DIGITAL SERVICES ACT (DSA) package

European Commission Public Consultation
(Consultation open from 2 June 2020 to 8 September 2020)

EUROCINEMA's contribution

Transparency register: 43245696854-79

EUROCINEMA represents producers of cinematographic and audiovisual works in Europe.

The Digital Services Act Package aims in particular to regulate digital platforms through the revision of e-Commerce Directive 2000/31/EC on the regulation of information society services. However, since the adoption of the e-Commerce Directive in 2000, "information society services" have evolved considerably.

Steps have been taken to take better account of the evolution of the system: the European Commission's Recommendation on measures to effectively tackle illegal content online[1] and the Regulation on **promoting fairness and transparency for business users of online intermediation services**[2]**.**

In this context, it should also be recalled that the cultural sector is mainly regulated by a few texts, "Lex specialis", which are based on Articles 107 and 167 TFEU, as well as the Convention on the Protection and Promotion of the Diversity of Cultural Expressions[3]. A special regulation applies to audiovisual services (which are thus often excluded from the scope of cross-cutting regulations) and copyright (which is the basis for the protection of creators and those who invest in the cinema and audiovisual sector).

Today, the consumption and promotion of audiovisual works and their derivative products depends more and more on the activity of internet platforms and streamers[4]. Tickets to cinemas are sold online, audiovisual works are promoted on social networks and consumed on VOD platforms by subscription. DVDs are sold on online marketplaces, as are electronic and/or recording devices on which private copying levies may apply.

To cope with the increasing digitisation of our market (accelerated by the COVID-19 crisis), the Audiovisual Media Services Directive and the Copyright Directive were amended respectively in 2018 and 2019[5]. It is essential that these texts, and particularly these latest changes, are protected when dealing with a possible revision of the e-Commerce Directive.

However, there are still concerns, particularly in the implementation of copyright vis-à-vis platforms and other net intermediaries not covered by the above-mentioned Directives. We believe it is necessary to provide for better regulation of these intermediaries, who must be made more

[1] Commission Recommendation (EU) 2018/334 of 1 March 2018 on measures to effectively tackle illegal content online
[2] Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting **fairness and transparency for business users of online intermediation services.**
[3] Convention on the Protection and Promotion of the Diversity of Cultural Expressions – UNESCO, 20 October 2005
[4] By "Streamers", we refer here to subscription video-on-demand (S-VoD) platforms.
[5] Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities | Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC

accountable for the services they provide (I). Moreover, since some of them have become unavoidable on the market, it seems to us essential that they be regulated ex-ante (II).

I. For a reinforcement of the liability of the platforms:

1. Recent achievements in this area in our sector:

In the last two years, two major and complementary reforms have been introduced.

In 2018, the Audiovisual Media Services Directive was modernised[6] and provides in particular for an obligation for video on demand platforms (excluding video sharing sites) to put 30% of European works online (Article 13) as well as – for those Member States that wish to do so – an obligation to contribute financially to European production. This Directive is currently being transposed by the Member States[7]. Among other things, it will contribute to a better balance between the obligations of television broadcasters and those of video-on-demand platforms.

In 2019, the Copyright Directive[8] addressed a complementary and equally essential issue for our sector. Thus, under Article 17 of that Directive, the act of uploading a work protected by copyright or related rights onto a content sharing platform is considered to be an act of communication to the public within the meaning of Article 3.1[9] of the 2001 Copyright Directive. This act of communication to the public entails the liability of the said platform, which has in particular the obligation to withdraw and prevent the appearance or reappearance of works for which it has not obtained the authorisation of the rightholders and which is notified of it by the latter ("notice and stay down" and filtering of works notified by the rightholders). This text is also in the process of being transposed[10] and is the subject of consultation for the drafting of certain transposition guidelines[11].

As already mentioned, these recent laws, which it is now important for the Member States to transpose quickly and faithfully, must be put to one side in the framework of the reform envisaged today, the principle of which we also support.

2. However, some of the difficulties encountered by the sector are not addressed by existing legislation. Indeed:

a) Social networks, content sharing platforms and search engines market advertising without constraints, while television broadcasters and video-on-demand platforms are subject to numerous obligations in terms of online advertising (tobacco, alcohol, etc.) and the fight

[6] Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities

[7] No later than 19 September 2020 (see Article 2, page 24, OJ L 303/92 of 28.11.2020)

[8] Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC

[9] Directive 2001/29/E | "Article 3 – Right of communication to the public of works and right of making available to the public other subject-matter. 1. Member States shall provide authors with the exclusive right to authorise or prohibit any communication to the public of their works, by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access them from a place and at a time individually chosen by them."

[10] No later than 7 June 2021 (see Article 29 – Transposition, page 34, OJ L 130/125 of 17 May 2019)

[11] In accordance with Article 17 thereof (10): "10. As of 6 June 2019 the Commission, in cooperation with the Member States, shall organise stakeholder dialogues to discuss best practices for cooperation between online content-sharing service providers and rightholders. The Commission shall, in consultation with online content-sharing service providers, rightholders, users' organisations and other relevant stakeholders, and taking into account the results of the stakeholder dialogues, issue guidance on the application of this Article, in particular regarding the cooperation referred to in paragraph 4. When discussing best practices, special account shall be taken, among other things, of the need to balance fundamental rights and of the use of exceptions and limitations. For the purpose of the stakeholder dialogues, users' organisations shall have access to adequate information from online content-sharing service providers on the functioning of their practices with regard to paragraph 4."

against hate and child pornography[12]. This competitive asymmetry must be corrected, not by alleviating the legitimate constraints of audiovisual media services[13], but by imposing similar constraints on the other players on the internet, which have now become unavoidable[14].

b) With regard to the application of copyright, certain platforms have been expressly excluded from the scope of Article 17 of the above-mentioned Copyright Directive 2019/790, in particular "**marketplaces**", since they "do not give access to copyright-protected content"[15]. However, these platforms, which have already been singled out for the application of VAT (hence the measures provided for in Directive (EU) 2017/2455 of 5 December 2017 on electronic commerce, which are intended to make them liable for the payment of VAT instead of the services they host)[16], may also be places that encourage counterfeiting[17]: the vendors they host sell, for example, counterfeit DVDs, "pirate" decoders or subscription cards, or even equipment subject to private copying levies for which the person liable for payment does not pay the levy (as was the case for VAT – see above). Similarly, they may be one of the actors in the ecosystem providing access to illegal IPTV channels in Europe (see pp. 30 et seq. of the EUIPO report - November 2019)[18].

c) Illegal content accessible via sites or operators outside the scope of Article 17 of the Copyright Directive[19] may then appear:

---

[12] These obligations are defined in the AVMS Directive 2010/13/EU and AVMS Directive 2018/1808/EU

[13] As defined in Article 1(1) of the AVMS Directive (EU) 2018/1808

a) "**audiovisual media service**":
   i) a service as defined by Articles 56 and 57 of the Treaty on the Functioning of the European Union, where the principal purpose of the service or a dissociable section thereof is devoted to providing programmes, under the editorial responsibility of a media service provider, to the general public, in order to inform, entertain or educate, by means of electronic communications networks within the meaning of point (a) of Article 2 of Directive 2002/21/EC; such an audiovisual media service is either a television broadcast as defined in point (e) of this paragraph or an on-demand audiovisual media service as defined in point (g) of this paragraph;
   ii) audiovisual commercial communication;'

[14] Indeed, a television channel cannot reach its audience today without partnerships with connected TVs, search engines, and social networks. They have few constraints and capture the advertising manna of traffic generated by broadcasters without constraint.

[15] Cf. **Article 2(6)** of Directive 2019/790 ("Providers of services, such as not-for-profit online encyclopaedias, not-for-profit educational and scientific repositories, open source software-developing and-sharing platforms, providers of electronic communications services as defined in Directive (EU) 2018/1972, **online marketplaces**, business-to-business cloud services and cloud services that allow users to upload content for their own use, are not 'online content-sharing service providers' within the meaning of this Directive"), as well as its **recital 62** ("Such services should not include services that have a main purpose other than that of enabling users to upload and share a large amount of copyright-protected content with the purpose of obtaining profit from that activity. The latter services include, for instance, (...) **online marketplaces, the main activity of which is online retail, and not giving access to copyright-protected content."**)

[16] Cf. Article 2 of Directive 2017/2455 of 5 December 2017: (…)
"1. Where a taxable person facilitates, through the use of an electronic interface such as a marketplace, platform, portal or similar means, distance sales of goods imported from third territories or third countries in consignments of an intrinsic value not exceeding EUR 150, that taxable person shall be deemed to have received and supplied those goods himself.
2. Where a taxable person facilitates, through the use of an electronic interface such as a marketplace, platform, portal or similar means, the supply of goods within the Community by a taxable person not established within the Community to a non-taxable person, the taxable person who facilitates the supply shall be deemed to have received and supplied those goods himself." (…)

[17] https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2020_Status_Report_on_IPR_infringement/2020_Status_Report_on_IPR_infringement_en.pdf – EUIPO 2020 Report (see page 20 regarding the use of counterfeit digital goods. The COVID crisis has amplified the phenomenon and the trade in illegal IPTV has accelerated: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2020_Status_Report_on_IPR_infringement/2020_Status_Report_on_IPR_infringement_en.pdf

[18] https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2019_Illegal_IPTV_in_the_European_Union/2019_Illegal_IPTV_in_the_European_Union_Full_en.pdf

[19] Which, as we have seen, only covers online content sharing services, defined by Article 2.6 of Directive 2019/790 as "an information society service of which the main or one of the main purposes is to store and give the public access to a large amount of copyright-protected works or other protected subject matter uploaded by its users, which it organises and

- That they have been removed after notification to intermediaries in accordance with Article 14 of the e-Commerce Directive[20]
- That they have been banned by a court order

because the e-Commerce Directive only provides for an obligation to withdraw content (take down), but not an obligation to prevent its reappearance (stay down as, for example, now provided for in Article 17 of the above-mentioned Copyright Directive). Thus, the rightholders, such as Sisyphus, have to renew the demand over and over again.

d) Active and passive platforms:
Article 14 of the e-Commerce directive (dating from 2000[21]) refers to "information society services" storing only information and therefore provides exemption from liability. Over the past 20 years, technology has evolved and platforms that are totally passive, "technical" and not subject to any moderation or content organisation are no longer the majority. For many of them, an organisation, an editorialisation of the contents is planned, in particular thanks to the development of increasingly powerful algorithms. However, if case law[22] has since defined a certain number of criteria to qualify a platform as active or passive (such as "knowledge" or "control" of stored content – see the 2009 "L'Oréal judgment" for example), they should be consolidated by translating them into law.

e) **Enforcement of court decisions with regard to internet actors or intermediaries established outside the European Union**:
For effective implementation of the applicable legislation in Europe, it is necessary to consider the effectiveness of court decisions with regard to digital players whose registered offices are located outside the EU, especially in the short time frame that must characterise these actions with regard to the virality of the dissemination of illegal content on the internet.
Thus, for example, the effectiveness of court injunctions to combat counterfeiting (action for an injunction under Article 8(3) of Directive 2001/29/EC of 22 May 2001[23], extended to other intellectual property rights by Directive 2004/48/EC of 29 April 2004[24]), will diminish with the increase in the number of intermediaries established outside the EU. And this phenomenon will accelerate in light of the ongoing changes in domain name resolution (i.e. the translation

promotes for profit-making purposes." Paragraph 2 of the same article expressly excludes from this definition, "providers of services, such as not-for-profit online encyclopedias, not-for-profit educational and scientific repositories, open source software-developing and -sharing platforms, providers of electronic communications services as defined in Directive (EU) 2018/1972 [Directive establishing the European Electronic Communications Code – see Art. 2.4], online marketplaces, business-to-business cloud services and cloud services that allow users to upload content for their own use, [which] are not 'online content-sharing service providers' within the meaning of this Directive".

[20] Article 14 | Hosting

1. Where an information society service is provided that consists of the storage of information provided by a recipient of the service, Member States shall ensure that the service provider is not liable for the information stored at the request of a recipient of the service, on condition that:

(a) the provider does not have actual knowledge of illegal activity or information and, as regards claims for damages, is not aware of facts or circumstances from which the illegal activity or information is apparent;

or

(b) the provider, upon obtaining such knowledge or awareness, acts expeditiously to remove or to disable access to the information.

2. Paragraph 1 shall not apply when the recipient of the service is acting under the authority or the control of the provider.

3. This Article shall not affect the possibility for a court or administrative authority, in accordance with Member States' legal systems, of requiring the service provider to terminate or prevent an infringement, nor does it affect the possibility for Member States of establishing procedures governing the removal or disabling of access to information.

[21] Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce')

[22] Judgment of the CJEU: Case C-324/09 L'Oréal and others; C-610/15 Stichting Brein v. Ziggo – The Pirate bay case; Case C-527/15 and Stichting Brein v. Filmspeler; Case C-521/17 SNB REACT V. METHA

[23] "3. Member States shall ensure that rightholders are in a position to apply for an injunction against intermediaries whose services are used by a third party to infringe a copyright or related right."

[24] Cf. Article 9.1, Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights: "(…) an interlocutory injunction may also be issued, under the same conditions, against an intermediary whose services are being used by a third party to infringe an intellectual property right (…)."

of domain names into IP addresses, with the increasing use of "DNS over http" or "DoH")[25]. While these companies may have local subsidiaries, these are usually considered only to be commercial representations and not necessarily responsible/accountable for parent company activities[26].

3. What we want/think is necessary:

a) Implementation of the Audiovisual Media Services Directive and the Copyright Directive currently being transposed: first of all, it is essential that they are faithfully implemented by the Member States.

b) A better knowledge of online intermediaries and their customers:

Article 5 of the e-Commerce Directive[27] provides that Member States must ensure that intermediaries give easy, direct and permanent access to the recipients of services to a certain amount of information (name, contact details, etc.).

In addition, the ICAAN makes available to everyone a database on registered domain names: WHOIS[28]. However, a certain amount of information is not accessible[29]. This access difficulty has been amplified since the GDPR vote[30] due to the difficult interpretation of this text.

In order to combat illegal trafficking and counterfeiting more effectively, we believe it is essential:

- to ask intermediaries to require the same information from their own customers as is required under Article 5 of the e-Commerce Directive. Should they be unable to obtain them, they would then be forced to cut off services to the said refractory customers.
- to request that ICAAN make WHOIS fully transparent again so that any natural or legal person working with a domain name can know the information attached to it (a minimum list of information should be able to be included) and to clarify the interpretation of the GDPR[31] in this respect.
- that each platform addressing the European market but based outside the European Union appoints a representative, responsible before EU courts.

c) A reinforcement of the obligations of platforms (Marketplaces, social networks outside the scope of Article 17 of Directive 2019/790, search engines, link directories, etc.), including those located outside the EU:

i) The distinction between a "**passive"** platform (benefiting as a host from the exemption from liability conferred by Article 14 of the e-Commerce Directive (2000/31/EC) and an

[25] The resolution of domain names is still today essentially carried out by default by the DNS servers of the Internet Service Providers (ISPs) in the various Member States. But with the increasing use of other default DNS servers in the context of the possibilities offered by browser publishers (i.e. "DNS over HTTP" or "DoH"), it is then these internet browser publishers that will have to be activated, or even the publishers of operating software, most of which are established outside the EU)

[26] Amazon, Google, Facebook are all in Silicon Valley. The fact that they have subsidiaries in Europe doesn't change that: see TGI Paris Référé – 12 April 2019 – Google France https://www.legalis.net/jurisprudences/tgi-de-paris-ordonnance-de-refere-du-12-avril-2019/
or TGI Paris Référé – 6 April 2018 – Google France also https://www.legalis.net/jurisprudences/tgi-de-paris-ordonnance-de-refere-du-6-avril-2018/

[27] Article 5 | General information to be provided

[28] https://whois.icann.org/

[29] **https://whois.icann.org/en/basics-whois#field-section-4**

[30] https://safebrands.com/analysis-advices/the-real-impact-of-gdpr-on-whois-data-access/

[31] Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

"**active"** platform must be ratified by codifying the case law of the CJEU[32]. In fact, new broad liability exemptions should not be created.

ii) **"Passive"** hosting platforms thus defined should be subject to enhanced liability compared to the current regime in Article 14 of the e-Commerce Directive, obliging them to withdraw promptly upon justified notification by a third party (notice and take down, as is already the case today) but also to take all appropriate and proportionate measures to prevent the reappearance of the illegal content removed (stay down).
In order to facilitate such notifications, both for the platforms and for the initiating parties, rules should be defined allowing the designation of "trusted flaggers", as provided for (but on a voluntary basis of the platforms) in point 25 of the Commission Recommendation of 1/3/2018 on measures to effectively tackle illegal content online.[33]

In addition, there should be an obligation for these neutral intermediaries to cease providing services to a customer/user in the event of a repeated and proven violation of the right by the latter. This should be the case for marketplaces, since they would fall under the status of "passive" host (which is debatable, but nevertheless seems to be the dominant position in current case law in Europe). Similarly, a co-responsibility scheme, or even a substitution of responsibility in case of proven wrongful behaviour by the seller, could be envisaged for this type of platform, as was done by the above-mentioned Directive (EU) 2017/2455 of 5 December 2017 on the payment of VAT on distance selling.

More generally, while taking into account the nature of the content hosted, the aim will be to strengthen the effectiveness of mechanisms to stop the infringement of third-party rights.

iii) As regards truly "**active**" hosting platforms, which therefore do not fall under the status of Article 14, the general law on liability for the different types of content offered must apply.

iv) All of these obligations should be imposed in the European Union, including on companies whose registered office is located outside the European Union, which also raises the question of what improvements should be made to international law on the recognition and exequatur of court decisions outside the European Union. Therefore, using the example of the injunctions intended to block access to certain infringing sites (DNS blocking), it should be possible for decisions by national courts taken in this context to be enforceable against companies located outside the European Union with respect to IP addresses from that national territory[34].

II. <u>Some structuring platforms (gatekeepers) require ex-ante regulation</u>:

The European Commission also asks us whether it is relevant to establish specific rules for certain platforms or search engines for which simple ex-post facto regulation is not enough to prevent the effects of significant networks acting as gatekeepers on the European market.

A. Difficulties encountered:

[32] In particular, the criteria set by the judgments of principle delivered by the CJEU in the two "**Google AdWords**" cases (Joined Cases C-236/08 to C-238/08) of 23 March 2010 and "**eBay**" (case C-324/09 – L'Oréal and others) of 12 July 2011.
[33] <u>Commission Recommendation (EU) 2018/334</u> of 1 March 2018 on measures to effectively tackle illegal content online.
"25. *Cooperation between hosting service providers and trusted flaggers should be encouraged. In particular, fast-track procedures should be provided to process notices submitted by trusted flaggers."*
[34] In fact, the vast majority of marketplaces or content sharing platforms are headquartered in the USA or China: it must be possible to enforce injunctions for infringement in national courts of law on the territory of that court.

1. Streamers (subscription-based VOD platforms):

The sector of subscription-based VOD platforms ("streamers") is dominated by an oligopoly that controls 90% of the market[35]. The health crisis linked to COVID (which has hit the entire cultural sector, particularly the performing arts and cinema, very hard) has accelerated the phenomenon. We believe that this oligopoly is already (and will become even more so since the COVID crisis) a key player ("gatekeeper") that:

- has almost unquestionable market power in access to works through the implementation of algorithms aimed at classifying or referencing the information presented to the user,
- benefits from broad user captivity,
- has significant market and audience shares,
- holds strategic data in the competitive game (including access to consumer/consumer data) [36].
- has considerable financial strength and/or stock market valuation.

To this we should add that this oligopoly, which operates in many parts of the value chain in the sector[37], produces works in particular: it thus communicates works to the public and acts on a parallel segment (production) and is therefore in competition with the other catalogues of works it communicates. Its interest is to put forward the works it produces to the detriment of those it buys.

2. Search engines and social networks

Search engines have become essential to the promotion and sale of the works we produce. For example, trailers are extremely influential with the public and online venue ticket sales via search engines or social networks have become the rule.
The data on the audiences for the works are not (or are poorly) communicated to rightholders.
The results of the research and the promotion of the works is done according to algorithms whose composition is unknown.

3. The OS of connected televisions

A battle for access to consumers via connected TVs is underway. A number of global companies have positioned themselves as OS (operating system) with direct access to public data [38].

---

[35] As a comparison on the French market, the CNC's 2019 VOD observatory reported a French market penetration rate for Netflix of 54.2% and 15.8% for Amazon in 2018 (https://www.cnc.fr/documents/36995/167074/Observatoire+de+la+vidéo+à+la+demande+2018.pdf/b3b2719e-24e8-d1d1-0c26-f3cbce30748b). In May 2020, the VOD barometer showed a penetration rate for Netflix of 59.4% and 32.6% for Amazon. Disney, a newcomer, is already in third place with 23%.
https://www.cnc.fr/documents/36995/961345/Baromètre+de+la+vidéo+à+la+demande+%28VàD_VàDA%29+-+mai+2020.pdf/06b843b0-0f65-cd30-3f03-235f29bcf2dd.
In Spain, Netflix penetration was 75.4% in April 2020 (GECA Barometer, Mediapro). As for Disney, see the pace of its global launch (https://en.wikipedia.org/wiki/Disney%2B)

[36] https://www.cnbc.com/2020/06/04/streaming-services-may-be-forced-to-become-more-transparent.html: *"The streaming metrics provided by Netflix are pretty useless," Michael Pachter, analyst at Wedbush, said, in an email. "Who cares how many people watched a particular movie (other than them and the press)? It doesn't translate to revenue unless the movie is the reason to join the streaming service." And it's very difficult to determine if someone signed up for a service just to watch one program.*

[37] Apple is also soon coming out with a subscription platform. Its intervention in the entire value chain of the sector will give it privileged access to public consumption data and will allow it to carry out highly targeted advertising https://www.cnetfrance.fr/produits/apple-tv-plus-catalogue-prix-date-sortie-streaming-video-39890357.htm. See also the evolution of Apple's editorial strategy in the link from the Hollywood Reporter:
https://www.hollywoodreporter.com/topic/apple-tv/2

[38] Connected TV Gateways: review of market dynamics – OFCOM, August 2020.
https://www.ofcom.org.uk/__data/assets/pdf_file/0019/201493/connected-gateways.pdf. The market is likely to be increasingly dictated by new entrants, "global players" who have multiple points of presence in the value chains or a reputation with users and/or the public.

Consideration must be given to limiting public access to the detriment of content producers and television broadcasters.

B. What we want/think is necessary:

We therefore believe that for streamers or active platforms acting as gatekeepers, it is essential that they be provided under the supervision of the competent regulators:

- access by rightholders (content providers) and competitors to consumption data (the nature of which is to be defined according to the recipients) in strict compliance with the GDPR;
- a principle of data portability for the benefit of the users of these platforms, so that they are not indefinitely linked to a single service provider platform;
- the possibility for regulatory authorities to audit the recommendation algorithms of these platforms, in particular with a view to monitoring and preserving cultural diversity (cf. procedures for exhibiting and promoting European works by streaming platforms).

Regarding the question of the creation of a regulator at the European level, although it seems premature to us to decide on this subject, we believe that, at the very least, there should be European coordination of regulatory bodies.