

Creative Content Online: Multi Territory Rights Licensing, the European Commission Regulatory Consultation, and the Orphan Work issues

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Abstract

At the beginning of 2008, the European Commission adopted a Communication on Creative Content Online in order to activate further actions to support the development of innovative business models and the deployment of cross-border delivery of diverse online creative content services. The consultation prioritised four challenges: availability of creative content online, multi-territory rights licensing, interoperability and transparency of DRMs; legal offers and piracy. This paper focuses on the second challenge: the MTRL (Multi Territory Rights Licensing) exploring the results of the responses and in particular, it focuses on OWs (Orphan Works) related issues. The online environment allows content services to be made available across country borders: different stakeholders evaluated eventual multi-territory copyright licences to generate risks for online services contracting the market's growing potentials. On the other side, large volume of creative content is made available with no possibility to contact the copyright owner and thus, limiting the potential generation of new creative content. There are several issues (from economic to ethical) which are related to an eventual MTRL: the copyright licensing models are, in most domains, strictly related to the local context and in particular, to local legislations. Could the MTRL ignore the OWs issues?

Keywords: IPR, Orphan Works, Creative Content Online, Multi Territory Rights Licensing

Creative Content Online

The EC (European Commission) defines creative content distributed online as: *the content and services such as audiovisual media online (film, television, music and radio), games online, online publishing, educational content as well as user generated content* (ref. [1], [3]). The study for the EC has evidenced that, by 2010 in Europe, the revenue from online content will reach €8.3 bn quadruplicating in five years: mass market online content distribution will play a dominant role but also other domains will benefit from such growth.

Institutions, libraries, educational and academic bodies, organizations and enterprises as well as private people publish content online mainly through websites but also through mobile interfaces and other mechanisms. These online content collections and media are being used through search engines crawling; through widgets; through built-in search tools; commercial partnerships with search engines, online retailers and many other approaches.

Private personal online publications are growing by generating content (images, video, text, digital books, etc.) in a variety of different ways from collaborative writing (such as Wikipedia¹ or Blogs or GoogleDocs²) to individual publishing (Blurb.com³ or Lulu.com⁴).

Multi Territory Rights Licensing: escaping from the fragmentation of the IPRs in a global market

The Berne International Convention for the protection of the literary and artistic works (1971, ref. [1]) prohibits formalities that interfere with the exercise of copyright protection. Other copyright legislations are territory limited (see also EU Directives 2001/29 ref. [5]) and a change of direction could require a global revision of international legislation.

Despite the differences in culture and language, the reality is a single interconnected market that is accessed by users irrespective of their country of residence. The issue of MTRL is a consequence of the fragmentation of rights, not only on a geographic basis, but also between more right holders within the same national territory. Would the European

¹ <http://www.wikipedia.org>

² <http://docs.google.com/>

³ <http://www.blurb.com>

⁴ <http://www.lulu.com>

creative communities benefit from a large single legislative market while competing with the rest of the world not bound by limitations?

Large content availability (in particular: video, music, images and personal texts - Blogs -) do not necessarily mean 'large-content market': most of the content generated by general public cannot be commercialized for many reasons. Quality lack is the most evident limit (low image resolution, unstructured texts, etc.). Nevertheless, potential exploitation is envisaged particularly in contexts where the web-users as such are considered as economic value. The online creative content has a value because it represents the user (user-attractor). And, the users do diversify extremely one another due to culture, age, interests, behaviour. Could the MTRL be enough general and, at the same time, enough user oriented to be 'fair' and 'representative'? Finally, would an eventual Recommendation take the place of the natural market behaviour and the upcoming technological innovations? Or, would it rule obsolete visions once released?

Orphan Works, a Multi-Territory issue

"Orphan Work" is a term used "*to describe the situation where the owner of a copyrighted work cannot be identified and located by someone who wishes to make use of the work in a manner that requires permission of the copyright owner*" (ref. [8]). For example, if you wish your old family photographs to be retouched or repaired or even just reproduced on digital supports (such as DVDs), the service could be refused by photo shops. In fact, if those photographs (let it be wedding photographs, university graduation, religious ceremonies, portraits, etc.) were taken by professionals then, the photographer holds the copyright of the photographs and not the customer (if not differently agreed between photographer and customer). The photo shops and the consumers cannot reproduce photographs and therefore they would be enabled to retouch or repair old and damaged prints. Museums that want to preserve and use images in their archival collections would face the same problem. Scholars cannot use letters, images and manuscripts they search out in archives or private homes other than in the limited manner permitted by fair use or the first sale doctrine.

The uncertainty surrounding ownership of OWs might discourage artists from using creative content, incorporating them in new creations or from making them available to the online general public. Large part of the creative content offered online does not reveal the origin of the copyright and the MTRL might need addressing the OWs issues.

There are very few countries that have created legal frameworks addressing the OWs issues. The Canadian Copyright Board may grant non-exclusive licenses for the use of published works where the applicants have made documented '*reasonable efforts*' (ref. [9]) to locate the owner of the copyright. The revenues from the usage of OWs would be assigned to the relevant copyright collective society and the copyright owner can claim them within five years. But, is the "reasonable effort" (doing "everything you could" to find the copyright owner) an exhaustive approach in the digital era? Currently there are state of the art solutions which seem to support known copyright owners who are unreachable but do not efficiently address those copyright owners who are completely unknown. Things become more difficult due to the fact that creators typically use nicknames to provide their creation to their Web communities. The searching method of the copyright owner would be objective and fast to be verified? Will it have economical sustainability?

The United States Copyright Office (ref. [8]) studied the issues raised by OWs: in 2005 stakeholders were asked specifically whether there were compelling concerns raised by OWs that merited a legislative regulatory, or other solutions and, eventually, what type of solution could effectively address these concerns without conflicting with the legitimate interests of authors and right holders: as stated Ms. Marybeth Peters at the United States House of Representatives, "*we did not wish to unduly prejudice the legitimate rights of a copyright owner by depriving him[/her] of the ability to assert infringement or hinder his [/her] ability to collect an award that reflects the true value of his [/her] work*" (ref. [10]).

The UK Chancellor of the Exchequer commissioned in 2005 an independent review⁵ about IPRs (as such also addressing the OWs) into the UK Intellectual Property Framework. The independent review (ref. [10]) proposes specific targeted recommendations to deliver a robust Intellectual Property framework.

Which could be the instruments or the hooks to be used by eventual MTRL to guarantee a reliable solution to OWs issues? Most of the solutions envisaged are technological: A. Gowers addressed IP crimes to ensure that rights are well enforced, he evidenced the need of reducing the costs and complexity of the systems. Other institutions have made proposals to address the OWs issues: The Stock Artists Alliance (SAA) provided in 2007 the 'Metadata Manifesto' (ref.

⁵ Andrew Gowers - http://www.hm-treasury.gov.uk/independent_reviews/gowers_review_intellectual_property/gowersreview_index.cfm

[12]) which proposed the adoption of guiding principles, standards and technology to promote image metadata usage, in particular: “*image creators have no control over what happens to metadata once their files are circulated. It can be easily removed, as we lack the technological means to create permanent or protected metadata*”. Nevertheless, currently there is no way to embed permanent metadata into the digital creations (also standard metadata records, such as EXIF for JPEG compressed images, are often stripped off by broadly used commercial software). Other solutions were also envisaged such as the registration authorities (the PLUS Coalition⁶ developed a system of centralized registries designed to help potential image licensees to locate and contact licensors and copyright owners). Not only, digital technology has made it easy for a work or part of a work to be separated from ownership or permissions information (let it be by accident or on purpose). Also, it is more difficult to establish the date of creation (and consequently defining the period of copyright validity) due to the fact that the digital files can have their creation dates changed easily.

Who would manage the eventual authority registries and solve the upcoming eventual conflicts? Would it be economically sustainable for small artists and private individuals? In an automation era do we expect the artist to register each work as similar as the patenting process?

A legal solution (MTRL) could reform the copyright law on an international level to allow individuals and institutions to use content in ways consistent with the digital age. It would be very difficult to guarantee IPRs in borderless context if not using a broadly approved MTRL. Gowers recommends that: “*the [European] Patent Office should issue clear guidance on the parameters of a ‘reasonable search’ for orphan works, in consultation with rights holders, collecting societies, rights owners and archives, when an orphan works exception comes into being. (Recommendation 14a, ref. [10])*”, and this recommendation has a broader validity.

What is the dimension of the OWs content? The British Library (ref. [10]) estimates 40 percent of all print works are OWs and “*the Chair of the Museum Copyright Group, Peter Wienard, believes that from the total collections of photographs of 70 institutions (around 19 million), the percentage of photographs where the author is known (other than for fine art photographs) is 10 percent*” which means that OWs, in this specific domain, are 90 percent! This excess is also due to the fact that photographers are not listed in almost any authority file. Opposite situation is for the book publishing domain: a study by the Carnegie Mellon University Libraries (ref. [10]) showed that ‘only’ for 22 percent of the books examined the publishers could not be found (which is due to many reasons such as: the publisher could be out of business).

During the next sections the author will explore the responses from the different communities to the European Consultation about the MTRL and considers the OW relations. The release of any MTRL would be ineffective if not addressing also the OWs issues.

Public authorities

12 public authorities have responded to the consultation and most of them were not in favour of an EU recommendation on MTRL (in particular you can see: ref. [34]; [36]; [37]; [38]). Probably, the public authorities considered their contributions and discussion to be held in other institutional places as stated by the UK Government response: “*At this stage we are not convinced that a Recommendation is appropriate here. The online sector continues to develop and in the absence of a clear market failure we must be very careful about interfering too early in its development ... It is vital that this issue is constructively debated and analysed by the Content Online Platform prior to any Recommendation, in order to engage with stakeholders and legislators (ref. [34]).*” Moreover, the UK Government does not “*think that a ‘one size fits all’ solution is appropriate.*” Many UK Government’s stakeholders -such as the British Equity Collecting Society- judge an eventual MTRL Recommendation “*as impractical for nurturing innovation in new business models, and the assertion by the Commission that Multi-territory Rights Licensing would be appropriate for businesses operating on the principles of the “Long Tail” theory is incorrect (ref. [34])*”. The different media types have in fact different territorial distribution (audiovisual content could be fit for broad dissemination while other cultural media would be limited due to language and other local threads). The advantages should guarantee fair compensation to right holders and fair prices for consumers to sustain the market. The Dutch government position is that: the best guarantee for cultural diversity and creativity and for the greatest possible supply of online content would be a binding instrument like a directive (ref. [36]).

Generally, the position held by governments is to allow the market stakeholders to approach the MTRL question and issues and raise eventually their needs: the content producers and creators should think whether to launch business online and of what kind. This means the right, and the faculty to optimise their own market exploitations (also in the territorial sense): “*In the present situation governments – and the Commission – should listen to signals from both*

⁶ <http://www.useplus.com/home.asp>

the content industry and the intermediaries wanting to operate on larger territorial scales (ref. [37]) ” to create the best possible legal and political environment to enable access to the creative content online setting up an environment that will be a good compromise, or a feasible solution acceptable to all stakeholders (ref. [38]).

Local needs appear in conflict with a ‘globalized’ context. The risks (ref. [34]; [36]) envisaged would have the boomerang effect of “*homogenisation and dilution*” of the cultural diversity and quality of content. This would expose smaller institutions/enterprises to the unexpected shrink of their rights and portfolios due to their inability to secure representation by a collective management society with affordable prices.

Companies

Some enterprises would support an eventual EC recommendation for example: online services providers such as Google’s YouTube, ref.[13] and BBC’s iPlayer ref.[17]. They assume that MTRL would allow all stakeholders and parties to take advantage of the possibilities of the online environment and the internal markets and reduce (ref.[24]) the present uncertainties connected to ad hoc agreements between collecting societies for extra-territorial licensing. The MTRL would reduce current issues generated from nation-by-nation licensing of content.

Also other commercial subjects publishers such as Taylor & Francis Group (ref.[28] an international academic publisher) or mobile phone industry as Nokia (ref. [27]) or TV subjects such as Endemol Portugal (ref. [21]) or TLCs such as Telecom Italia Group (ref.[24]) would welcome an EC recommendation promoting a pan-European market for the distribution of content on-line; BT (British Telecommunications, ref. [26]), supports too the promotion of competition on the market for rights management if this is likely to foster availability of content online and provided this would not result in fundamental changes in the application and costs of the current system (in the UK).

The 3 Group (a TLC company offering mobile content services in Europe such as Mobile TV, internet browsing, instant messaging, user generated content, music, videos, etc. ref. [25]) needs a mechanism by which, through pan-European licensing, they would be able to obtain pan-European clearance of rights from any collecting society in Europe. Nevertheless, the 3 Group “*believes that the Commission should not be focusing on the instrument to deploy to solve the issues arising in respect of multi-territory licensing*”.

Still, there is no general consensus: not all companies are in favour of a pan-European licensing claiming that a system has emerged whereby through contractual agreements (which are subject to commercial copyright and competition law) the interest of rights holders and service providers are balanced. And that the relevant copyright act regarding making content available over the internet takes places in the country of origin. Compactly the TV broadcasters: BSkyB (Sky) (ref.[23]), the UK and Ireland’s leading pay TV operator is not in favour of an MTRL due to the fact that the current licensing model for rights has been developed through commercial negotiations over many years. Similar position is articulated by VOD Almighty (ref. [18]) which prefers the major studios or the ‘internet’ itself to allow the independents to access the market. C More Entertainment AB (C More ref.[22], is a Swedish broadcaster of premium PayTV services under the brand CANAL+, to the Nordic countries - Sweden, Norway, Finland and Denmark-) and Mediaset (a television broadcaster active in two similar markets - Italy and Spain, ref. [19]) which categorically states that “*There is no reason why the online offer should be provided on a basis different from that of existing broadcasting services, i.e. on a national or linguistic basis.* “. One single solution applicable to all sectors (audio, video, images, publishing, etc.) seems not appropriate, as each sector faces different challenges and models to approach their consumers. The DR (the Danish National license fee funded Public Service Broadcaster, ref. [20]) stated: that “*multi-territory rights licensing is an unnecessary discussion*”, explaining this statement with the fact that the principle of country-of-reception does not apply to broadcast-related activities.

Yahoo! Europe (ref. [14]), evidenced the need for actions to modernise the system of collective rights management for the online content already in year 2006: The on-line environment (the Web) is not constrained by national borders and users should be able to access services irrespective of their geographic location. The customers have to buy digital creations through the Web from Foreign Service providers (it is not always possible to restrict sales during such transactions, paid with credit cards). Commercial enterprises, individuals and rights holders should be enabled to monitor the use of their digital creations. The increase of the online distribution is strongly connected to rights holders: they are the main actors and should follow private agreements in the market place acting through their own best interests and delivering their digital goods and services to meet consumer demand. Nevertheless, individuals and small enterprises are not particularly experts of IPR and licensing and they would not be appropriately protected in a context with any regulations solving MTRL on OW issues.

Differently from the traditional concept of market the consumers and the location of the goods are different. The impact of MTRL on the cultural diversity has been differently evaluated by the responders. Some responders (in particular, governments and associations- ref. [34]; [36]) envisaged homogenisation and dilution (see above) of the cultural diversity and quality of content, while companies such as Yahoo! Europe (ref. [14]), underlines the opposite:

“the lack of Europe-wide licensing has a direct impact on the creative sector and in particular on cultural diversity. Legal commercial services provide rights holders with a revenue stream that can be re-invested in the creative sector. This stimulates cultural diversity by ensuring that rights holders are fairly remunerated for use of their work. No such revenue streams accrue from illegal services”. Finally, Yahoo! Europe sees as only solution an approach that offers a single pan-European license covering the global repertoire offered on a competitive basis by a range of licensors.

Industrial manufacturers such as Intel Corporation (ref. [30]) believe that the slow progress of European online content distribution is caused by complicated and expensive licensing systems. US rights clearance systems seem to the Intel company (ref. [30]) more conducive to online distribution than European systems. Philips (ref. [32]) considers an MTRL as essential in a fast moving content market to get the trans-European electronic on demand rights available with a single and cost effective license and states that *“regulation and measures that aim to maintain and protect national markets are bound to fail in the end and can at best only delay and confuse the growth of the online market.”*

Associations NGOs

Also among the NGOs Associations there is not a general consensus in relation to MTRL: some subjects would welcome it, some others are fully against it. International organizations (for example: CEPIC ref.[45], SACD ref.[49], IFPI ref.[48]) would support an eventual EC recommendation to allow all stakeholders and parties to take advantage of the possibilities of the online environment and the internal markets. Transparency and further governance of collecting societies would be requested (ref. [55]) to generate viable instruments to both creators and technology innovators in the case a MTRL recommendation is considered.

On one side global licensing models seem *“essential prerequisite for a flourishing creative content industry whereby new businesses are able to offer legitimate services to consumers, provide appropriate remuneration to rights holders and offer the best possible alternative to piracy”* (ref. [47]) while, on the other hand a global legislation would encounter relevant obstacles. In fact, the licensing legislation should be ‘global’ but de facto would be limited to the EC, due to the intrinsic borderless characteristics of the Web environment which, at the end, would disadvantage the same EC societies (causing the limitation of the competition and encouraging external copyright infringements).

Adequate international initiatives could better reach the goal of MTRL by harmonizing the protection methods among the member states and other countries (ref. [46]). Moreover, a fair compensation could prevent the author’s revenue erosion (from on-line content dissemination) from all forms of multi-territorial exploitation and from all sources of revenues could. If, on the one hand, the availability of MTRL can be identified as an ideal condition for an increased availability and circulation of cultural content, on the other hand this condition seems (ref. [58]) to *“be currently incompatible with the structure of national markets and the commercial practices adopted by operators in the various territories.”*

Other limitations and obstacles have been envisaged as contradictions and uncertainty regarding reorganization of existing agreements and negotiations; the British Copyright Council (ref.[50], and similarly the British Music Rights⁷ ref. [51]) believes: *“that a Recommendation [MTRL] is not required; any such initiative is likely to lead to confusion in the market when multi-territory rights licensing is at the point of take up. The confusion caused by a new Recommendation would merely create further uncertainty and thus delay further development of pan European licensing and, in consequence, the whole content online market.”* Also IFTA and BECTU (ref. [54], [59]) envisaged a recommendation to be premature and evidenced relevant issues and risks coming from a pan-European normative which could reduce the flexibility to respond to different consumer needs in different countries and much more to individual decisions of the rights holders to decide personal license models and manage them. Similar position has been taken by the UK Publishers Association (ref. [56]): UK PA, whose members represent approximately €5.25bn of the €6.5bn UK turnover in the academic and educational publishers sectors, is strongly against the MTRL and evidenced the vital importance of contractual freedom and to guarantee new business models to emerge.

The picture industry has been working with the MTRL on a global scale for the last decades (Alinari Archives currently manage third parties European and non-European collections rights in Italy and is represented abroad too) and in general the picture industry deals adequately with primary rights (ref. [45] and [53]).

In the book publishing sector, the MTRL is a reality already: books normally (even for one language edition) have declared their world wide rights and editors take care of rights to be respected. Digital books have a different and generally strictly individual management models. It is much more difficult to monitor copyright infringement for

⁷ Representing more than 50,000 British songwriters, composers, music publishers and their collection societies. BMR’s membership includes the British Academy of Composers & Songwriters, the Music Publishers association (MPA), the Mechanical-Copyright Protection Society (MCPS) and the Performing Right Society (PRS).

individuals, in a global context, than for big players. Moreover, the reproduction rights organizations (such as SIAE⁸ in Italy or FEP⁹, etc.) cannot act as agents. Furthermore, many more writers can publish cheaply their own works through book-on-demand online services (such as the ones offered by Lulu.com or Blurb.com) but there is no (automatic) way to analyze/prevent if any of these creative authors has infringed third parties rights such as using stock agencies pictures (pictures could have been purchased from a local agent or, directly from the reference agency which could be based in Europe or elsewhere or even –very rare in the professional domain- from the author himself/herself): they usually are not ‘fully aware’ of the risks they could encounter. By instance, many of these new creative authors are so young that they even could not be pursued legally by local lawsuits.

For what concerns the OWs digital books distributed online, they could have no physical author and copyright owner: as previously said, many authors use nicknames or invented names (to protect their privacy). Moreover, if the author loses the access references to his/her profile or if he/she dies, no one would be able to contact him/her for copyright clearance.

Technological protocols or innovative ICT solutions could make obsolete eventual MTRL recommendations. In fact, automated frameworks for the management of multimedia rights are currently the state of the art such as the Automated Content Access Protocol¹⁰ (ACAP is a framework which enables rights holders to specify permissions in a unified way, enabling future business models) and many others. It is evident that some stakeholders solicit a standard framework to supply the MTRL challenge avoiding a normative solution which at the end could limit the market and the interests of the individuals or small rights holders who could not be adequately be protected else way.

Citizens

Most citizens are not acquainted with Intellectual Property legislation in general and they know very little about the Orphan Work issues. Their ‘ignorance’ and the ‘for-expert’ façade of the IPR contribute to keep such issue open and very obscure to the general public. In addition to general ignorance, there is also lack of information: Photographer’s works are often perceived to be orphans when they are not orphans due to the fact that images are often published without credit lines or copyright notices. Images are delivered to agencies with almost no metadata or watermarks.

IP is everywhere and any online social activities, from Blog writing to photo sharing, generate IPs and Orphan Works. The IPR has a meaning if we are able to map the IPR to the real world and evaluate the IPR applications and the instruments to monitor the correct application of the laws.

Generally speaking, we witness that people are aware of copyright legislations for the IP but they also know that IP laws are not efficiently applied. The market of infringed IPR (the so called “black market”) is extremely rich and goes from real objects (jewellery, accessories, CD-ROMS, etc.) to the digital ones (audio, video, images and software). The problem cannot be solved, just by lawsuits inside the current global market where the borders are ‘digital’. Today, most digital value chains look like old models unfit to the current framework: digital techniques substantially modify the traditional roles and the operational modalities of accessing, using and delivering the digital goods. As said before, there are no more visible country borders and local legislations are often limited to local effects.

How do the users approach to the digital IPR? A considerably large group of users does not care at all about IPRs (‘if I am able to save it, I *can use it*’): they download any kind of digital file (images, video, audio, software) from the Web for ‘personal use’. The behaviour of the users can influence the IP flow and beneficiaries. The connectivity providers benefit from the user’s bandwidth usage: the more the users download/share/look at, the more they collect profits. Also the industries which produce storage devices and supports benefits from these users massive downloading. These big subjects are reasonably not responsible for the way clients use their services and generally are not interested to consider any DRMS (Digital Rights Management System) protocol, which would be interpreted as a ‘Big Brother’ intrusion to customer privacy/ freedom. In general, we experienced, through direct interviews with the users, that people do not like to know about IPR as much as they do not like to know about the digital circuits of their devices: IPR should have be solved through DRMS and managed by the system/network/technology transparently (‘If I *am enabled to save it, I should be able to use it*’).

A different and smaller group of users is composed of those who acquire only IPR cleared goods but they do not like having complex IPR procedures/ restrictions: if it is difficult to get and use the goods, they tend not to buy.

⁸ <http://www.siae.it/>

⁹ <http://www.fep-fee.be/>

¹⁰ <http://www.the-acap.org/>

Finally there are those who cannot choose: the technology tunnels them to pay for the content collections they use (the technological DRMS prevent illegal contents to be viewed or used). This is the case of broadcasted media (in particular, pay-per-view TV).

Web communities have started recently to discuss (through their Blogs) about the OWs issues and about the consequences of an eventual US Bill (as example: ref. [98]; [99]). The worries coming out from some of these Blogs could be summarized in having an act which could generate privileges to the major photography industries or associations against the individual rights of the creative content creator. These worries come out as a consequence of the lack of information about OWs and about IPRs in general. People expect some simple and clear regulation. OW regulations should be simple enough to be understood by people and possibly, internationally satisfactory.

European citizens (particularly from the north and centre of Europe) have mainly sent responses to the EC consultation answering to Legal offers and piracy aspects (in particular: from ref. [62] to ref. [97]). Some (ref. [63], [65]) have also replied positively to the MTRL questions but as non-experts. Some people (ref. [64]) are worried from having some MTRL as this would mean for them as having more licenses worsening the experience for the consumer.

Conclusions

There are opposite opinions on an eventual EC recommendation for MTRL (both opposite opinions use the same arguments to sustain their positions - cultural diversity-). MTRL main limit is intrinsic: the recommendation should at the same time be general (fair) and user oriented (representative of cultural diversity and of different perception of the IPRs). Globalization is the most challenging driver: MTRL limited to European countries may stimulate piracy and generate jurisdiction conflicts or migration of copyrights towards countries which grant longer IP duration. Furthermore, MTRL could become obsolete proposing normative recommendations in a fast changing technology dependent domain and strongly market dependent. Although there is a strong demand for pan-European legislation, eventual MTRL could not be addressed nor limited to EU countries. The effects would limit the potential of European countries and the rising market potentials. More than Recommendations from the EC, some stakeholders are in favour of EC Directives or supporting the harmonization and improvement of existing international agreements.

OW constitute a MTRL issue and an eventual MTRL regulation might need addressing the Orphan Works issues due to the fact that in most cases Orphan Works are not provided with any information which helps to identify the copyright owners and their localization and consequently would represent a weakness of eventual Recommendation not addressing it. Vice versa, OW legislation does not directly imply having a full MTRL legislation as MTRL would address many more aspects not necessarily correlated to the OWs issues (i.e. the ways ideas should be protected, ways the creative content can be used and modified, etc.). The most relevant OWs concerns are related to inadequate identification of the information on the copies of the work; limitations of existing copyright ownership information sources; inadequate information about copyright ownership because of a change of ownership or a change in the circumstances of the owner; difficulties in researching copyright information.

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Companies responses

ITs, ISP

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