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**By e-mail only**

Dear Sirs

**Inquiry into Digital Rights Management**

This submission is made on behalf of the Business Software Alliance (BSA)<sup>1</sup> in response to the All Parliamentary Internet Group (APIG) Inquiry into Digital Rights Management.

APIG has indicated that it wishes to hold a public inquiry “into the issues surrounding Digital Rights Management (DRM)”. This is a broad remit, although BSA observes that the issues raised by APIG in its requests for submissions suggest an unjustified wariness with regard to DRM technologies. BSA believes that DRM provides the foundation for expanded consumer choice and enjoyment of content.

**Consumer Choice**

In both the online and offline world, the use of DRM technologies has contributed to an unprecedented expansion of consumer choice in respect of the use of creatively produced content. As illustrated in a

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<sup>1</sup> The Business Software Alliance is the foremost organization dedicated to promoting a safe and legal digital world. BSA is the voice of the world's commercial software industry and its hardware partners before governments and in the international marketplace. Its members represent the fastest growing industry in the world. BSA educates consumers on software management and copyright protection, cyber security, trade, e-commerce and other Internet-related issues. BSA members include Adobe, Apple, Autodesk, Avid, Bentley Systems, Borland, Cadence, Cisco Systems, CNC Software/Mastercam, Dell, Entrust, HP, IBM, Intel, Internet Security Systems, McAfee, Microsoft, PTC, RSA Security, SAP, SolidWorks, Sybase, Symantec, Synopsys, The MathWorks, and UGS. See <http://www.bsa.org/>.

recent study<sup>2</sup>, millions of consumers have embraced DRM-based online offerings bringing the UK ahead of all other European countries. The study also shows a growing trend towards the use of DRM-based online services that deliver enhanced consumer experiences and choice.

<b>DRM-enabled Online Music Market, UK</b>						
	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
Downloads (€ mil.)	0.7	11.1	39	68.4	101.6	148.6
Subscription (€ mil.)	0.4	1.7	7.8	19.3	33	45.9
<b>Total (€ mil.)</b>	<b>1.1</b>	<b>12.8</b>	<b>46.8</b>	<b>87.7</b>	<b>134.6</b>	<b>194.5</b>

Source: Informa Media, 2005

In relation to online content, these figures show that consumers have been able to benefit from the use of DRM technologies in relation to the supply and use of that content. Examples of such use include: purchase and download of single works; subscription services; rental services; video on demand and pay per view; previews; evaluation and trial use; and real time distribution of content.

DRM technologies are the foundation upon which the modern era of broad consumer choice in respect of the use of content has been developed. Consumers now have a broad array of options when it comes to making an informed decision as to how they chose to consume online or offline content: without DRM technologies, such choices would be significantly restricted.

### **DRMs are key to reducing piracy and protecting authors**

DRM systems have been developed and used by BSA members for several years to assist them in their efforts to defeat the global problem of software piracy. A recent IDC study<sup>3</sup> suggested that a 10-point drop in software piracy would add nearly £11 billion to the economy, create over 34,000 new jobs, increase local industry revenues by £9.5 billion, and generate an additional £2.8 billion in tax revenues.

DRM technologies seek to achieve the goal of restricting software, music or film piracy by encrypting content and controlling the conditions under which that content may be decrypted and utilised. At the same time, DRMs enable creators to obtain remuneration for the lawful use of their work and provide consumers with a broader offering. Such technologies do not, however, provide a total guarantee against circumvention by

<sup>2</sup>

<http://www.bsa.org/eupolicy/upload/BSA%20Survey%20of%20DRM%20Online%20Content%20Services%20FINAL.pdf>

<sup>3</sup> IDC Study Dec. 2005 -- <http://www.bsa.org/idcstudy/>

professional hackers. This is why robust legal protection of DRM systems is so important.

### **Comments on APIG Issues**

In relation to the issues raised by APIG in its request for submissions, BSA has the following comments:

- **Does DRM distort traditional trade offs in copyright law?**

DRM technologies do not distort traditional copyright law - rather, they support a wider and more effective distribution of copyright protected works, to the benefit (as detailed above) of content providers and consumers alike.

- **Do new types of content sharing licence need legislation changes to be effective?**

BSA observes that a variety of content sharing licences are prevalent in the online and offline world, suggesting that substantive support is already provided for in law. It would be unreasonable to effect legislative change simply to further the use or impose one particular form of content sharing licence.

- **How will copyright deposit libraries deal with DRM issues?**

BSA believes that DRM technologies are, and will be, sufficiently flexible to accommodate a number of uses.

- **How should consumers be protected when DRM systems are discontinued?**

BSA has not heard of any such cases. BSA believes that the current pace of industry innovation in providing solutions to consumer issues arising from the use of DRM will be maintained and developed, to ensure that consumers are not disadvantaged by DRM.

- **To what extent should DRM systems make exceptions for partially sighted and people with other disabilities?**

BSA believes that DRM technologies are, and will be, sufficiently flexible to accommodate use by all consumers. Software and computer manufacturers are at the forefront of providing technological enhancements for persons with disabilities. This trend is likely to continue in relation to DRM-enabled content.

- **What legal protections should DRM systems have from those who wish to circumvent them?**

BSA comments on this immensely important issue below: it is essential that DRM technologies benefit from a robust and comprehensive legal protection framework.

- **Can DRM systems have unintended consequences on computer functionality?**

The legal protections afforded to consumers in the European Union (including consumer protection data privacy regulations) mean that consumers enjoy unprecedented levels of legal protection. In a recent case relating to an off-line protection measures for CDs, existing legal frameworks proved to be effective.

- **What role does the UK parliament have in influencing the global agenda regarding DRM?**

The UK Government has a significant role to play: DRM technologies have contributed enormously to the development of the UK creative economy in recent years, a trend that shows no sign of diminishing.

### **Legal Protection of DRM**

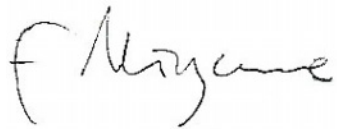
This expansion in choice would not have been possible without appropriate levels of legal protection being afforded to the DRM technologies that facilitate such delivery. The WIPO Copyright Treaty, and the European Union Copyright Directive, have established an international framework for protection of such technologies, which provides that such technologies should be afforded an equivalent level of protection to the content that they are intended to accompany. It is vital that the opportunities afforded by the expanded use of DRM technologies are not restricted by the harmful acts of those that would seek to bypass DRM technologies, to the disadvantage of content providers and consumers alike.

### **Summary**

In the context of this current consultation, BSA's view with regard to DRM technologies may be summarised as follows: firstly, DRM technologies should be embraced for the opportunities they afford in respect of both online and offline content distribution, providing as they do the foundation for the vast array of content delivery systems that provide consumers with the variety of choice, in terms of content distribution, delivery and pricing that are now seen as the norm. Secondly, DRM technologies should receive the appropriate level of robust legal protection (and, equally importantly, a matched

commitment to legal protection) that will ensure that the limitless opportunities afforded by DRM technologies are not lost, to either business or the consumer.

Yours sincerely,

A handwritten signature in black ink, appearing to read "F. Mingorance". The signature is written in a cursive, flowing style.

Francisco Mingorance  
Director Public Policy, Europe