

Mr. R Weezembeek
Unit D.1
Copyright and knowledge-based economy
DG Internal Market
European Commission
B-1049 Bruxelles

Brussels, 9 May 2005

Dear Mr. Wezembeek,

Re: draft WIPO broadcasting treaty and webcasting

Further to our letter dated XXX, and with apologies for the delay in getting back to you on webcasting figures in the EU, please find below a few additional observations with respect to the inclusion of webcasting and simulcasting in the draft WIPO Broadcasting Treaty as well as market data relating to these activities. As you know, both webcasting and simulcasting are nascent activities in the EU but ones which are growing year on year. We estimate that the US market has about a 30 month lead time on the EU market in terms of webcasting and simulcasting and believe that it is therefore also important to look at figures in the US.

I The scope of the draft treaty

With respect to the debate on whether the scope of the draft treaty should be widened to include webcasting and simulcasting, we note the following:

- The broadcasting treaty is concerned with the distribution of content. Content without distribution is not much use. The treaty should not, particularly with the proliferation of digital content and new methods of distribution (for example, IPTV), discriminate between different distribution technologies. It should be technology neutral.
- The streaming of content, whether by traditional broadcast signal or otherwise, affords those who own the rights in the underlying content the means to distribute their works to the public. Underlying content owners are afforded separate copyright protection. Equally, those who invest in producing the systems and infrastructure to facilitate distribution by any means (including webcasting) should be afforded the legal protection necessary to protect their investment in providing a signal or stream.
- Webcasters will be increasingly competing for the same market as traditional broadcasters. The convergence of television, radio, wireless, internet and traditional print media is forcing content owners to broaden the scope of their distribution. It is also forcing platforms that historically operated in different markets to compete. Not providing webcaster's signals with equal protection to that afforded to traditional broadcasters will ultimately lead to a disparity in the respective markets.

- It is impossible to estimate the financial impact of not affording copyright protection to broadcast signals. The webcasting market is new and developing.
- Webcasting is particularly valuable in developing countries, where people may be less likely to be able to gain access to content which is distributed by more expensive means.

II Market figures

We provide below data from a collection of sources which relates to internet usage on an EU, US and global level. We have endeavoured where possible to indicate whether the data mentioned relates to one or all of these geographical splits.

A. Internet usage [source: www.internetworldstats.com 2005]

1. Since the year 2000 Internet usage has grown 146.2%. Internet World Stats forecasts that Internet will hit one billion users by the end of 2005.
2. Europe comes second with 259,653,144 surfers, representing 29.2% of total world Internet usage (March 2005).
3. Broadband subscribers have passed the 150 million mark worldwide in 2005, and 5 million people in the UK now have access to broadband internet
4. “Streamies,” or those listeners who watch or listen to internet broadcasts online, represent 44% of internet users (27% Americans). (Arbitron/Edison Media Research, January 2001)
5. As of January 2001, 13 percent, or 29.5 million Americans, had used either Internet
6. audio or video in the past month, compared to 10 percent in January 2000. (Arbitron/Edison Media Research, January 2001)

Internet Usage in Europe						
EUROPE	Population (2005 Est.)	% Pop. of World	Internet Users, Latest Data	Use Growth (2000-2005)	Penetration (% Population)	% Usage of World
<u>European Union</u>	459,938,780	7.1 %	215,765,036	131.6 %	46.9 %	24.3 %
<u>Rest of Europe</u>	271,052,358	4.3 %	43,888,108	341.9 %	16.2 %	4.9 %
TOTAL EUROPE	730,991,138	11.4 %	259,653,144	151.9 %	35.5 %	29.2 %
<u>Rest of World</u>	5,681,076,047	88.6 %	629,027,987	143.9 %	11.1 %	70.8 %
TOTAL WORLD	6,412,067,185	100.0 %	888,681,131	146.2 %	13.9 %	100.0 %

NOTES: (1) The European Internet Statistics were updated on March 28, 2005. (2) Detailed data for individual countries and regions can be found clicking on each country name. (3) The demographic (population) numbers are based on data contained in world-gazetteer.com. (4) The usage numbers come from various qualified sources, mainly from data published by Nielsen//NetRatings, ITU, and local NICs. (5) Data may be cited, giving due credit and establishing an active link back to Internet.worldstats. (6) For help and definitions, see the [site surfing guide](http://site_surfing_guide). ©Copyright 2005, Miniwatts International, Ltd. All rights reserved.

B. On-line radio usage [source: Internet and Multimedia 2005 study; Diane Williams, RAIN conference Las Vegas 19 April 2005]

The Percentage of On-Demand Consumers Who Listen to Online Radio

Type of On-Demand Consumer	% Who listen to Online Radio
Watched online video in the past month	47%
Own a hand-held wireless Internet device (such as BlackBerry)	39%
Subscribe to an online DVD rental service	30%
Own an MP3 player (such as iPod)	30%*
Have made a purchase over the Internet in the past month	29%
Own a digital (personal) video recorder (such as TiVo)	28%
Prefer to record TV programs to watch at another time	28%
Have ever watched Video on Demand through their cable box	26%
Are the <i>first</i> among family and friends to try a new product or service	24%
Own 20 or more DVDs	21%

C. On-line radio stations [Source: “A Snapshot of the EBU’s Webcasting Activities” report by Franc Kozamernik, European Broadcasting Union Technical Department, July 2002]

1. It is estimated that there are 10,000 radio stations on the Web – about half provide continuous audio streaming, while about 200 are Internet-only.
2. A majority of EBU members’ websites (around 64%) use the national language only. Some 25% provide English as a second language.
3. 13% of members consider the Internet a separate medium.

D. Online Radio Advertising [Source: www.clickz.com; “Internet Radio Advertising to Increase Tenfold by 2009” by Rob McGann; 9 December 2004]

Total advertising devoted to online radio Web sites will grow 56 percent annually over the next 5 years, reaching over \$300 million by 2009, according to a report by Borrell Associates.

This year, a total of \$30 million will be spent on banner ad placements and \$4.5 million on streaming audio ads across online radio sites. Combined, that amounts to roughly \$35 million, or 0.3 percent of the \$10.5 billion projected to be spent on Internet advertising in 2004.

Meanwhile, the overall audience (measured in cumulative unduplicated total audience) has increased 40 percent from 2003 to 2004. At the forefront of that increase are the top five online radio sites: AOL, Yahoo!, Live365, Musicmatch, and Virgin Radio, all of which recorded audience growth in the last year.

In terms of the online radio audience, the number of regular listeners has grown to 20 million in 2004, exceeding 10 percent of the estimated U.S. Internet population of 189 million. Almost half have tuned in for the first time in the last year.

E. Average weekly audience of online radio October 2004 (US; 12 years and over)

	Monday-Friday 6AM-7PM		Monday-Sunday 6AM-Midnight	
	Cume Persons	Average Quarter Hour Persons	Cume Persons	Average Quarter Hour Persons
Yahoo!™s LAUNCHcast	1,073,600	194,100	1,928,900	128,900
America Online™s AOL® Radio Network	876,600	107,900	1,783,900	81,700
Microsoft™s MSN Radio and WindowsMedia.com	300,900	32,700	424,700	20,400
TOTAL: All Three Networks	2,202,800	334,800	4,067,400	231,000

* Note: Cume is defined as the number of different people who listen during a given daypart. Cume audience estimates for individual networks should not be added because people who listen to more than one network will be counted twice. The reported audience for the total of the three networks is an unduplicated estimate of the number of different people who listened to one or more of the networks for minimum of five minutes during the week.

F. Internet Broadcasting – audience and income [Source: International Webcasting Association – www.webcasters.org – News]

Arbitron Inc. (NYSE:ARB) and comScore Media Metrix, a division of comScore Networks, Inc., released the first audience ratings from their new online radio ratings service with an estimate of **4.1 million people a week**, age 12 and older, listening to three major online radio networks. (6 Dec 2004)

With an estimated monthly audience of 51 million people, Internet Broadcasting is an affluent and compelling value for advertisers with half, (50 percent) living in households with an annual income of \$50,000 or more according to a new study by Arbitron Inc. (NYSE: ARB) and Edison Media Research. (24 March 2004)

G. Online radio – growth [Source: www.digitalmediawire.com]

The Arbitron Inc. and Edison Media Research survey found that four in ten online radio listeners would pay a fee for commercial-free content, high-quality audio or content they can't find on traditional radio or elsewhere. Forty-five percent of online radio listeners surveyed said they listen to online radio to hear content not available on traditional radio.

The Web radio audience was also shown to be growing, with 17 percent or 40 million Americans reporting that they had listened to Web radio in a typical month, compared with 13 percent last year. The Arbitron/Edison Media Research survey results were derived from 2,508 telephone interviews conducted in January 2002.

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We do hope you will find this information useful and please do not hesitate to revert should you require additional assistance.

Sincerely yours,

Lucy C. Cronin
Director, EDiMA