



Brussels, 4 April 2008

Digital Interoperability Forum (DIF) comments on the European Consultation on Directive 98/84/EC on the protection of services based on, or consisting of, conditional access.

DIF members welcome the Commission's consultation on the Conditional Access Directive (CAD). Members will be responding individually and through trade associations such as AEPOC, the ACT and Cable Europe and, therefore, comments are confined here to a few key issues. DIF members are grateful to the Commission's services for having engaged with them on several occasions prior to and during the consultation.

DIF members represent all parts of the broadcasting, communications and multimedia value chain, including transmission, hardware, software, middleware, platform operation and content provision. Accordingly, DIF members have a strong interest in the continuing success of digital TV and information society services in Europe and regard the technical protection of these services as fundamental to that success. DIF members include the major providers of conditional access (CA) and digital rights managements (DRM) systems and major deployers of such systems. They also have considerable experience in addressing piracy, through a combination of effective security arrangements and legal action.

DIF members are concerned to ensure that the full arsenal of means to address piracy remains available to them. With greater digitalization, piracy is an increasing, more geographically dispersed, problem and new forms of piracy emerge. It is fundamentally important, therefore, that the CAD is retained, in addition to the copyright acquis, and that efforts are made to enhance the harmonisation of its implementation across the EU to ensure that it is an effective legislative mechanism to tackle both commercial and non-commercial piracy.

DIF members would like to stress that the Conditional Access Directive (CAD) has proven to be an essential part of the weaponry in fighting piracy. Also, DIF members believe that CAD has played, and will continue to play, a vital role in the EU's negotiations with candidate countries. As the EU's enlargement will continue to export the acquis to countries where piracy has historically been a problem, the importance of having the CAD as part of the acquis will grow.

DIF members also believe that the role played by the CAD will be even very more important in the future if the protection afforded by it can be used to combat new forms of piracy. In this regard, DIF members are also concerned that the development of new and innovative technologies and services may potentially be hindered by the lack of clarity surrounding the applicability of the CAD to new services and technologies. Content protection is a very complex topic, where different technical solutions are appropriate under different circumstances. As with other developing areas, ensuring specific protection for CA-enabled services, while leaving DRM-enabled ones out of the CAD's scope of protection, would potentially constrain innovation,

blunting or blocking investment in new technologies and business models. DIF members would, therefore, strongly encourage the Commission to confirm that “conditional access”, which Directive 98/84/EC currently defines as “any technical measure”, also includes DRMs.

DIF members are concerned that the complexity of the issue of content protection and security is not always properly understood. In this respect, DIF members strongly support the conclusions by KEA which state that *“the pursuit of technological interoperability in the field of CA and other protection measures such as DRMs may impair the industry’s ability to secure safe delivery channels for its products across a whole range of digital platforms. Interoperability... should not come at the expense of security and reliability of technical protection measures.”* Although “interoperability” is not within the scope of the CAD review, DIF members would encourage the Commission to bear this in mind in other circumstances. DIF members would like to stress that the CAD was intended to be a technology-neutral tool so that it can apply not only to pay TV but to any service, independently from the means of transmission.

In the light of the above, DIF members would stress that Directive 98/84/EC remains a vital tool to ensure the economic viability of services based on, or consisting of, conditional access.

We hope that the Commission will be able to consider these remarks when drafting its 2nd implementation report and remain at your disposal for any further information.

The Digital Interoperability Forum (DIF) is a cross-sector forum engaged in the promotion of industry-led solutions to interoperability issues. DIF membership includes stakeholders representing all parts of the content delivery chain: *Arqiva, BSkyB, Deutsche Telekom, Groupe Canal+, Liberty Global, Microsoft TV, Nagravision, NDS, Pace Micro Technology, Premiere, Qualcomm, Sky Italia, TF1, and ZetaCast.*

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