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24 November 2005

***Film-online exercise – Better consultation and better regulation***

Dear Commissioner Reding,

We are writing to you concerning the European Film Online exercise, a group which has been invited to discuss a new approach on Content Online by your General Directorate.

The issues that are currently dealt within this group are of utmost importance to consumer protection in the digital environment, both in relation to their economic interest as well as their right to privacy.

The so-called “Sherpa group” is composed of industry representatives only, ranging from European Internet Service Provider to European Music industry and American Movie Industry representatives. No public interest group has been invited.

To our knowledge, the group is drafting papers on the following issues:

- ☞ **Education on the importance of intellectual property rights for the availability of content** (of consumers and politicians)
- ☞ **Co-operation to fight piracy** (in particular non-commercial infringement of copy-protected works, i.e. through file-sharing networks)
- ☞ **Working together to improve the availability of films online on a mutually profitable basis** (DRM)
- ☞ **New formats and access to content**

As you are aware of, BEUC has recently launched a Campaign on Consumers Digital Rights addressing these aspects of digital content online (see [www.consumersdigitalrights.org](http://www.consumersdigitalrights.org)). Our declaration on Consumers Digital Rights has received massive press response and support from consumers.

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BEUC was invited to a meeting that took place in Brussels on 5 April 2005 (the so-called larger group) and to a second meeting in October (which did not take place) to give feedback to the Commission but, regrettably, BEUC has not been admitted to be part of the Sherpa group that actively works on the issues at stake. We fear that - by excluding consumer representation from this group – the public interest and consumer protection will not be taken into account properly.

To our knowledge, this group is also developing a charter on best practices in order to promote online content and to fight unauthorized file-sharing. Apparently, the group has been called together to examine the establishment of a graduated response system based on sending out notices as a first step and the ultimate shutting down of Internet connections of customers who repeatedly engage in unauthorized file-sharing.

We are aware of a similar procedure in France which entails automatic systems to detect copyright infringement on peer to peer networks, and to force internet service providers to translate a given IP-address into an e-mail address and forward a 'pedagogical' e-mail message from the societies to their customer before commencing civil or criminal actions.

We would like to note that this approach disregards the fact that the French Data Protection authority CNIL has strongly rejected this approach as being disproportional (see <http://www.cnil.fr/index.php?id=1881>).

We further would like to stress hereby that we see the exclusion of BEUC and any other group that represents the public interest in this context as being contrary to the principle of multi-stakeholdership principle based on full and equal participation. With respect, it seems that the procedure followed in this instance is in breach of the Commission's stated commitment to better consultation and better regulation.

BEUC hereby seeks for full and equal participation of all stakeholders as a matter of principle and a matter of practice.

Yours sincerely,

Jim Murray  
Director

Cc: Commissioner Kyprinaou  
Commissioner Frattini  
Peter Hustinx, European Data Protection Supervisor  
Robert Madelin- Director General of SANCO  
Philip Whitehead- Chairman of the Committee on the Internal Market and Consumer Protection  
Zusana Roithova - Vice-Chairwoman of the Committee on the Internal Market and Consumer Protection  
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