

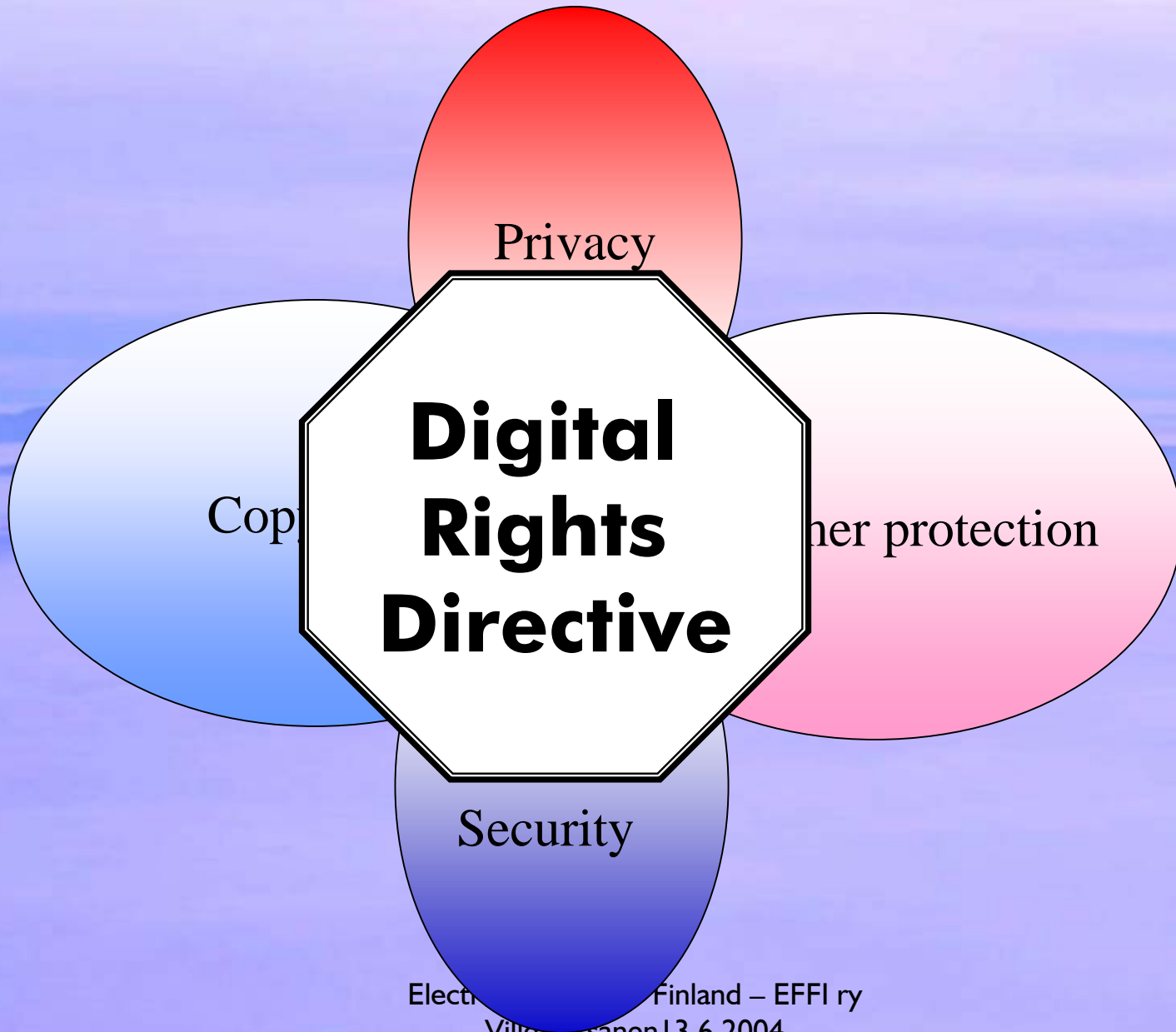
Do we need a Digital Rights Directive and does the concept make sense anyway?

EFFI what..?



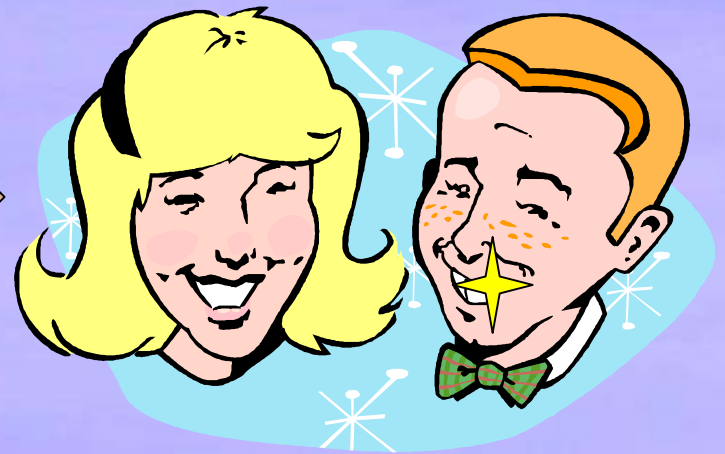
- Electronic Frontier Finland – EFFI ry
- Founded in August 2001
- Shares goals with Electronic Frontier Foundation, but no formal relationship
- ”Digital Consumer Organization”
- Approximately 600 members

What would a directive include?



The biggest benefit

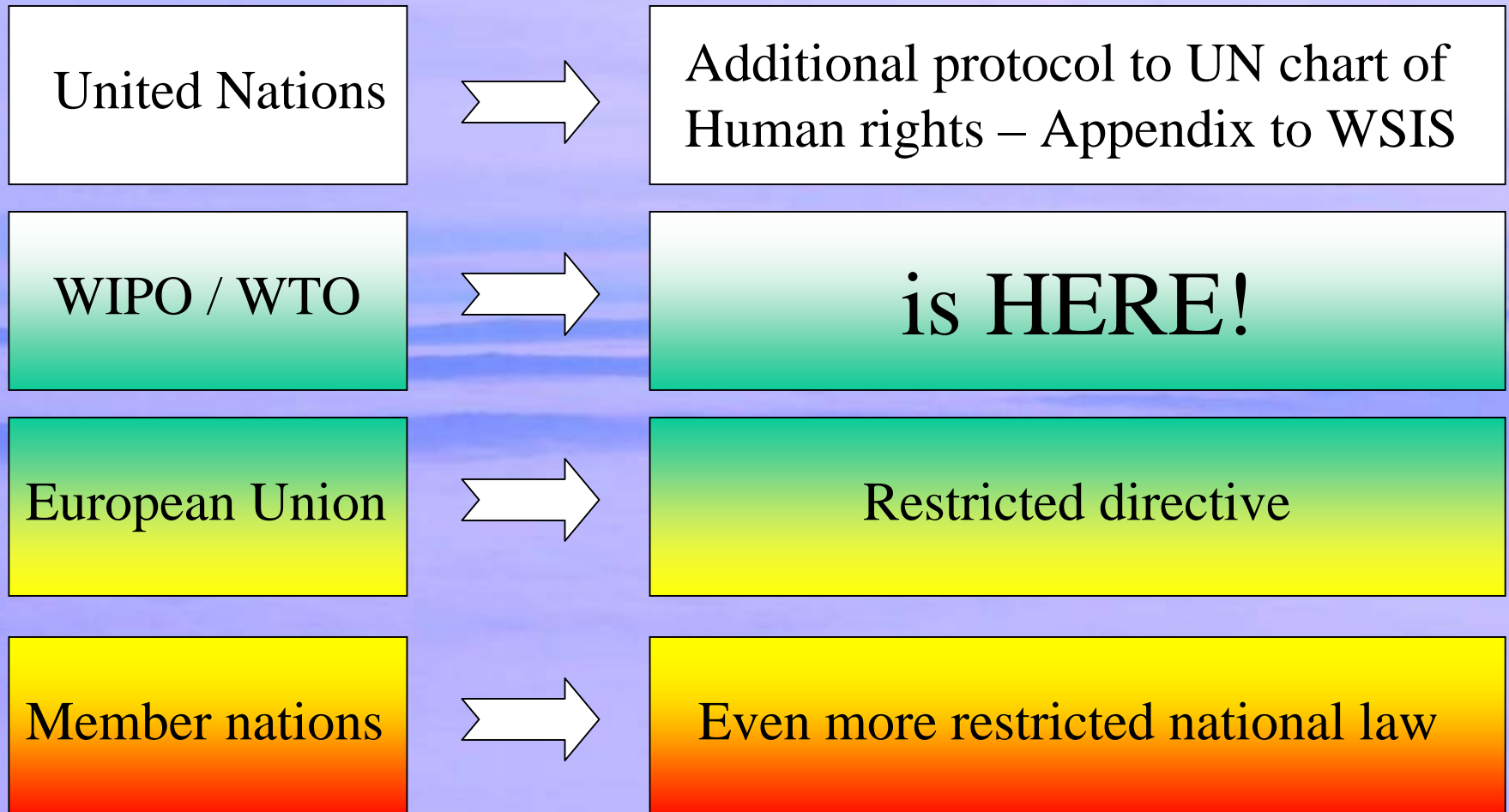
- A Digital Rights Directive (DRD) would transfer the discussion from fighting against piracy to the rights of ordinary citizens in the digital era.



Some fundamental problems

- IPRs are protected by international treaties, which can not be overridden by DRD
- The content industry is (of course) not going to be fooled by the title of directive -
> if the directive caused real changes to the national copyright laws, they would point it out (loudly).

Right place for the content of DRD?



Why consumer protection law?

- Adding new elements only to consumer protection laws == to existing legal framework enforced by public authorities
- Prohibition based approach
 - No new rights for users/citizens
 - New limitations what content industry can do against consumers

TMPs as a de-facto contract

- TMPs impose the terms of the agreement / license to users
- For example: The Unfair Terms in Consumer Contracts Regulations 1999 (UK):
 - “A contractual term which has not been individually negotiated shall be regarded as unfair if, contrary to the requirement of good faith, it causes a significant imbalance in the parties’ rights and obligations arising under the contract, to the detriment of the consumer” (5.1)
 - An unfair term in the contract by a seller or supplier shall not be binding to the consumer (8.1)

Existing consumer protection legislation..

- Commercial Agents (86/653 EC)
- Consumer Credit (90/88)
- Distance Selling (97/7 EC)
- Doorstep Selling (85/577 EEC)
- General product Safety (92/59 EEC)
- Injunctions – Stop Now Orders (98/27 EC)
- Misleading and Comparative Advertising (84/450 EEC and 97/55 EC)
- Package Travel (90/314 EEC)
- Price Indications (98/6 EC)
- Product Liability (99/34 EEC)
- Sale of Goods and Associated Guarantees (99/44/EC)
- Sales Promotions (proposed Regulation)
- Timeshare (94/47 EC)
- Unfair Contract Terms (93/13 EEC).

..will be harmonized

- EU Directive on Unfair Commercial Practice (2003/0134)
- General prohibition on business-to-consumer unfair commercial practices
- Appendix of unfair contract clauses
- Unfortunately it's too late to add specific elements from DRD (it has been already in Parliament, Council has reached political agreement)

Conclusion?

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