



ONLINE COMMERCE ROUNDTABLE: REPORT ON OPPORTUNITIES AND BARRIERS TO ONLINE RETAILING

COMMENTS FROM THE BRITISH SCREEN ADVISORY COUNCIL (BSAC)

29 June 2009

1. The British Screen Advisory Council (BSAC) is an independent, industry-funded advisory body which focuses on audiovisual policy issues. It brings together many of the most influential players from the TV, film and new media sectors¹.

2. We provided responses to the Commission's consultation on Content Online in the Single Market in 2006 and the questions asked in the later Communication from the Commission on Creative Content Online in the Single Market in 2008. Many of our comments in those documents are still valid today. The challenges of adapting business models in the light of opportunities arising from technological developments and responding to changing consumer behaviours and expectations, are ever present. BSAC has therefore continued to explore many of the difficult issues raised by online commerce.

3. In particular, we established a Blue Skies Working Group to map the trends of how people make, sell and use audiovisual material, and so identify regulatory issues that might need to be explored further. The report² from that Group identified a change from a supply-led to demand-led relationship and so the importance of recognising, and responding to, consumers' four basic demands:

- What I want
- When I want it
- How I want it
- Paid for in a way I want.

4. One of our subsequent work streams has been to explore the future of copyright in the light of these trends. A key issue identified in the attached report³ of the BSAC Blue

¹ BSAC membership is listed on the BSAC website at www.bsac.uk.com

² See the BSAC Blue Skies Working Group report published on 2 October 2008 – www.bsac.uk.com

³ See attached report 'The Fall and Rise of Rights in a Web World: Reflections on Copyright' by the BSAC Blue Skies Copyright Group published on 19 June 2009.

Skies Copyright Working Group is the need for equitable and flexible licensing of rights to be at the core of the copyright framework.

5. The Report from the Online Commerce Roundtable hosted by Commissioner Neelie Kroes about the online retailing of music is therefore of interest to us as it also explores copyright licensing issues. Although confined to music licensing, a number of the issues discussed, such as the growth of the pirate economy, clearly have synergies for the audiovisual sector. Moreover, those producing audiovisual content that they wish to make available across the EU can clearly benefit from easier EU-wide licensing of any music that they wish to include in their productions. However, the current report seems to be confined to examining licensing issues (and some other matters) relevant to the online retailing of music (and online retailing of goods).

6. If the Commission wishes to explore copyright licensing issues more widely, it will, therefore, be important to ensure that it engages fully with the relevant stakeholders rather than assume that the same solutions that may facilitate the availability of music online make sense for other types of content. Regarding online retailing of audiovisual content for example, this will not necessarily be largely offered to consumers as downloads paid for at the point of consumption. Streaming services may be much more attractive as consumers do not typically watch the same audiovisual content repeatedly in a short space of time. Also, dubbing audiovisual content into the local language, making other changes to take account of different regulatory approaches to the protection of minors, or simply to make it more appropriate for local audiences, will involve content that is not identical being desirable or necessary in different Member States of the EU. In addition, for audiovisual content there is a need to understand business models supported by advertising that can only be effective if advertising is relevant to local audiences, and public service broadcast content that is made available free where it is supported by revenue streams such as the television licence fee in the UK, but which can fairly be charged for in other territories. These are just some of the issues that would need to be considered.

7. In many cases, for audiovisual material, a single service offering the same content at the same price throughout the EU may not be possible, or make sense for businesses or consumers. That is not to say that consumers shouldn't get ever better experiences in accessing audiovisual content in the online world. Our Blue Skies work confirmed that we should all understand and respond to consumer demand, and that promoting equitable and flexible licensing of rights is one of the key issues for making this possible. But how to achieve that objective, including the role of global, EU-wide, language-territory or other licences both now and in the future, does need to be considered with a full understanding of the current differences, as well as future convergence, between content sectors.