



COPYRIGHT for CREATIVITY
A Declaration for Europe

Mr. José Manuel Barroso
President
European Commission
200 rue de la Loi
B-1049 Brussels

26th February 2013

Mr. President,

The members of the Copyright for Creativity (C4C) initiative and the undersigned supporting non-member stakeholders represent libraries, scientific and research institutions, consumers, digital rights groups, technology businesses, educational institutions and creators' representatives.

While some C4C members are participants in the "Licensing Europe" process and others are not, all share serious concerns with substantive and procedural aspects of the process.

- **The discussions' terms of reference are artificial and overly limited.** The terms of reference imply that licensing can solve all issues. As we are involved in the day-to-day use of copyright, we know this is simply not the case.
 - Participants were refused the opportunity to discuss the merits of alternatives to licensing or even to question whether some of the subject matter under discussion is subject to copyright at all.
 - Stakeholders were refused the opportunity to explain how licensing systems presently constitute an obstacle to legitimate activities and are simply unworkable in practise in some areas.
 - Even where there are opportunities for licensing to work better, there is no discussion at all of the costs of the licensing process per se or any analysis of whether that cost can make licensing an unworkable or poor choice to facilitate

access. This is a key element of a larger issue: a significant lack of transparency in the functioning of licensing mechanisms.

- Licensing is not an end in itself, it is intended to reward creators - and therefore any result which seeks to extend or adapt licensing should also look at whether actual creators see an equitable share of the revenue licensing generates. There does not appear to be room for this to be considered.
- **Participation is not properly balanced and in some cases key stakeholders are not present.** For example, academia is currently not represented.
- **There are no guarantees of transparency and impartiality and the entire process and its outcome is uncertain.** While the Commission initially announced there would be full transparency of the proceedings, this was subsequently qualified with discussions being subject to the Chatham House Rule and written contributions from stakeholders will not be published. There is no indication of how views will be recorded or used in the conclusion of the process, nor any indication as to how conclusions will be reached and by whom.

The result suggests the process is a one-sided debate where European public authorities are exerting significant pressure to conclude agreements based upon faulty premises.

During the course of the first meetings many participants clearly stated that this discussion should focus on all legitimate ways to improve *accessibility* of information and content - of which licensing is but one mechanism. We are left with the clear indication that there is no room for those views.

In conclusion, we call on the Commission to revise and improve the current process, broaden its scope, and accommodate a fully open and transparent dialogue that allows all relevant stakeholders to participate in a meaningful way. Copyright for Creativity and the undersigned recommend that:

- The terms of reference of each group be revised in order to accommodate the problems we have articulated above.
- The membership of the different working groups should ensure adequate representation by all key stakeholders.
- The Commission articulates what outcomes it sees as desirable and what it intends to do with them taking into account the issues outlined above.
- The Commission guarantees that all participating stakeholders' views will be taken fully into account, especially where there is a lack of consensus within a working group on a given issue.

We thank you in advance for your attention and we look forward to a reply in due course.

Yours Sincerely,



Matthias Langenegger
On behalf of the Copyright 4 Creativity coalition

Supporting Stakeholders:



Coalition for a Digital Economy
Ms. Sara Kelly



Communia Association
Mr. Alek Tarkowski



Kennisland
Mr. Paul Keller



The Open Knowledge Foundation
Mr. Ross Mounce



Trans-Atlantic Consumer Dialogue
Mr. David Hammerstein



La Quadrature Du Net
Mr. Jérémie Zimmermann