



The European Consumers' Organisation

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Europese Consumentenorganisatie
Organización Europea de Consumidores
Organização Europeia de Consumidores
Organizzazione Europea dei Consumatori

Neytendasamtök Evrópu
Európai Fogyasztók Szervezete
Evropska potrošniška organizacija
Den Europeiske Forbrugerorganisasjonen

Euroopan Kuluttajaliitto
Europejska Organizacja Konsumentów
Ευρωπαϊκή Οργάνωση Καταναλωτών
Den Europæiske Forbrugerorganisation
Den Europeiska Konsumentorganisationen

First, I wish to express our thanks to Mrs Roithová MEP for giving us a platform here today. The purpose of this press conference is to highlight growing consumer and public interest problems in the move, welcome in many respects, from conventional to digital content – problems which may affect not only entertainment but also informational, educational, and scientific material in digital form.

Take the case of conventional content, such as a book, cassette or record. We buy them, we own them, we can loan them to friends, give them away, sell them and copy them at least in a limited way. Books can be read anywhere and by anyone without a “player”. Cassettes or records could be played on more or less all players – and all of this could be done anonymously, without having to disclose our identities or personal preferences.

All of these possibilities will be affected, and in many cases severely restricted in the digital environment, all under the guise of protecting intellectual property rights and fighting piracy. Furthermore, the industry right-holders are successfully pressing for more and more draconian laws to protect their private rights and to fight piracy.

The most obvious or noticeable example is the increasing number of “copy-protected” CDs. These use technical means to restrict what you can do with a CD, whether you can copy it or how you can play it, usually without informing consumers adequately or even at all before purchase. Two of our members, UFC-Que Choisir, and Test Achats, have taken legal cases against this practice, with mixed results – winning in France, and losing in Belgium – more details on the web site. (In Belgium now politicians are beginning to recognise that something must be done.)

Another everyday example of the new restrictions is the regionalisation of DVDs and the attempts to stop the sale or modifications of machines to play out-of-region DVDs. This is done simply to make more money by segmenting the global market.

Technical obstacles like this and digital rights management systems do not deter organised criminals or terrorists, who can easily circumvent them.

Established principles of privacy are also threatened in many ways in the digital environment, by the frequent need to identify yourself for downloads, by the use of a myriad of tracking devices to note and send back information on preferences of use and by the placing of cookies and worse on personal computers and other devices. One of the most recent and worst examples is that of Sony and while they are retreating a bit under pressure in this instance it is a good example of the mentality of, and the lengths to which, right-holders are prepared to go.

We have also looked at what exactly is available online. For the present at least, consumers do not have a very wide choice of music and audio-visual content online. Most music is not available online. We commissioned two tests, one on interoperability and one on cultural diversity or consumer choice online; the results are in your press pack and on our web site. In terms of range, the choice of material online is very limited as compared to that of a traditional record shop. This was true even for relatively popular material and even more so for classical or less popular material. Using a number of different online shops is not a practical option, at least for portable players, because you need a number of different players to play the different formats online – this is the problem of (lack of) interoperability.

The digital environment is also characterised by abusive contracts and licensing terms, imposed unilaterally by the large companies, and without informing the consumers in any real sense prior to purchase. These go far beyond what is essential to protect intellectual property rights; in launching a CD today we highlight an alternative and fairer set of licensing terms called Creative Commons.

The Commission and particularly DG Infosoc seem to have abandoned any thought of defining consumer rights in the digital environment. The main stress is on telling consumers what they cannot do online. We proposed to Commissioner Reding the idea of developing a

Consumer Charter to tell consumers what they can do and what rights they can expect on line. Unfortunately, the industry made it clear to her that they did not want any discussion or focus on consumer rights in relation to digital content.

The Commission's concern to protect intellectual property has led to regulation and proposed regulation that go further than any previous measure in terms of prescribing what member states must do to enforce the law.

- The 2001 Copyright directive requires member states to give legal protection to technical means of protecting intellectual property; this is to give a blank cheque to industry to develop whatever technical means they like even they restrict or take away consumer rights in doing so.
- More recently the Commission propose that all member states must make it a criminal offence to infringe wilfully any intellectual property rights on a commercial scale or even to attempt, aid, abet assist, or incite such an infringement. (The Commission had never proposed criminal sanctions for wilful fraudulent or misleading advertising or for the wilful sale of dangerous products but will do so if a trademark is infringed.) Furthermore, the recent Commission proposals would oblige member states to allow right holders to assist in infringement investigations, which in practice may often include entering onto private property, by force if necessary, access to private documents, records and personal details etc

Finally the industry, and even to some degree the Commission have done an extraordinary job of demonising ordinary consumers copying for private non-commercial use, and those who question the current approach to digital rights management. We are all tarred with the brush of piracy and property thieves. True piracy of intellectual property is a serious problem generated by criminal, and probably terrorist, organisations. Private consumers and critics of intellectual property policies are not terrorist and criminal; to portray them as such is insulting and counter-protective. If industry wants loyalty and support from consumers they must show loyalty to consumers.

(Almost every time BEUC questions some aspect of IP protection we are asked if we support stealing or if we are against rewards for creativity. This is ironic considering that most BEUC members are publishers generating large amounts of copyrighted material. Of course we condemn piracy, of course we believe in rewarding creativity, of course we support the protection of intellectual property, but we will not support self-serving, misguided, self-interested, anti-competitive or draconian proposals just because they are wrapped in the flag of intellectual property protection or the fight against piracy.)

Finally our demands are as follows:

- Stop the confrontational approach to private consumers and develop new business models that will benefit industry and consumers in the digital environment.
- Withdraw legal and public support for technological means of protecting intellectual property that damage or restrict consumer rights.
- Incorporate our six digital rights in the proposed re-casting or review of intellectual property rules scheduled for 2006.

END