



etno

**the principal trade association of  
European Telecom Operators**

(June 2008)



# Presentation – ETNO / Copyright / Enforcement

- **Introduction**
  - ETNO
  - Goals and Trends
  - What an Operator *can* do
  - What an Access Provider *cannot* do
- **Injunctions**
  - Elements of not so good national practice
  - Elements of better practices
- **French Proposal**
- **The Consumer in the centre**
- **Main messages and Way Forward**

# European Telecommunications Network Operators' Association

- [www.etno.be](http://www.etno.be)
- Represents **42 companies** from 34 European countries
- **Primary purpose**; To establish a constructive dialogue with decision-makers and other actors involved in the development of the European Information Society ... to the benefit of users
- **Supports** effective enforcement of IPR's
  - Many members themselves holders of © or building business models based on ©
  - Welcomes this workshop

# General Goals and Trends

- GOALS

- EU
- Information Society
- IPR Enf. Dir = Ensure the enforcement of IPR's
- Copyright Dir = Legal protection of rights in the framework of the internal market, with particular emphasis on the Information Society (Art 1)
- User-demand = Simplicity, Repertoire, High Quality, Choice, Security
- Authors
- Publishers
- Access Providers = Invest in future-proof infrastructure and provide access

- TRENDS

- Quota of User Generated Content is growing
- Scope of Public Domain will explode
- Storage capacity growing constantly
- User demand for file-sharing – growing
- New Business Models growing

# What an Operator can do

- **Invest in infrastructure**
- **Offer access**
- **Uphold network security**
  
- **Comply with Lawful Interception legislation**
- **Comply with court decisions**
  
- **Bilateral agreements with Rights Holders**

# What an Access Provider cannot do

- Choose who should be 'authorised' to issue notices
- Active monitoring or filtering
- Define what is legal/illegal or not
- Handle personal data re. crime(s)
- Take responsibility for wrongful takedown/blocking
- Cover costs for Rights Holder vs. User –issues
  
- *ETNO is an industry organisation which cannot enter into any binding relationships on behalf of its members*

# Elements of not so good practices

- **Case-law**
  - **Belgium** => ISP Scarlet ordered to implement a Filter. Appealed
  - **Denmark** => ISP Tele2 ordered to cut access to Pirate Bay (search engine). Appealed.  
=> ISP ordered to cut connection to Russian site up-loading.
- **Ifpi-letter to operators with threats**
- **Turned-down Swedish legislative proposal**

# Elements of Better Practices

- **Full cost reimbursement**
- **In Germany**
  - **A court order is necessary to allow the ISP to use the IP address received from the rights holder in order to match the respective customer and to forward the customer information.**



# French proposal

- **Good**
  - **Access providers are not to identify who is breaking copyright**
  - **Access providers not to choose remedy**
  - **Access providers not to be incurred costs due to litigation between other parties**
  - **Legislator, not private parties, is trying to solve outstanding issues of legislation**
- **Some question marks**
  - **Will users choose to act anonymously?**
  - **Data Protection legislation**
  - **Which person has used the IP-number?**
  - **What if wrongful takedown?**
  - **Proportionality of close-down (fixed, IP-TV)**
  - **How will the model affect operators working cross-borders?**



# The Consumer in the Centre

- The market, as well as the regulatory framework, needs to meet the consumer's
  - Right to Choice, Knowledge and Cultural Diversity
  - Right to Privacy
  - The right not to be unreasonably criminalised or stigmatised
  - Demand for price-worthy, secure and user-friendly services

# Main messages and Way Forward

- **Main messages**
  - **User-demand for file-sharing is growing**
  - **Best way to counteract illegal file-sharing is availability of legitimate content**
  - **ETNO members do not profit from illegal file-sharing**
  - **Access Providers task is to invest in infrastructure and provide access**
  - **Tools to protect copyright have been added – time for bilateral agreements for new services**
- **Way forward**
  - **Business through bilateral agreements**
  - **Adaptation of court-based procedures (faster and cheaper)**

# Thank you !

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# ETNO Members

- **Full Members**

- European entities offering
- Electronic communications networks

- **Associate Members**

- European entities offering
- Electronic communications services
- Identifying with object of ETNO and prepared to contribute

**Full Members are entitled to vote at General Assemblies and for the approval of ETNO Positions. They may present candidates for election to the Executive Board**

**Associate Members may take part in the work of ETNO Working Groups and attend the General Assemblies**

# ETNO Full Members

Belgacom  
BH Telecom (Bosnia and Herzegovina)  
BT  
BTC (Bulgarian Telecommunications Company)  
Croatian Telecom  
Cyprus Telecommunications Authority  
Deutsche Telekom  
Eircom  
Elion Enterprises Ltd.  
Elisa Communications Corporation  
Entreprise des Postes et Télécommunications  
Luxembourg  
Finnet Group  
France Telecom Group  
Go (Malta)  
Invitel  
Koninklijke KPN  
Lattelecom  
Makedonski Telekomunikacii  
Magyar Telekom (Hungary)  
Netia Holdings  
ONO

OTE  
Portugal Telecom  
RomTelecom  
Síminn (Iceland)  
Slovak Telekom  
Societatea Nationala de Radiocomunicatii  
(Romania)  
Swisscom  
TDC  
TDF  
Telecom Italia  
Telefónica  
Telefonica O2 Czech Republic  
Telekom Austria  
Telekom Slovenije  
Telekommunikacja Polska  
Telenor  
TeliaSonera  
TEO  
Türk Telekomünikasyon  
VIPnet