, websites, online shops, online rights aggregators and social networking platforms. The global reach and borderless nature of the digital environment will allow countless innovative solutions for the distribution of creative content.

With new digital technologies, the content sector is no longer limited to "traditional players" such as authors, producers, publishers, collecting societies and distribution companies.

Users, consumers or "prosumers" are increasingly playing an important role in online media. Bloggers, citizen journalists and social net workers, by making use of their freedom of speech and of the internet, are delivering important services which benefit media pluralism and world democracy.

However, business models and licensing practices are struggling to adapt to this new context and this not only limits the availability of a legal offer of content online, but it also stifles the development of new media services.

Often the content legally purchased online can only be purchased or downloaded in the country of residence of the consumer and it features technological protection measures which restrict its use to one kind of media player only, limits the possibilities of playing it and, when copies are permitted, also the number of copies for private use.

## **Overcoming market fragmentation**

I frequently receive letters, information requests and complaints from European citizens demanding explanations on restricted provision of audiovisual media services. Increasing efforts by consumers to circumvent restrictions of transmission rights and the growing grey market for devices used for that purpose are evidence of the potential that exists for multi-territory distribution of audiovisual media services free of constraints.

Soon market forces will overcome business models based on such restrictions. Young internet users are perfectly aware of the potentialities offered by ICTs and they don't understand why they would be imposed artificial restrictions. Our surveys show that if 60% of young users download content for free, 28% state that they are not willing to pay. I believe that this share would be smaller if they could find competitive offers free of pointless contractual and technological restrictions. These young users are our future.

And our future will also be full of new media. But today new media services are confronted with overly complex, costly and time-consuming procedures to clear rights. This is why they just decide to offer their services only in certain EU countries (and often the big ones with great disadvantage of users of smaller countries). Let me be honest: when it comes to the provision of digital content, Europe is not anymore the largest marketplace in the world, it is just 27 separated markets.

This situation contributes to the competitive advantage of the U.S. in the provision of online services. It is not only by chance that all the major existing platforms providing digital content were born and grew in the U.S..

## **Will Europe lose out to the US with regard to books digitisation?**

**If we don't act quickly, soon U.S. citizens will not only benefit from the largest digital content offer, they will also be able to access through a simple click almost 10 million books, including orphan works which are largely part of our European cultural heritage.** As European citizens, students, teachers and researchers will not be able to do the same, there is an actual risk of establishing a new digital divide across the Atlantic.

I am, of course, talking about the Settlement agreement that, if approved in one form or another by U.S. courts – and I believe this is only a matter of time – will allow Google, authors and publishers to set up a Registry empowered with licensing the digitisation and distribution of all the collections of books present in American libraries.

Today, right holders and online service providers in Europe need to spend far too much time and money on the administration of rights, instead of investing this money in attractive services. And consumers' expectations are often frustrated because they cannot access online content if uploaded in another Member State.

I am experiencing myself such frustrations in the context of the development of Europeana, Europe's digital library. For example, I am aware that a French aggregator has had to withdraw material from Europeana, because they did not have the rights for dissemination outside the French territory. And there are other examples. Such agreements restrict the availability of digitised content to their national territories only. Yet, if there is something we don't want, it is that we end up with national silos of cultural information that cannot be accessed from abroad. This clearly indicates that in order to make content available through Europeana, we must ensure that cultural institutions do not accept this type of licences that restrict access to one country only.

## **Towards better coordination on copyright issues**

The Commission recently adopted the Communication "Europeana - next steps" which looks ahead into future orientations for Europeana, including its future funding model and copyright-related issues. The public consultation launched by the Communication is currently ongoing. In addition, Commissioner McCreevy and I sat together to launch jointly a Commission Communication on "Copyright in the Knowledge Society". We have agreed, and we say this in this Communication, that we will jointly work over the next months on finding a European solution for the digitisation of orphan and out-of-print works. We have no time to lose. If we do not act swiftly and forcefully in Europe, we risk that digitisation will take place only on the other side of the Atlantic. Without the full participation of European rightsholders. And without access of European citizens.

You will see from this also that the Commission has already started taking up an important point raised in EDIMA's White Paper: the serious drawbacks resulting from uncoordinated policy approaches towards copyright and digital content by the EU institutions and sometimes even within a same institution. EDIMA proposes to establish a new Commission "task force" to ensure coordination in the policymaking. Your reasoning is right, but allow me to tell you very frankly, on the basis of some experience in the EU policy-making process: a "copyright task force" alone will not bring about more policy coordination on substance. We need instead to have a common strategy agreed at the highest level. This is why I have asked Charlie McCreevy to work together with me on copyright issues, and the first experience of this team work at Commissioner level is very positive. Charlie and I share a common objective: **a modern, pro-competitive and consumer-friendly single-market framework for digitising, accessing and licensing digital content online across the 27 EU Member States**. We plan to continue with this high-level team-work in the future, on the basis of an ambitious European Digital Agenda.

## **Towards an ambitious European Digital Agenda**

Ladies and gentlemen,

President Barroso has announced already his policy commitment to define, under the next Commission, an ambitious European Digital Agenda aimed at tackling the main obstacles to a genuine digital single market with targeted legislative measures. I of course welcome this wholeheartedly. More ambition and more Europe is what we need if we want to make the Digital Economy a driver of Europe's economic recovery over the next months.

We must take several decisive steps:

**First**, we must address the issue of mass scale digitisation of books and orphan works. It is unacceptable that a huge part of cultural heritage remains inaccessible to EU citizens, while, technically it could be just "one click away". We should create a modern set of European rules that encourage the digitisation of books, including one or several European Right Registries able to guarantee that publishers and authors' rights are respected and fairly remunerated, in line with the principles of European Copyright Law.

This will require a stronger recognition of the role of existing innovative projects like ARROW (the Accessible Registries of Rights Information and Orphan Works) and Europeana.

Europe's answer to the Google Books settlement should not be a "culture war" against technological progress. We should rather understand these developments as a "wake-up call" that should encourage Europe to accelerate the move to a modern system for our single market and in the interest of European authors and investors.

We need to act now to put pro-competitive European solutions in place and to avoid the risk that digitisation will mostly take place in the US.

**Second**, we need a harmonised single European market with clearer rules enabling users to be free to buy and enjoy anywhere, anytime and on any platform the content they paid for.

Taking into account the results of the discussions within the Content Online Platform, before the end of this mandate, Commissioner McCreevy and I will launch a public debate with a reflection paper over a set of possible policy and legislative options aimed at facilitating multi-territorial or EU-wide licensing for digital content.

We want to focus the debate on practical solutions for encouraging new business models, promoting industry initiatives and innovative solutions, as well as on the possible need to harmonise, update or review legislation.

Allow me to elaborate on an important **third** point: Of course our new European Digital Agenda should not be limited to content issues: there are other important issues that the next Commission will address in this field.

We cannot achieve the Single Market by leaving aside certain parts of our population. I am talking about e-accessibility: 15% of our population is disabled and our rules on accessibility are still fragmented. Each Member State is going its own way. We have to consider that this is costly for industry because they have to respond to a wide range of fragmented national standards. It also leaves disabled people without a consistent level of service that they can expect.

What should we do? We should in my view encourage **the European-wide adoption of the global web accessibility standard, the new Web Content Accessibility Guidelines**. We should do it together and in step so that the online services industry can reap economies of scale and the users get a decent and reliable framework. I believe the way we should do this is to develop together with stakeholders a European Disability Act.

**Fourthly**, the Digital Europe strategy could give a new impetus to the development of a self-regulatory system for European websites to build consumer trust. I therefore call upon industry – especially on EDiMA – to sit with the representatives of consumers – especially with Europe's consumer association BEUC – in order to jointly work on a **European system of trustmarks**. Consumer confidence can be built up through European trusted authorities or trustmarks that guarantee the reliability and quality of digital services. The success of the European top domain name dot .eu is significant in this respect because any firm registering in the .eu domain has to comply with European rules. Looking out for .eu gives some form of basic protection and European firms with high standards could differentiate themselves by adopting .eu.

The issue of trustmarks has been on the agenda for a very long time and I see very little progress towards a European system. That is why industry and consumer associations must get together to establish a sustainable European trustmark, which I believe, could give our users the confidence needed to "surf abroad" and profit from our large market online. The Commission stands ready to act as honest broker, if needed.

A further, **fourth** priority for Europe's Digital Agenda will be in my view to take a deeper look into **network neutrality**. When the telecoms package enters into force, it will give the European Commission and national regulators new instruments to ensure that the net will be open and neutral in Europe. This is a very important, and often underestimated achievement of the reform, and many European Parliamentarians, but also many ministers deserve the credit for having strengthened the corresponding wording in the package during the legislative process. I would like Europe to make good use of these new tools for enhancing net neutrality. I would therefore like to have, in 2010, a broad debate about how the Commission could best use these new instruments in the interest of an open internet and of internet users. It is true that Europe's telecoms framework, with its pro-competitive approach, has so far been an effective tool for tackling many problems with regard to net neutrality. I have myself indicated that I would be prepared to act on this basis in case of continued blocking of Voice over IP services by certain mobile operators. The new telecoms package is in many instances a quite robust answer to such new threats to net neutrality. However, I also know that technology and regulation will evolve further in the years to come. And **I plan to be Europe's first line of defence whenever it comes to real threats to net neutrality**. This should be spelt out in more detail in the European Digital Agenda that is scheduled for adoption in March next year.

## **Conclusion**

Ladies and gentlemen,

As we look towards the priorities for the new Commission we have a great opportunity to get the Digital Economy going. I have laid out some of my immediate priorities. Now is the time to be ambitious to make the commitments for change that will put Europe on the track to its digital future. You can of course count on me and my colleagues in the European Commission to do our utmost to make a competitive Digital Single Market happen. And I hope that the European Commission will be able to count on your support.

Thank you for your attention.