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DEFINING A COMMON APPROACH FOR EMPLOYERS' AND EMPLOYEE ORGANISATIONS TO ADDRESS FUTURE CHALLENGES IN THE ICT SECTOR

PIN-SME and UNI Europa ICTS Common Position on:

Intellectual Property (ACTA and Software Patents)

- (1) PINSME and UNI Europa ICTS acknowledge the value of responsible use of intellectual property and copyright protection in promoting technological and cultural advances, maintaining fair competition leading to a wide range of goods and services and thus ensuring economic growth and a high level of employment. IP legislation should ensure growth of the creative sectors and not increase insecurity by increasing legal costs through lawsuits. IP legislation should promote innovation and ensure effective competition in the IT-Sector.
- (2) Advances in ICT and broadband connectivity have led to a significant impact on society in the way people interact. Widely available information and services (including e-Government services) has empowered citizens helping close societal divides and increasing productivity in business as well as leading to new services in the creative industry sector.
- (3) In contrast, the ease and speed of reproduction and transmission of digital content has led to new challenges for rights holders in protecting their content. Considering the cross-border nature of the internet, rights issues must be met on an international level. While ensuring a sufficient level of protection, the European Commission should encourage and support the roll out of legitimate services in order to meet users' expectations and needs.
- (4) Internet service providers should not bear liability for the data they transmit or host through their services to an extent that would necessitate prior surveillance or filtering of such data.
- (5) Termination/suspension of internet access is valued as being technically inadequate and posing moral problems and therefore should not be considered as a general method for confronting copyright infringements.

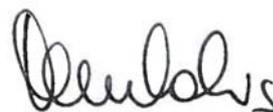
- (6) We urge to limit the possibilities concerning seizure, forfeiture, confiscation and destruction regarding related materials and implements only when they are used predominantly to infringe rights. This would be according to the principle of proportionality.
- (7) Internet service providers should not be subject to direct disclosure towards rights holders. In order to maintain adequate data protection, procedural controls through legal courts should be implemented in advance of disclosure inquiries.
- (8) Concerning the issue of software patentability, software in itself is considered sufficiently protected through copyright protection.
- (9) Any international treaty (including ACTA) should not force signing states to change their internal balance between civil and criminal law.
- (10) ACTA should not limit the civil liberties, freedom of expression and privacy legislation. And should not limit legal non-commercial free exchange of data.
- (11) PIN-SME and UNI Europa ICTS call on the EU and on Member States to develop an international treaty on counterfeiting in a transparent and democratic process including all the relevant stakeholders.
- (12) International treaties, such as ACTA, should be open treaties that allow renegotiation and include a mechanism for revision and amendment in view of future membership and technological change.

Approved on 26/09/2011 by



Bruno Robine
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