

Ms. Suvi Lindén,
Minister of Culture, Finland
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WIPO SECOND INTERNATIONAL CONFERENCE ON ELECTRONIC COMMERCE AND INTELLECTUAL PROPERTY

The Evolving Digital Economy

Distinguished participants,
Ladies and Gentlemen,

It has been argued that electronic commerce will bring us into a completely new economic era. Electronic commerce may add to the quality of life of the whole mankind and it may open magnificent prospects for business and economic development. These attributes of electronic commerce lead us to examine one of the most important phenomena of our times, which touches upon many very different sectors, and in fact the whole world.

The matters before this Conference – questions of intellectual property – are only part of many important issues in this field. Let me first picture the scene, and also the phenomena of intellectual property and the digital economy.

Scene and phenomena

Intellectual property – that is, intellectual capital – consists of rights. Electronic commerce of digital content is trade in rights; what we sell and buy are rights to use and otherwise exploit material delivered electronically in the form of bits.

The basic rationales for the protection of intellectual property can be defined as follows: the need to stimulate creativity and inventiveness in society, the need to give protection to investments, and the need to give recognition to the moral interests of inventors and creators.

From the viewpoint of the society, it ensures a universal access to artistic and cultural products. The fundamental principles concerning the protection of authors and other creators have already been manifested in the Universal Declaration of Human Rights of 1948.

The growth of electronic commerce, or, as we most often call it – e-commerce, is closely linked with the fundamental importance of intellectual property. Much of the trade on the Internet and on other electronic communication networks involves selling or licensing information, cultural products and technology which are protected by intellectual property. While many books, CDs or films ordered via the Internet are still often delivered by mail, the Internet will potentially offer an important means of delivery for the content of these and other products. This will come true if intellectual property rights are adequately protected in the networks.

The global nature of the Internet multiplies the effects of the information networks. While e-commerce is very much a global phenomenon enabling all parts of the world to engage in trade, the fact is that today the Internet service providers are located almost exclusively in industrial countries. However, when taking into account the vast benefits that the

Internet could offer, for instance by saving natural resources and reducing physical transactions, e-commerce has the potential of gaining ground in all parts of the world.

Therefore, in the digital era, the whole world can be at the centre of events. This brings about immense opportunities, but at the same time risks and uncertainty.

Many intergovernmental organisations have their own development programmes for e-commerce. The World Intellectual Property Organization WIPO focuses on questions relating to the protection of intellectual rights and domain names. The WTO work programme addresses general questions relating to commodities and services in e-commerce. UNESCO is exploring ways to activate developing countries. Many countries have e-commerce programmes of their own. The European Union is dealing with e-commerce in many different contexts, such as the eEurope Action Plan and the eContent Programme.

In its Digital Agenda, WIPO has prioritised efforts to involve all countries, developing countries in particular, in the process of defining and addressing e-commerce issues. One aim is to develop the treaties on intellectual property rights and to enhance the interoperability of electronic copyright management systems and online licensing. Another aim is to promote the participation of developing countries by means of WIPOnet and other tools. The question of Internet jurisdiction and applicable law, and its enforcement, occupy a central place in WIPO activities. The opportunities in this area, as in cyberspace in general, are infinite.

Definitions of 'e-commerce'

Ladies and Gentlemen,

All organisations working with e-commerce naturally look at this phenomenon from their own perspectives. This is why their definitions of e-commerce differ.

I would like to look at some mutually complementary aspects which have been taken up over the years. They help us see what e-commerce and the digital economy are all about.

Firstly, e-commerce means any transaction over a computer-mediated network which involves the transfer of ownership or rights to use goods or services. The systems of digital television, including their sophisticated set-top-boxes, may probably also provide platform for e-commerce.

Secondly, it comprises all financial and commercial transactions that take place electronically, including electronic data interchanges, transfers of funds, and credit card transactions.

Thirdly, it has to do with the processing and transmission of digitised data and its production, marketing, sale or delivery of goods and services by electronic means.

Lastly, a very fascinating description of the process:

E-commerce can happen because of the linking of often complex and dynamic chains of identifiers which connect people with goods and services. E-commerce does not necessarily have always exclusively financial gain as its object. The model applies equally to cultural transactions that may have modest commercial expectations.

It is vital to bear in mind that the commodity protected by intellectual property rights which is sold and bought on the net is very much the product of culture. Culture generates creativity, individualism and identity, which are all needed for innovation and new product development. These cannot be measured only in money.

Digital economy

The opening session of this conference will discuss the theme 'Evolving Digital Economy'. By looking at the changes in business due to improved management of information flows, easier online transactions, better business and marketing structures, we can understand both the constituent factors and the entity of the digital economy. The ramifications of e-commerce also extend to other sectors of the economy. The desire to understand and measure the digital economy is shared globally.

People also speak of the new economy or 'knowledge-based economy', which generally mean the economy generated by information and communications technologies, or ICT.

What then is the change taking place in the new economy or knowledge-based economy? First of all, information and knowledge are genuinely becoming a factor for production. Knowledge becomes raw material and intellectual capital worth cherishing and investing in it.

There are certain aspects of these matters which are of great interest to me as Minister of Culture of a country in the spearhead of ICT development and application. Let me bring out some of these.

The production of information and knowledge, including individual and corporate innovations, and their storage and diffusion are of primary importance in knowledge-based society. A small country, like mine, has to mobilise all possible resources to cultivate and increase its intellectual capital.

The importance of intellectual property in this context has been crystallized in the WIPO Primer on E-commerce: "Copyright and related rights give incentives to creators to produce and disseminate new creative materials; the rights also recognize the importance of the contributions of the creators, by giving them reasonable control over the exploitation of those materials and allow them to profit from them; the rights provide appropriate balance for the public interest, particularly education, research and access to information; and thereby ultimately benefit society, by promoting the development of culture, science, and the economy."

E-commerce can be beneficial also to ordinary consumers and distributors. For consumers, wherever they live, the Internet gives a wider choice of information and cultural products. For authors, publishers and producers, the Internet lowers the costs of and barriers to entering the global market.

Referring to the above, digital technology, information networks, and e-commerce, open up new vistas but also increase the risk of abuse. There are indications that the Internet also has broader, global repercussions for society. Increasing attention is being paid to security questions and the protection of privacy and children.

All this requires that governments and the private sector are able to find and implement the proper combination of regulatory, contractual and technological measures affecting e-commerce and information networks.

The protection of copyright and related rights took a great step forward when the so-called WIPO Internet Treaties were adopted in 1996. Although not effective yet, they have already prompted WIPO Member States to incorporate the special demands of the digital media and information networks into their legislation. Statutes on the protection of technological measures, and the electronic management of rights, are today an essential part of the protection of authors' and other right holders' rights.

The Member States of the European Union – Finland among them – are embarking on the national implementation of the new Directive on Copyright in the Information Society. By the end of 2002, the legislation of the European Communities and its Member States should match the provisions of the WIPO Treaties, which would make ratification possible.

Content production

Every human being forms a part of the intellectual capital of nations. However, it is the inventors, innovators and creators, who are crucial for speeding up economic, cultural and social development. In many cases, their work also forms part of the capital of an industry. This is the message of the WIPO Forum held in Helsinki a year ago.

In my own country, the Government has established a large-scale programme for promoting content industries. The political focus is shifting from the building of infrastructures to content production with a human face. This means creation, innovation and distribution of cultural products. This programme also means growing emphasis on copyright. It is the exchange of the results of intellectual efforts that ultimately creates the wealth our societies need to develop.

Promoting e-commerce means creating conditions, that is: creating a safe and stable operational environment by legislative means and promoting knowledge. One of the foremost problems and challenges in e-commerce is the need for training and education. This is true of both industrialised and developing countries.

Content production is a huge economic challenge. The value of European content industries is estimated to reach 400 billion euros this year, which makes 5 per cent of the gross European product. Thus it is as big as telecommunications and software industries together. The total European work force in the content industries is four million. If barriers to growth are removed, the digital media field could grow as much as 20 per cent annually, or twice as rapidly as the traditional creative fields.

Here, as an example, I would like to give you some researched data on the role of copyright in the Finnish national economy.

A study from 1998 concentrated on the changes of the economic significance of copyright in the Finnish economy during the past decade. One of the main findings was that copyright industries had grown substantially. The growth had been especially rapid in the software industry. Other industries, such as the audiovisual sector, advertising and visual arts, grew by more than fifty per cent.

The cumulative value added of the core copyright industries – that is industries which produce copyright protected material and would not exist without such material – exceeded four per cent of GDP in 1997. This represents an impressive growth of 41 per cent in nine years. The largest sectors in this category were the press and literature, and software and databases.

All copyright industries together, including the equipment manufacturers, represented over five per cent of the GDP. The average annual growth of all copyright industries has been twice that of the economy overall. What does this tell us?

First of all, that copyright is a matter of utmost importance to our economy. The results of intellectual creation are distributed on a large scale to users. The demand for content has grown. Publishers and distributors have been very successful in their respective businesses.

Secondly, rights have become a significant merchandise, and we have learned to capitalise on their economic value. We must bear in mind, however, that the works and industry generated by copyright – the production and distribution of content – would not exist without creative people and their rights.

Developing countries

Global development of e-commerce entails the involvement of all countries in the world. At the same time, solutions must be found to the special problems affecting developing countries. The WTO work programme sets an aim to examine all trade-related issues in global e-commerce, with special emphasis on the needs of developing countries.

The benefits accruing from e-commerce are undeniable. For instance, replacing physical objects with bit flows and trade in rights will reduce transportation and thereby save natural resources substantially. The role of the Internet in easing political controversies is as undeniable: knowledge and openness promote understanding between nations. All this enables the policy of sustainable development to be implemented for the benefit of the whole world. In the digital era no one is excluded or unattainable.

There is a digital divide in e-commerce infrastructure and the new means of trade. There is no time to lose in bridging this gap. Many of the obstacles hindering participation by developing countries have been identified. These include problems of access to modern technologies used in digital certification, electronic transactions, data protection, and the authentication of documents.

The problem of digital divide is addressed in the WIPO e-commerce programme. The prerequisites for electronic commerce include sufficient information infrastructures providing affordable telecommunications, accessible network services, computer hardware and software, technical know-how and support. But we also need awareness in local business communities of the benefits to be gained from the Internet and e-commerce, and of the consequent need to invest in human resources. The policies of governments and businesses should take account of each country's unique cultural and economic characteristics. Here, it is important to point out that the Internet provides an excellent tool for mass education and for reaching rural and other communities.

To me, the key words for a world-wide development in this context are education, information sharing and skills training.

In its resolution concerning ICT and developing countries, the European Parliament has drawn attention to the importance of eradicating these problems. For instance, there are potentially a host of opportunities through the targeted use of multi-media services for distance learning. The capabilities of telemedicine and other socially oriented services can offset gaps in coverage and be an important complement to mobile services.

We must not forget that the digital divide is today's reality in industrial countries as well. Exclusion from technological progress and the opportunities inherent in it is a real threat everywhere.

Conclusion

Ladies and Gentlemen,

The gradually growing value-added of knowledge-based industries has made intellectual property an increasingly important issue in trade relations. This led in 1995 to the adoption of the Agreement on Trade-Related Aspects of Intellectual Property of the World Trade Organization.

In this connection, I would like to note with great satisfaction that the WTO and the WIPO have had exemplary cooperation in matters concerning intellectual property and e-commerce.

One key element in e-commerce is the technological protection measures, which are various, depending on the object to be protected. In intellectual property terms, the key questions concern their legal protection. As concerns copyrights, the WIPO Treaties provide a prototype for this legal protection. One important question in national implementation of those provisions is to what extent technological protection should focus on protection against circumvention itself and to what extent on the provision of devices and products against circumvention.

With a view to developing national legislation in this respect, it would be necessary to jointly develop thoughts about how to go about building effective technological protection. The creation of policy guidelines or models would be a suitable project for WIPO.

A safe and reliable environment is a precondition for wide-spread electronic commerce. The fact is that we all – all the states, communities, businesses and individuals in the world – hold the key to the future development of the Internet as a market place. Electronic commerce involves global problems, for which we have to find global solutions.

Ladies and Gentlemen,

We are all in the centre of events.