



UNION INTERNATIONALE DES EDITEURS
INTERNATIONALE VERLEGER - UNION

INTERNATIONAL PUBLISHERS ASSOCIATION
UNION INTERNACIONAL DE EDITORES

Mr. Markus Kummer
Executive Coordinator
Working Group on Internet Governance

15 April 2005

RE: IPA Comments to the Draft Working Paper on IPR

Dear Mr. Kummer,

Founded in 1896, the Geneva-based International Publishers Association (IPA) represents publishers worldwide, assembled into 78 publishers' associations at national, regional and specialised level.

IPA has closely followed the discussions held in the framework of the first phase of the WSIS and is extremely concerned by the draft "issue paper" on intellectual property rights (IPR), which was posted on the WGIG website on 8 April 2005. In our previous comments dated 11 February 2005, we had welcomed the open consultation process launched by the WGIG and had strongly hoped that it would allow for our submission to be taken into consideration.

We remain extremely concerned by the approach to IPRs seemingly adopted by the WGIG as the latest draft working paper on IPR brings only limited progress vis-à-vis the previous issue paper issued in February. We regret that most of the comments we had sent in February were not taken into account. May we kindly remind you that these comments were shared by a great number of organisations.

As a general point, we do not believe that the issue paper provides an accurate picture of the current situation and strongly regret its apparent anti-copyright bias. We also regret that the issue paper does not refer to the international IPR framework developed and agreed in the context of the World Intellectual Property Organisation (WIPO).

1. The latest draft working paper on IPR still states that: "The term Intellectual Property Rights (IPR) describes the set of different regulatory concepts that control the production and usage of intellectual objects". We do not agree with this definition. Content and creativity are key components of the development of an information society and the overriding purpose of IPR is to protect creators and thereby stimulate the development and dissemination of content. IPR protection is intended to have a positive impact on cultural and economic development across the board. It is not intended to control or limit the production of works. On the contrary, it constitutes an incentive to the production of new works.

2. WIPO, the specialised agency within the UN, is the appropriate body to engage in further debates on IPRs. We strongly disagree with the criticisms pertaining to the outreach, the decision-making process or even the mandate of this organisation. WIPO is responsible on IPRs because it has the necessary expertise to deal with the issue. It also has the necessary outreach capacity. It involves many non-governmental actors. It has been working in particular to assist developing countries on development issues related to IPRs. Furthermore, although the draft working paper constantly refers to IPRs in the digital environment, it fails to underline the essential character and positive effects of the 1996 WIPO Treaties which crucially contribute to the creation of an appropriate framework for the protection and distribution of works in the digital environment.
3. The draft working paper claims that “DRMs have not been entirely successful”. This statement does not acknowledge the fact that these technologies are already in use and widely accepted. DRMs open the door to new models of delivery of copyrighted works to consumers and will play a key role in the success of new business models in the digital environment. At this stage, it should be noted that the WIPO treaties and a number of national legislation provide legal protection for DRMs in order to protect and promote their use. These technologies are essential to the lawful distribution of content, in particular on the Internet.
4. The draft reiterates that levies could be intended to compensate piracy. Again, this approach is not acceptable as it would amount to legitimising otherwise infringing activities. In other words, copyright owners would see their works expropriated and lose the benefit of their exclusive rights. Exclusive rights are the essence of copyright and under international treaties, are to be protected taking full account of the necessary and important balances.

In conclusion, it is regrettable that the draft, which is intended to present the current situation for IPRs in the digital environment, does not refer properly to digital piracy and its negative impact on the content industry and society as a whole.

IPA urges you to review the current draft document in the light of the comments received from the rightsholder community and to create a document that truly reflects a consensus between the different stakeholders.

We remain at your disposal for any further information on our views.

Yours sincerely

Jens Bammel
IPA Secretary General