

PIN-SME a.i.s.b.l
The Pan European ICT & eBusiness Network for SMEs
4, Rue Jacques de Lalaing
B - 1040 Brussels
*PIN-SME is a registered interest
representative (ID: 66552321207-56) in the EU.*

Brussels, March 9th, 2011

**Position Paper of PIN-SME on the
Consultation on the Commission Report on the enforcement of intellectual property rights
(COM(2010) 779)**

PIN-SME is an association formed in 2007 to represent the interests of Europe's ICT Small and Medium sized Enterprises. Currently eleven national associations are members, representing some 50,000 ICT SME companies that account for around 200 thousand jobs. PIN-SME aims to ensure that ICT SMEs *get talked to* rather than just *talked about*. It provides a voice for ICT SMEs in the policy and business arenas and is already represented in several EU expert groups and taskforces.

PIN-SME believes that the openness of the Internet and the legal certainty of ICT SMEs as service providers should not be compromised. In the perspective of revising the Directive, PIN-SME warns against introducing measures that create of undue liability on ICT SMEs and service providers for data they transmit or host.

According to Eurostat, SMEs represent 99.4% of all enterprises in computer services and related activities (NACE 72); micro enterprises (i.e. 1-9 employees) are more than 94% of the total number of enterprises. Internet service providers hosting content are essentially microenterprises and SMES.

ICT SMEs are concerned with and do not support several blunt statements found within the report, such as "*it could be useful to clarify that injunctions should not depend on the liability of the intermediary*" or "*given intermediaries' favourable position to contribute to the prevention and termination of online infringements, the Commission could explore how to involve them more closely*". Such statements do not reflect the shared position of the ISPs industry that legal certainty and openness of the Internet should be fostered and in no case compromised.

PIN-SME - Rue Jacques de Lalaing, 4 – B-1040 Brussels -Tel. +32-2 282 05 30 - Fax +32-2 282 05 35-
www.pin-sme.eu

In partnership with:



UNION EUROPEENNE DE L'ARTISANAT ET DES PETITES ET MOYENNES ENTREPRISES
EUROPÄISCHE UNION DES HANDWERKS UND DER KLEIN- UND MITTELBETRIEBE
EUROPEAN ASSOCIATION OF CRAFT, SMALL AND MEDIUM-SIZED ENTERPRISES
UNIONE EUROPEA DELL' ARTIGIANATO E DELLE PICCOLE E MEDIE IMPRESE



PIN-SME is also concerned with the methodology of the European Commission in drafting a report which strongly relies on loose statements devoid of factual ground in order to build a rational aiming at revising a major piece of European legislation.¹

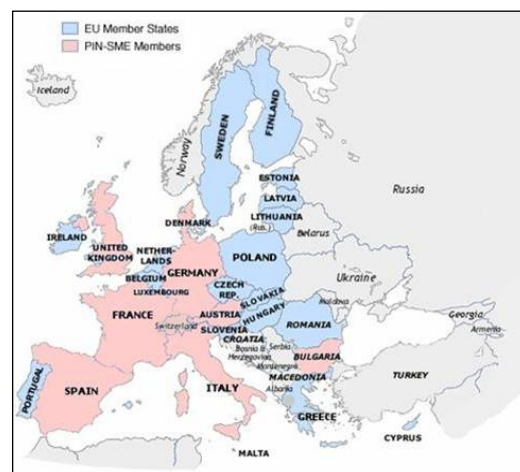
PIN-SME urges the European Commission to consider the position of European ICT SMEs when addressing the issue of Internet and IPRs. ICT SMEs represent the most innovation-driven industry of the EU, as well as the major drive for the uptake of innovation in all other layers of industry and society. Compromising legal certainty as well as the openness of the ecosystem within which ICT SMEs innovate will significantly hamper the competitiveness of the European Union.

About PIN-SME

PIN-SME, *the PanEuropean ICT and eBusiness Network for SMEs*, is the first European association of the ICT sector exclusively focused of representing the interests of SMEs. PIN-SME members are eleven national sectorial SME associations from different EU countries. PIN-SME represents more than **50.000 enterprises**, which employ around 200.000 people across Europe. PIN-SME is a registered interest representative (ID: 66552321207-56) in the EU.

PIN-SME members

BASSCOM - Bulgarian Association of Software Companies (BULGARIA), CNA -Comunicazione e Terziario Avanzato, Confederazione Nazionale dell'Artigianato e della Piccola e Media impresa (ITALY), CONETIC – Confederación Española de Empresas de Tecnologías de la Información (SPAIN), ESTIC - Asociación Empresarial del Sector TIC (SPAIN), BestPractice-IT- G+F Verlags und Beratungsgesellschaft mbH (GERMANY), GPNI - Groupement Professionnel National de l'Informatique (FRANCE), it-forum midtjylland (DENMARK), UBIT Unternehmensberatung & IT (AUSTRIA), UKita, United Kingdom IT Association (UNITED KINGDOM), SwissMedia - Swiss IT & Multimedia Association (SWITZERLAND), VDEB – Verband IT-Mittelstands E.V. (GERMANY).



¹ Examples: 3.3: “given intermediaries’ favourable position to contribute to the prevention and termination of online infringements, the Commission could explore how to involve them more closely”; 3.5: “According to information received from rightholders, damages awards do not currently appear to effectively dissuade potential infringers from engaging in illegal activities.”

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