



CONFINDUSTRIA

ASSOCIAZIONE NAZIONALE INDUSTRIE
CINEMATOGRAFICHE AUDIOVISIVE E MULTIMEDIALI



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Contribution to the *Public Consultation on Content Online in the Single Market*

ANICA is the association representing the cinema and audiovisual industry in Italy. Members of ANICA are active in all segments of the industry, including production of films and audiovisual content, distribution of multimedia cinema, development and printing, management of studios, equipment rental, audio and video post-production, transport, production of short movies, advertisements and documentaries, export of films and TV programs and management of multiplex theatres.

ANICA welcomes the Public Consultation on Content Online in the Single Market and would like to submit its views on some of the points raised by the Commission.

1. On consumption, creation and diversity of online content (Questions 3 and 6)

Question 3: ANICA believes that the legal, technical and business environment is not sufficiently developed to allow for the full take-up of new creative content services online. The uniform penetration of broadband services is indispensable, if online content is to be distributed to a relevant number of users. It seems that, despite the efforts of EC and national authorities, high speed networks and services are not easily available to the public throughout the EU. In addition, the problem of piracy on the web is still far from being solved. For the content industry, this certainly makes traditional distribution channels more appealing than the web.

Question 6: ANICA raises serious doubts as to the self-sustainability of cultural diversity online. The success of platforms (such as Youtube or Myspace), which allow individuals to share content on the web, should not mislead EC and national authorities. ANICA believes that the necessity exists of pursuing a serious, structured and reasonably funded cultural policy. It is true that many artists and content producers are currently given the possibility to place their creations on the Internet with less resources than those required by traditional media. However, it is doubtful that the possibility of sharing content may generate the critical economic return which is necessary to support a long term activity of those artists and producers. The availability of resources is still a determining factor for the promotion of cultural diversity. In addition, it must be taken into consideration that the creation of AV content as a purely social and cultural activity is dramatically different, in terms of workflow and investments, from the creation of AV content, production and distribution as a business.

2. On new business models and transition of traditional ones into the digital world (Questions 8, 10 and 11)

Question 8: ANICA believes that distribution online (i.e. VOD) could be very interesting for the industry if security standards were assured and if platform operators considered AV content producers not only as content providers but also as partners in their activity. There should be more cooperation in planning strategies of offering, particularly concerning European content.

Question 10: while it is undisputed that the possibilities for the public of enjoying content online are constantly growing, ANICA deems that hardware and networks used for streaming and downloading content online are not sufficiently developed in order to compete with traditional TV sets and hard supports (e.g. DVDs) and be widely used by the general public. Again, a larger availability of broadband services, the development of user friendly interfaces, the creation of online distribution platforms as well as easy and secure means of payment may help the development of content online services.

Question 11: ANICA notices that a vast majority of users is not yet familiar with the fruition of content online services. The creation of user-friendly and accessible hardware (with high performances in terms of quality of images and sound) and the development of safe and efficient distribution channels, would naturally encourage content producers to make their works available online to the general public and to develop additional innovative services.

3. Licensing, rights clearance, right holder remuneration (Question 16)

The remuneration of right holders is an aspect that should be duly taken into account if online distribution of content has to develop in Europe. Online distribution makes it increasingly difficult, for right holders, to prevent unauthorised fruition or use of contents. It is therefore clear that – while Digital Right Management systems are being developed – all the parties involved should define a new system for the compensation of copyright infringements. It would be very useful to get to an agreement of fair practice between multiple platform operators and content providers on how to assess the single exploitation right value within an overall economic negotiation.

4. Release windows (Question 19)

Parties involved in the marketing of AV products agree on windows in order to organise the commercial exploitation of a work after its release in theatres. The value of a product is defined having regard to the economic results of this first placement in the market. Terms of negotiations take into account the results during this first period, therefore it is necessary that windows exist in order to guarantee the availability of correct information as to the value of a work. Against this background, ANICA believes that it is necessary to strike a balance between the opposed interests of all actors in the industry (producers, distributors and owners of theatres), which the functioning of the market can help to define. Windows should not be shaped in such a way that they become an obstacle to the creation of new services. ANICA believes that producer's platform should play a bigger role in the definition of windows. This would help to achieve solutions acceptable to all stakeholders and helpful in the fight against piracy.

5. Networks (Question 20)

While the development of Internet services is ensuring that content is delivered to the final user meeting acceptable quality standards, the cinema industry would favour the development of dedicated systems in order to offer – particularly, but not exclusively, for *premium* content – high-quality services. Dedicated or preferential services would constitute an added value for both content producers and users.

6. Piracy and unauthorised uploading and downloading of copyright protected works (Question 21 and 22)

Piracy, be it physical or online, is certainly damaging the cinema industry. Unauthorised uploading and downloading are equally damaging, since they constitute the two faces of the same token. A distinction should be made between “small” and “big” pirates only with regards to sanctions: the illegality of their conduct should not be questioned.

Campaigns organised so far didn't achieve any appreciable result in terms of awareness of the piracy problem within the public. However, ANICA is favourable to the organisation of more structured education campaigns – at the European level – targeting students of primary and secondary schools, and aimed at developing the awareness of the public on the value (economic, cultural and social) of AV contents and at promoting the respect of such contents.

7. Digital Right Management Systems (DRMs) (questions 25 to 29)

The cinema industry favours the use of DRMs systems, since these help ensuring that right owners obtain a fair remuneration for the use of their works. However, at present – and for audiovisual services – DRMs are not generally reliable. The whole issue of transparency and interoperability should be dealt with, in order to favour the widest possible use of DRMs, yet ensuring that the rights of creators and users are clearly established and protected.

8. Complementing commercial offers with non commercial services (Question 31)

ANICA supports the development of non commercial services, such as archives online as a fundamental tool for the promotion of European cinematography in Europe and beyond. Promoting access to older works from European artists would certainly raise the interest in recent productions and increase the knowledge of European cinema culture at a global level.

9 What role for the public authorities (questions 32 and 33)

ANICA believes that public authorities should – on the one hand – ensure that the rules of competition and the internal market are fully applied. There are still too many and relevant obstacles to the development and penetration of broadband to consider the distribution of content online as a valid alternative to traditional channels.

A support policy for research and development in the sector, which may help to shape (at the European level) a favourable environment for online services, would certainly be welcome.

ANICA is willing to provide additional contributions on the subject of the consultation. For further information, please contact the following address:

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