

PLEASE IDENTIFY YOURSELF:

For full consultation document: [Public Consultation on the review of the EU copyright rules](#)

CMFE's text: in red and underlined.

(...)

Name:

Pieter de Wit, member of the board of CMFE – Community Media Forum Europe
treasurer@cmfe.eu

In the interests of transparency, organisations (including, for example, NGOs, trade associations and commercial enterprises) are invited to provide the public with relevant information about themselves by registering in the Interest Representative Register and subscribing to its Code of Conduct.

- 1 If you are a Registered organisation, please indicate your Register ID number below. Your contribution will then be considered as representing the views of your organisation.

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(...)

TYPE OF RESPONDENT (Please underline the appropriate):

- 1 **End user/consumer** (e.g. internet user, reader, subscriber to music or audiovisual service, researcher, student) **OR Representative of end users/consumers**
☐ for the purposes of this questionnaire normally referred to in questions as "end users/consumers"
- 2 **Institutional user** (e.g. school, university, research centre, library, archive) **OR Representative of institutional users**



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▫ for the purposes of this questionnaire normally referred to in questions as "institutional users"

3 **Author/Performer OR Representative of authors/performers**

4 **Publisher/Producer/Broadcaster OR Representative of publishers/producers/broadcasters**

▫ the two above categories are, for the purposes of this questionnaire, normally referred to in questions as "right holders"

5 **Intermediary/Distributor/Other service provider** (e.g. online music or audiovisual service, games platform, social media, search engine, ICT industry) **OR Representative of intermediaries/distributors/other service providers**

▫ for the purposes of this questionnaire normally referred to in questions as "service providers"

(...)

1 *[In particular if you are an end user/consumer:] Have you faced problems when trying to access online services in an EU Member State other than the one in which you live?*

NO OPINION

2 *[In particular if you are a service provider:] Have you faced problems when seeking to provide online services across borders in the EU?*

YES - Please explain whether such problems, in your experience, are related to copyright or to other issues (e.g. business decisions relating to the cost of providing services across borders, compliance with other laws such as consumer protection)? Please provide examples indicating the Member State, the sector and the type of content concerned (e.g. premium content such as certain films and TV series, audio-visual content in general, music, e-books, magazines, journals and newspapers, games, applications and other software).

YES

Community Media (CM) around Europe face difficulties in acquiring licenses for online services (e.g. on demand, archive, delayed viewing/listening, podcasts, added programming, live Internet-streaming) because license holders refuse to differentiate tariffs between commercial, consumer directed services and non-commercial.



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citizens directed services. License holders don't take into account that CM are meant to serve specific groups of citizens, mostly on a small scale, in a local area. Even if these CM-services are technically reaching out beyond this specific target groups because of the 'borderless' nature of the Internet, CM should not be charged fees as if they provide commercial services, which, by nature, seek an as large audience as possible.

Some examples of tariff structures, not taking into account the nature of CM and so hindering CM-development:

- In the Czech Republic, not-for-profit internet Community Radios (not yet allowed to broadcast on FM) pay €500/month for copyright fees. Podcasting by CM with copyrighted material is forbidden.

- in Spain community media is forced to pay more or less 80 euros / MONTH of copyright for authors and the same for other staff (performers...)

- In Ireland CM are trying to set up an all Ireland community tv on DTT, backed by Dublin and Belfast community tv. There is state support on both sides of the border for doing this, but copyright is one of the problems.

- Another Irish example is that community radio pays a flat rate on copyright of about €700 per year to artists and the same to producers, so € 1.400,- total per year..

(...)

1 ***If you have identified problems in the answers to any of the questions above – what would be the best way to tackle them?***

[Open question]

Tariff structures for license fees should acknowledge the different types of media: commercial, public and community media. CM should be enabled to develop a wide range of internet services, directly related to their CM-objective: in a lot of countries (e.g. Hungary, Denmark, Czech Republic, Spain, Ireland) high, commercial related tariffs, hinder these developments. By hindering these developments by allowing high tariff structures for CM, on traditional and so called new distribution networks, media pluralism is endangered.

EU should build further on important documents as:

European Parliament resolution of 25 September 2008 on Community Media in Europe (2008/2011(INI)),¹

in where it states, among others:

- *“community media are an important means of empowering citizens and encouraging them to become actively involved in civic society; whereas they enrich*

1 See: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2008-0456&language=EN&ring=A6-2008-0263>



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social debate, representing a means of internal pluralism of ideas; and whereas concentration of ownership presents a threat to in-depth media coverage of issues of local interest for all groups within the community”

- “Stresses that community media help to strengthen media pluralism, as they provide additional perspectives on issues that lie at the heart of a given community”

- “Advises Member States, without causing detriment to traditional media, to give legal recognition to community media as a distinct group alongside commercial and public media where such recognition is still lacking:”

- Calls on the Commission to take into account community media as an alternative, bottom-up solution for increasing media pluralism when designing indicators for media pluralism;

and

Declaration of the Committee of Ministers on the role of community media in promoting social cohesion and intercultural dialogue (Adopted by the Committee of Ministers on 11 February 2009 at the 1048th meeting of the Ministers’ Deputies.²

in where it states, among others:

- “Convinced that community media, which by definition and by their very nature are close to their audiences, serve many societal needs and perform functions that neither commercial nor public service media can meet or undertake fully and adequately;”

- “Recognising the contribution of community media in fostering public debate, political pluralism and awareness of diverse opinions, notably by providing various groups in society – including cultural, linguistic, ethnic, religious or other minorities – with an opportunity to receive and impart information, to express themselves and to exchange ideas;

- Conscious that in today’s radically changed media landscape, community media can play an important role, notably by promoting social cohesion, intercultural dialogue and tolerance, as well as by fostering community engagement and democratic participation at local and regional level, as documented by research;

”

(...)

1 [In particular if you are a right holder or a collective management organisation:] **Are there reasons why, even in cases where you hold all the necessary rights for all the territories in question, you would still find it necessary or justified to impose territorial restrictions on a service provider (in order, for instance, to ensure that access to certain content is not possible in certain European countries)?**

2 See: <https://wcd.coe.int/ViewDoc.jsp?id=1409919>



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NO OPINION

1 *[In particular if you are e.g. a broadcaster or a service provider:] Are there reasons why, even in cases where you have acquired all the necessary rights for all the territories in question, you would still find it necessary or justified to impose territorial restrictions on the service recipient (in order for instance, to redirect the consumer to a different website than the one he is trying to access)?*

NO

1 *Do you think that further measures (legislative or non-legislative, including market-led solutions) are needed at EU level to increase the cross-border availability of content services in the Single Market, while ensuring an adequate level of protection for right holders?*

YES – Please explain

Not only 'market-led' solutions, but also 'citizens-oriented' solutions are needed. To fully enable citizens to exercise their democratic rights, active and passive access to information and services on a boundless Internet, legislative measures should recognize these specific citizens needs as separate from consumer and market driven regulatory measures.

(...)

1 *Should the provision of a hyperlink leading to a work or other subject matter protected under copyright, either in general or under specific circumstances, be subject to the authorisation of the rightholder?*

NO – Please explain whether you consider this to be the case in general, or under specific circumstances, and why (e.g. because it does not amount to an act of communication to the public – or to a new public, or because it should be covered by a copyright exception)

Hindering hyperlinking undermines the Internet fundamentals. The right holder itself is responsible for availability (on which conditions) on Internet, not the publisher of hyperlinks.

(...)



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1 **What should be the role of the EU in promoting the adoption of identifiers in the content sector, and in promoting the development and interoperability of rights ownership and permissions databases?**

[Open question]

Certify standards and guarantee inter-operability, recognition of CM as part of a three-tier media sector

(...)

1 **Are the current terms of copyright protection still appropriate in the digital environment?**

NO – Please explain if they should be longer or shorter

Should be shorter to stimulate creation of new work and reuse of dated material

(...)

1 **Would it be necessary to develop mechanisms, beyond those already agreed for other types of content (e.g. for audio- or audio-visual collections, broadcasters' archives)?**

YES – Please explain

Audiovisual productions, financed mainly by 'public' money, should be 'public good' and freely available for non-commercial (re-)use.

(...)

1 **Should this be the next step in the development of copyright in the EU? Does the current level of difference among the Member State legislation mean that this is a longer term project?**

[Open question] This is certainly a longer term project, but necessary to build a really European media services market.

1 Other issues



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The above questionnaire aims to provide a comprehensive consultation on the most important matters relating to the current EU legal framework for copyright. Should any important matters have been omitted, we would appreciate if you could bring them to our attention, so they can be properly addressed in the future.

1 ***Are there any other important matters related to the EU legal framework for copyright? Please explain and indicate how such matters should be addressed.***

[Open question]

Community Media (CM) around Europe face difficulties in acquiring licenses for on line services (e.g. on demand, archive, added programming, live streaming) because license holders refuse to differentiate tariffs between commercial, consumer directed services and non-commercial, citizens directed services. License holders don't take into account that CM are meant to serve specific groups of citizens, mostly on a small scale base, often directed to a specific local area (e.g. city, region, municipality, neighbourhood).

Even if these CM-services are technically reaching out beyond this specific target groups because of the 'borderless' nature of the Internet, CM should not be charged fees as if they provide commercial services, which, by nature, seek an as large audience as possible, so profiting from the 'borderless' nature of Internet.



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