



Global Business Dialogue on Electronic Commerce

Intellectual Property Rights Key Priorities Recommendations

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Key Priorities for Intellectual Property Rights

The advent of broadband, the switchover to digital broadcast with data web casting possibilities and wireless networks with high bandwidth promise ubiquitous access to consumer selected content in a manner previously not possible. New and better digital communications infrastructures not only allow for greater consumer choice in content but also stimulate consumer demand for the devices and services that enable access to that content. One necessary pre-condition to unleash this enormous e-commerce potential is to curb digital piracy and ensure robust protection of intellectual property in the digital environment. This should be achieved through a combination of legislated protection of intellectual property, the establishment of open and interoperable technological protection measures agreed by industry and government regulation to prohibit harmful circumvention related activities.

The GBDe calls upon governments, relevant national and regional authorities and all stakeholders worldwide to rapidly implement the following eight key principles on Intellectual Property Rights:

1. The 1996 World Intellectual Property Organization (WIPO) Treaties should be

promptly, faithfully and completely implemented. In addition, governments should monitor the development of new technologies and business models and examine in close cooperation with industry as well as other interested parties when further adaptation of copyright laws is required.

2. As part of treaty implementation, appropriate legal frameworks for effective technological protection measures should be adopted and implemented. These legal frameworks should prohibit both the act of circumventing industry agreed technological protection measures and the manufacturing, offering or distribution of circumvention devices, services and products, while providing appropriate exceptions, such as those set forth in the U.S. Digital Millennium Copyright Act (DMCA) and the EU-Copyright Directive, that would maintain the overall balance between rightsholders, service providers and users.
3. All stakeholders should intensify their search for an inter-industry consensus on open, interoperable and globally harmonized technological content

protection standards for effective content protection within new digital infrastructures. Governments should facilitate the development of such standards taking into consideration diverse digital rights management systems (DRMs), key management, encoding formats, encryption algorithms, watermarks etc.

4. One of the clear benefits of standard technological protection measures is that, when effectively implemented, they can eliminate the need for, and the legitimacy of, copyright levies in those countries where such levies are imposed. The GBDe supports the rapid development and deployment of effective standard technological measures in order to avoid the proliferation of new copyright levies that could have a potentially negative impact on economic growth, business investments and global competitiveness and potentially undermine remunerative business models. In this respect, the GBDe supports flexible arrangements between collecting societies and their members to support the introduction of DRMs.
5. Governments should carefully consider any legislation that deals with the issue of liability and should strike a careful balance between the legitimate business interests of the different stakeholders involved, including content providers, service providers and end-users. The principle of “immediate offender pays” should guide liability in a general context. This means that the person/party who commits the illegal act in the digital environment is the immediate offender and therefore should be primarily held liable for it. In specific cases, however liability could be shared by more than one offender or even go beyond the immediate offender.
6. Governments should provide rightsholders with effective and convenient ways of pursuing copyright enforcement actions in each jurisdiction where infringement occurs. Governments’ action is required to encourage the improvement of judicial proceedings, remedies, and workable liability rules for copyright infringement in all countries, in order to achieve effective enforcement and deter infringement. Precise recommendations on enforcement are further elaborated in the enforcement paper.
7. Industry should consider the voluntary adoption of the GBDe’s 2000 model IPR-specific notice and takedown procedures where such procedures do not currently

exist, subject to any adaptations needed to accommodate different national legal systems. The adoption of such procedures, however, are contingent upon the legislative adoption of liability regimes providing for a safe harbor provision which exempt service providers from liability and/or damage claims resulting from expeditiously taking down or blocking access to allegedly infringing material – subject to general threshold conditions. Governments should acknowledge the legitimacy of such a safe harbor within their national frameworks.

8. Governments should actively promote public awareness of copyright and the legal framework which underpins IPRs. Public disregard for intellectual property ultimately jeopardizes the opportunity for consumers to enjoy the benefits of content distributed via new digital infrastructures. It must be clear to everybody, as part of general knowledge and education, that illegally copying a sound recording, a software program or other creative material is as much theft as, for example, shop-lifting.