



Sports Rights Owners Coalition response to the Commission Green Paper on Unlocking the potential of cultural and creative industries

The Sports Rights Owners Coalition (“SROC”) is an informal group of representatives of international, European and national sports bodies with a particular focus on rights issues. SROC operates as a forum through which sports bodies can share information and experiences. In particular, the purpose of SROC is to enable:

- Discussion and sharing of best practice on key legal, political and regulatory issues;
- Raising awareness of new developments and innovation in sports rights;
- Joint action by the sports to promote their competitions and protect their content from IPR infringements.

Individually and collectively, we represent a majority of European and International leading and most popular sports and competitions, attracting millions of spectators, with many of our events available across a growing variety of platforms for consumers to enjoy.

Introduction: Sport is part of the cultural and creative industries

SROC welcomes the opportunity to respond to the Green Paper “Unlocking the Potential of Cultural and Creative Industries”. We believe that the definition of the “cultural industries” on page 5 could specifically reference sports content.

Not only is sport an important expression of cultural diversity in Europe, it is also a valuable content source for broadcasters and advertisers, often being at the cutting edge of innovation and creativity in the audiovisual sector. In its 2007 White Paper on Sport¹, the European Commission (EC) recognised that the sport sector’s “importance is confirmed by studies, analyses of national accounts and the economics of large-scale sporting events [...] sport accounts for 3.7% of EU GDP, and employment for 15 million people or 5.4% of the labour force”. We feel that the contribution of sport should have been better represented in the Green Paper, especially now that the Lisbon Treaty provides the EU with a specific competence in the field of sport.

SROC believes the involvement of sport is vital in the debate because we share the same areas of concern and priority as many cultural and creative industries – combating Intellectual Property Rights (IPR) infringements, maintaining a strong copyright framework and the ability to innovate and realise our media rights on the latest platforms. Any initiative on the distribution of creative content will have a direct impact on our members’ operations, potentially affecting every level of our investment strategies, and the other industries which depend on the use of our content.

Therefore, SROC would like to share with the Commission its thoughts on three main concepts.

¹ COM(2007) 391 final, 11 July 2007, page 10 and 11

1. Innovation is at the heart of the sports content industry

SROC members actively innovate, seeking to ensure that market demand is met by allowing their licensees to use new and emerging technologies as well as the established media. As a diverse yet unifying cultural industry, sports play a crucial role in the stimulation of creativity and innovation in Europe – acting both as an economic facilitator for new platforms and as a risk-taking and inspirational leader in the development of new content delivery models.

Sport content has been a stimulus to new audiovisual and broadcasting technology for some time. The Olympics in 2012 will see Super HD and 3D television events, and live streaming of over 5000 hours of sport will be available on the internet and broadcast on digital channels. That equates to over 200 days of live sport content. As well as its established role in traditional programming, sport contributes to the healthy growth of the online and mobile audiovisual markets worldwide. This is a testament not only to the popularity of this form of entertainment, but to the significant investments made by sports rights owners to play a substantial role in the development of online content.

2. Without a strong IPR framework, innovation and redistribution are threatened

Although there is a passing reference in the Green Paper to the issue of piracy and its impact on revenues, SROC considers that the importance of this issue to the objectives identified in the Green Paper has not been sufficiently emphasised.

Major sporting events are very attractive to viewers, making them particularly vulnerable to IPR infringements, especially online. All sports have seen an increase in the amount of pirate sites online and the number of viewers illegally watching content. Football is not the most pirated sport globally. This dubious honour belongs to cricket, which sees around 1000 different websites illegally hosting pirated coverage of its live events. Many of them are funded by advertisement and over 200 of these websites are even operating as subscription channels, with the pirates being directly remunerated, eliminating any pretence of an “open access philosophy”. Commercial undertakings look to exploit sports and other cultural content to create profit, without contributing to the development and advancement of cultural industries, sport, jobs or tax revenues. For SROC, the legal certainty required to drive the development of innovative content services online can only be provided by a comprehensive IPR regime.

Income from the exploitation of media rights is re-invested in different levels of sport, on playing talent, on youth development, on training and other facilities, on new and refurbished stadia, and on major sport-based solidarity programmes (funding for lower level competitions, for community sports and for wider community engagement). The level of re-investment in grassroots sport is directly and proportionately dependent upon the value of sports rights. Therefore, the securing of media rights is fundamental not only to professional organisations but also to grassroots sport.

The growing phenomena of internet streaming of live sporting events and peer-to-peer file sharing of music, film and sport content are very real examples of the need for a strong response to new trends in digital piracy which threaten to undermine the value of media rights and consequently investment in sport at every level. SROC members refute the suggestion that development of new business models would eliminate by itself the challenges of digital piracy. In much the same way as the music and film industries have experienced in recent years, sports have invested in innovative new models for online content services, with both direct and indirect remuneration. The content available on these services still remains a target of piracy, as unscrupulous actors seek to exploit calls for 'free' access to content. SROC hopes that the EU institutions can help sport and other content providers to continue to embrace new technological tools and provide concrete action to protect rights against these continued violations.

3. Territoriality is critical to cultural diversity

According to a 2009 study from RBB Economics, "the EU consists of member states with distinct cultural, linguistic and viewing preferences. The European audiovisual industry is organised to accommodate those differences and ensure that a targeted product is made available to European consumers so that stakeholders across the audiovisual industry are more able to recoup their substantial and risky investment in the production and distribution of content. Territorial exclusivity is critical to the practice of accommodating the different viewing preferences within the EU because it enables audiovisual products to be sold within member states on an exclusive basis and in a way which meets demand in each member state within the EU²."

Sport is territorial by nature. National matches and competitions are watched more fervently by those from hosting or participating countries. This can be seen at a glance from the national lists of designated events which can be safeguarded by Governments for free-to-air television broadcasting. While the lists of course include major world events like the Olympics, they serve as a clear demonstration that sports events – from the Giro d'Italia in Italy, the finals and semi-finals of national and international football club competitions in Germany, to the All-Ireland Senior Inter-County Hurling Finals in Ireland – are principally of importance in domestic markets; their value and appeal likewise differs across Europe. Territorial exclusivity has also been recognised by the Commission in competition decisions.

Sports rights have a very different value depending on the territory in which they are sold, in much the same way as for any cultural product. It is important for both the producers of creative and cultural content and European citizens that territorial selling is allowed. If this was not the case, and multi-territorial/pan-European licensing was imposed unilaterally, only the largest media organisations in Europe would win contracts and there is the possibility that smaller territories in which these organisations did not operate would receive less consumer choice. The impact that this could have on smaller industries, including minority sports and grassroots sport, could potentially be devastating, harmfully reducing Europe's sporting and cultural diversity.

² "The benefits of territorial exclusivity in the European audiovisual industry", RBB Economics, London, February 2009

SROC considers that “one size fits all” solutions regarding multi-territorial/pan-European licensing would not work and that cross-border licensing should be undertaken only where the market demands it. Contractual freedom of rights holders should be preserved as underlined in the EU Digital Agenda Communication³ and IP owners should be able to differentiate their rights on a territorial basis as recognised in Mario Monti’s review of the functioning of the single market.

Conclusions

SROC calls on the Commission to take into account the direct and indirect contribution of sport to Europe’s cultural and creative economy. Sport in itself is a wonderful cultural activity for Europeans to engage in and appreciate the diversity of their continent (approximately 60% of European citizens participate in sporting activities on a regular basis within or outside some 700,000 clubs). The sports content industry is a major generator of economic growth in Europe with this growth allowing investment by the audiovisual sector in particular into other cultural activities and new technology platforms for the delivery of cultural content.

As such, we call on the Commission to uphold intellectual property rights and contractual freedoms for licensing models, which form the basis of the sport economy. SROC members consider that two key elements to unlock the potential of the cultural and creative industries would be to tackle the threat of illegal content piracy and to reject inappropriate compulsory licensing models which ignore audiences’ needs and market realities.

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For Further information, please contact SROC at sportsrights@sroc.info

³ COM(2010) 245, 19 May 2010, page 8