

Consultation on Content Online in the Single Market

EUROCOPYA'S SUBMISSION
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Eurocopya is the European Association of Audiovisual Producers' collective management societies.

Eurocopya's statutory members are : **EGEDA (Spain), FILMKOPI (Denmark), G.W.F.F. (Germany), PROCIBEL (Belgium), PROCIREP (France), SEKAM VIDEO (Netherlands), V.A.M. (Austria), F.R.F. VIDEO (Sweden), SUISSIMAGE (Switzerland).**

European Audiovisual producers are remunerated through exclusive rights and - more marginally - through collectively collected remuneration rights (mainly cable retransmission rights & private copy levies).

Eurocopya therefore expresses the view of the various European audiovisual producers whose rights are administered by their respective national collecting societies, founding members of the association.

Other collecting societies or organisations representing audiovisual producers, established in countries in and outside are also associated to Eurocopya's activities. They are as of today : **ZAPA (Poland), FILMJUS (Hungary), INTERGRAM (Czech Republic), DACIN SARA (Rumania), SAPA (Slovakia), TUOTOS (Finland), COMPACT (United Kingdom), SCREENRIGHTS (Australia), CRC-SCRC (Canada).**

TYPES OF CREATIVE CONTENT AND SERVICES ONLINE

Question 1

Not applicable (to the exception of Eurocopya's member EGEDA, who will launch end 2006 through its subsidiary EGEDA DIGITAL a B2B- & B2C-oriented VOD services repository & web portal for films and audiovisual works produced by its members, called "FILMOTEC").

Question 2

No. Definition of content as provided in the introduction of the consultation seems already very – if not too – extended, treating as a whole various types of content & markets which differ very significantly from each other (see below Question 7).

This applies especially to the sub-category of Online Audiovisual Media where films & TV programs as well as news, sports, videoconference and blogs/vlogs are all put together as a whole.

The present contribution will mainly focus on the following online content : film (theatrical movies) and audiovisual works (TV fiction, animation and documentaries), delivered online mainly through IPTV or VOD services.

CONSUMPTION, CREATION AND DIVERSITY OF ONLINE CONTENT

Question 3

The present environment is conducive. In a May 2006 NPA Conseil / Eurocinema / Fera Study on VOD services in Europe, main findings with regard to said VOD services were :

- **VOD is becoming a commercial reality, and the number of platforms has grown significantly** (for instance, the number VOD service providers grew tenfold to more than 40 since 2002, and 2000 feature films were already available at that time in Europe).

- **The field is open to new entrants and changing fast as a result** : besides being dominated by such traditional players as TV channels, satellite platforms and cable operators, the field is wide open to new entrants, as many other providers, coming from very different backgrounds, have jumped on the bandwagon : telecom operators (IPTV providers or ISPs, IT companies or consumer electronics manufacturers (Apple, Samsung, Sony, Kudelski, ...), music and book retailers (Virgin, Amazon, ...), aggregators which have emerged around digital distribution (such as Vodeo tv – La Banque Audiovisuelle and Zoolo Kids in France), DVD rental companies (Blockbuster, Netflix, Glowria, ...), search engines and web portals (Google, ...).
- **VOD libraries include a large variety of contents**, in terms of genres, as well as age or countries of origin of titles.

But some aspects can be improved :

- Speed of networks, broadband access: remote regions, countryside, where off line services are not always available, do not have broadband access with a sufficient speed for enjoying online services. Access to broadband services is however progressing rapidly, and most EU countries are today in the vicinity or above OECD average figures (and catching up) in terms of broadband access penetration (wether through DSL, Cable, or any other technology)¹.
- VAT should be further harmonised (see below Question 17)
- Intellectual property protection is not fully implemented, as broadband access still results in massive illegal up- and downloading of protected content. One priority should be to remedy to this situation at European and world-wide level (see below Questions 17, 18 and 21). At European level, this means effective implementation of protection recognised in the various applicable European directives (Copyright Directive, IPR Enforcement Directive, ...), in cooperation with stakeholders (telcos, ISPs, rightholders and consumers). Drawing on the arrangements set out in the European Charter for the Development and the Take-up of Film Online, the Commission should provide a framework of appropriate measures soon.

Question 4

Adequate protection of public's interests (privacy, access to information) needs to be ensured in the online environment. Balance between said general public's interests and other private interests (such as intellectual property rights protection) seems adequate, and should be maintained. Such protection seems adequately implemented through specific monitoring & control bodies such as those represented within the "article 29 group" of Directive 95/46/CE on personal data protection, as well as consumer organisations (both at European and national level). However, in the particular field of the fight against piracy, where everybody acknowledges the need for proportionate responds, one should grant ISP adequate means to cooperate with content providers. For example, ISPs should be authorized to send alert messages to clients who download illegal files to a very large extend.. This should not be considered as a privacy-related offence.

Question 5

Interoperability is a major concern for both consumers and rightholders :

- Consumers need to be adequately informed about the exact level of interoperability between various content and devices, as content and devices are today often linked (for instance iTunes online

¹ See Appendix IV.

platform and iPod devices). They also need to be recognised some possibilities of private copying that does neither challenge what was deemed acceptable in the analog world, nor infringe copyright. Such private copy facility should in return be remunerated to the benefit of rightholders.

- For audiovisual producers, interoperability is a key condition to favour increase of online services' revenues, as it extends the potential market.

But interoperability cannot be an argument to challenge copyright protection, by justifying for instance circumvention of technical protection measures and/or non-authorised uses of works.

The development of global systems as stated in recital 54 of the Copyright Directive should not hinder the national/territorial exploitation of audiovisual works.

Question 6

Cultural diversity is not self-sustaining. History of the European audiovisual market has proven the necessity to be fostered. This also goes for the online market. Illegal "peer to peer" (P2P) file sharing figures give an idea of what consumer habits may be without any regulation of online offered content : most of the demand regarding video will be concentrated on pornography and blockbusters. Such is self-generated "cultural diversity" on the web !

Accessing the online environment has specific related cost : digitalization of content, storage, transcoding, editing of EPG (Electronic Program Guides). Instruments permitting sharing those related cost should be encouraged.

But most of all, such as in any traditional audiovisual markets (movies, DVD, ...), the online market will be mostly driven by offer rather than demand, and consumption will therefore be driven by the way audiovisual content has been exposed (for instance in EPGs) and promoted. Some regulation of online content offers may be needed, such as envisaged in the revised TVWF (yet Media Without Frontier) Directive (see also Question 7 below).

In particular, evolution of VOD services seems to indicate that - considering the strong increase of platforms and films & programs offered by said VOD services - public's choice will be made to a great extent by reference to - or means of - Electronic Program Guides (EPG). It is very likely that, in the battle for access to content, EPG (and search engines) will play a key role. They will become promotion and marketing tools. It is necessary for the European audiovisual industry to know if it will have the financial capacity to take its relevant share in that market.

Favouring online cultural diversity would first imply monitoring of said EPGs in order to appreciate the share of offered European content, the way it is exposed and promoted (in order to prevent said European content to be overwhelmed by non-European offers investing massively in promotion and marketing, thus concentrating demand on a limited number of titles, such as what is already the case in the off-line environment).

Currently, the development of VOD is taking place on a country by country basis². Like other means of distributions of films, the national market represents the relevant market. This has the advantage of inserting VOD services in the applicable national "chronology of media", and enables to protect as much as possible other exploitation windows (theatrical releases, DVD, Pay TV, ...).

At the same time, VOD national offerings are not symmetrical. They vary to a great extent from country to country : in some countries, said offers include a great share of European films, which is not the case in other countries (see Appendix I).

² Under the reserves of our comments under Question 14, where we mention global actors.

COMPETITIVENESS OF EUROPEAN ONLINE CONTENT INDUSTRY

Question 7

It is difficult to globalise as it is suggested by the Commission in this consultation document : there is no “online content industry” as a whole. The latter is by essence of multiple origins : online music rights, press, audiovisual works, feature films, sport programs, etc., all these various contents are related to different industries and economies that can not be aggregated in one single paradigm such as “online content industry”. Like said before, present contribution will only address content such as feature films and other audiovisual works.

One characteristic of the film industry in Europe is its segmentation in national and sometimes regional entities. The national market is the primary market, and very often the only market where film production costs will be financed and recouped by exploitation in successive “windows” (movie theaters, then DVD, Pay TV, Free TV, ...). Linguistic barriers contribute to this segmentation. Only a handful of European films benefit from a broader market (pan-European or international)³

In theory, VOD services could facilitate access to European works that are not being released in theaters or broadcasted on TV in neighbouring countries. However, one characteristic of audiovisual and cinematographic industries is the fact that consumption is mainly conditioned to marketing and promotion : it is an economy where offer is constituted by a great number of prototypes which are in competition for access to the market (said market being narrow when one bears in mind that for instance, in average, people in Europe only go 2,5 times a year to the movies).

Therefore, although VOD services may technically enable potential access to a greater number of films, the problem remains if said films are not promoted, and therefore not raising the interest of the public in order to watch them online. It is therefore unlikely that VOD services can revert the present trend of both off-line and online markets where blockbusters = marketing & promotion = concentration of consumption & revenues on a limited number of titles.

NEW BUSINESS MODELS AND TRANSITION OF TRADITIONAL ONES INTO THE DIGITAL WORLD

Question 8

The online services should bring the film and TV industries additional revenues. But said online revenues will also partly cannibalise the revenues generated by current means of exploitation of audiovisual works. Furthermore, for the reasons explained above, most European stakeholders on the audiovisual market will not be in a position to organise pan-European release and promotion of online services (such as is the case today for theatrical release of a movie for instance).

Therefore, the online services should be developed in accordance with basic guidelines such as territories and release windows, in order to adjust as smoothly as possible to existing traditional exploitation windows and markets. These services should then create globally additional revenues and maintain as much as possible existing pre-financing of the European film and audiovisual production

The objective is therefore to develop profit-making online services in each territory. Being pan-European is not an objective as such.

³ See top 20 for year 2005 in appendix II.

Regarding education rights and lending rights (schools and libraries), it is necessary to assess how those exceptions to exclusive rights, once being developed online, could affect the normal exploitations of the works.

Question 9

Not available.

Question 10

Development of high speed secured broadband networks is essential. Such is the current trend in all EU countries, explaining the recent take-off of VOD services in Europe.

With regard to interoperability, see Question 5 above.

Question 11

For the film and audiovisual industries, distribution on line is considered as a new exploitation window. It means that online distribution should not be developed to the detriment of other windows, but as a mean to secure additional revenues (see above Question 8).

Online distribution enables – and therefore requires – full transparency and accurate data. Transaction with the end users has to be reported on the most transparent way to the rightholders by VOD platform operators.

Development of consumer friendly DRMs enabling such management is essential, as is the development of metadata databases needed by said DRMs, such as the voluntary international identification system for audiovisual works developed within the ISO standard n°15706 (ISAN number)⁴.

PAYMENT AND PRICE SYSTEMS

Question 12

No specific opinion to express.

Question 13

Pricing systems are defined according to the rights transferred: streaming/renting, download to own, subscription, ...

In the May 2006 NPA Conseil / Eurocinema / Fera Study on VOD services in Europe, quoted above, findings with regard to this issue were that different services coexist and that business models are emerging :

- **reference prices have appeared on the market :**

⁴ See www.isang.org

They are around 5 Euros for a new film, and 2.5 to 3 Euros for an item of catalogue content. In the USA, the prices for TV series were set by Apple at \$1.99, but now other suppliers are selling the big series for \$0.99/episode on cable or satellite VOD platforms.

Moreover, discounts are usually offered with packages or prepaid cards. They can be up to 20 to 30% of the normal prices.

In some cases, films may be available at very different prices from one service to another, but competition tends to even out prices in the marketplace.

	United States		UK		Italy	France			
Example	Cable	Cinema-Now	FilmFlex	Home-Choice	Fastweb	France Telecom	CanalPlay	Tf1 Vision	Free
New film or programme	3.95 or 4.95\$	3.99 or 4.99\$	2.5 to 3.5£ (3.3 to 5€)	3.5£ (5€)	6€ or 5€	5€	4.99€	4.99€	3.99 then 2.99€
Title from catalogue	1.95 to 2.95\$	2 to 3\$	1 to 2£	2£ (3€)	4€	2.5€	3.99€	3.99€	1.99€

Source : NPA Conseil

Therefore, options such as the duration of availability for hire, the number of copies allowed, transfer onto portable terminals prove to be key factors in differentiating services.

- **several model coexist :**

Non linear services offerings and business models are still in infancy, but there seems to be coexistence of various services in terms of number of titles offered and commercial propositions.

From the virtual videostore model that tended to be the initial value proposition of VOD, one can see more and more TV content offered in a non linear way, be it for free with the support of advertising or premium subscription, for a 1 to 2 euros charge or for a monthly flat fee.

Model	Type of Content	Type of Offer	Provider	Example
Virtual Videostore	Films	VOD ou SVOD	Right holders or agregators	Canalplay, Movielink, FilmFlex...
Enhanced TV	Films, premium programs	SVOD	Premium channel or with strong content	HBO On Demand, Premiere Direkt+, Disney (with Kudelski)
Non linearTV	TV programs	VOD ou FOD	Broadcasters and TV channels	France Télévisions with the serial « Les Rois Maudits », ABC on iTunes, M6
Pay TV Distribution	Various : Films, TV, Music, kids, others ...	Tous : VOD, SVOD and/or FOD	Telco, cable operator..	Comcast, Homechoice
Special interest or Long Tail	« niche » (specialised) content	Tous : VOD, SVOD and/or FOD	Internet platform	Vodeo, Google

Source : NPA Conseil [VOD=Video On Demand; SVOD=Subscription-VOD; FOD=Free On Demand]

LICENSING, RIGHTS CLEARANCE, RIGHT HOLDERS REMUNERATION

Question 14

European-wide licensing supposes European-wide promotion, which is probably unaffordable for most European stakeholders (see also Questions 7 & 8 above).

As long as VOD services are developed on a territorial (country by country) basis in order to be adapted with other – traditional – means of distribution and broadcasting of audiovisual works, there is no need for right holders to envisage pan-European licensing or authorisations : the multi-territory (or *a fortiori* pan-European) licensing is not an objective as such. Ad hoc aggregating instruments can perfectly deal with territories and windows, and secured geo-localisation DRM systems are already available.

Interested parties in VOD exploitation rights (telcos, ISPs, cable and IPTV broadcasters, VOD platform operators, ...), although sometimes global actors, need to clear right for the relevant national market, and not necessarily for the whole European market.

The VOD market in Europe presents a great variety of mainly national oriented actors :

- telecom operators (telcos) and internet service providers (ISPs)
- cable operators
- satellite platform operators (BskyB in the UK, TPS-Canalsat in France, ...)
- Free TV and Pay TV channels (TF1 and Canal+ in France, Première in Germany, ...)

But besides national actors, some groups tend to be involved in international activities and combine local as well as global strategies :

- rightholders and content providers (US studios and European majors)
- content aggregators, independent or not (SF Anytime, Filmflex, ...)
- web portals and search engines (Google, Yahoo!, ...)
- electronic goods manufacturers (Apple, Sony, ...)
- computer and software companies, including platform, conditional access systems and DRM system providers (Microsoft, Kudelski, ...).

Question 15

There are no major problems in rights clearance specific to online services. The major problem is assessing what can be the appropriate release window compared to pre-existing windows and their respective - often very significant - contribution to the financing of the European audiovisual production (see also Question 19).

Film and audiovisual producers are responsible for the exploitation of the works they produced. In order to do so, the exclusive rights of the different participants have to be transferred to the producers⁵. Existing presumption of transfer of rights could also be automatically extended to on line distribution provided the producers grant the licensors a fair share of the new revenues.

Question 16

Online distribution is governed by exclusive rights implemented by DRMs. This is not to be mixed with levies which compensate an exception to said exclusive rights, such as the exception for private copy. Levies have not proven to be an obstacle to the development of online services and related devices, to the contrary. Levies are actually complementary to DRM's : they legitimately compensate rightholders for usage of protected works than cannot or will not be managed or prevented through DRMs.

⁵ This is for instance what has been achieved for French fiction works through the 1999 agreement between French producer organisations and SACD regarding authors' remuneration on Pay Per View and VOD exploitation.

See specific EUROCOPYA contribution to the public consultation on “Copyright levies in a converging world”, attached under appendix V.

LEGAL OR REGULATORY BARRIERS

Question 17

- Fiscal measures

Variation of VAT rates between online services and off-line goods & services is creating discrimination. In general, VAT rate for theatrical release and Free TV broadcasting is a reduced or even zero rate. This is also the case in some country regarding Pay TV (for which a reduced rate is applied)⁶

It is clear that the introduction of a standard (not reduced) VAT rate for VOD services tends to hamper the development of this emerging market. Alignment of said VOD services’ applicable VAT rate on those applied to theatrical release and TV broadcasting should be envisaged : a systematic approach aiming at favouring consumption of cultural goods and services by reducing the VAT rate should be proposed.

- Intellectual property regime

The intellectual property regime (IPR), provided by international WIPO treaties signed by the European Union, does not constitute a barrier hampering the development of creative online services, to the contrary : IPR constitutes the exclusive protection benefiting to rightholders and their works in order to protect their investments and patrimonial rights. IPR is therefore a key element in the protection and renewal of investments in produced protected audiovisual content. Without such produced new audiovisual content, most new online services would become pointless and unattractive to consumers.

Question 18

Not concerned. See specific contributions submitted by national producers and other rightholders representatives.

RELEASE WINDOWS

Question 19

As explained above, “release windows” are applicable to the audiovisual industry, and especially the film industry, and are still making sense for the online market.

Below are the current release windows for DVD and Pay Per View (in months compared to theatrical release, unless otherwise specified), and the situation of the VOD release windows in various European countries, as stated in the NPA Conseil study quoted before⁷ :

⁶ See appendix III : VAT rates applied to cultural goods, as established by the European Commission, with the following correction to be noticed for France : VAT on Pay TV is actually 5,5%, and not 19,6% as wrongly stated.

⁷ NPA Conseil – « Development of VOD in France and in Europe » - May 2006, page 71.

	Video	VOD	Pay Per View
Germany	6	9-10, case by case	9-12
Austria	6	Like PPV	8
Spain	4-6	Case by case	12
Finland	6	Case by case In general DVD+90 days, sometimes 45 days or less	9
France	6	circa 7,5 (33 weeks)	9
Hungary	6	-	N/A
Italy	3-6	Case by case	
Poland	6	-	N/A
Portugal	12/6	Case by case	N/A
United-Kingdom	3-6	In general DVD +90 days, more and more DVD+60 days or less	8

Release windows result from territorial exploitation of rights and the necessity for each participant to recoup its investment in the production. It is therefore absolutely necessary, in order to maintain cinematographic production, that these windows be maintained, although they can evolve in time one compared to the others.

Abolition of release windows may only concern catalogue films (movies released theatrically since a couple of years and which have already been edited on DVD and broadcasted on Pay & Free TV), or some movies with a limited potential. In any case, fixation of release windows should result either from national regulations, or inter-professional agreements, or the decision of the rightholder.

NETWORKS

Question 20

Legal services should benefit from a more favourable treatment. They should be excluded from the quota part of the access providers' commercial offer. For example VOD legal transfer of bytes should not affect agreed authorised quota of byte's transfer.

PIRACY AND UNAUTHORISED UPLOADING AND DOWNLOADING OF COPYRIGHT PROTECTED WORKS

Question 21

On line legal services can be a mean (but not the panacea) to fight piracy by offering the consumer best quality services.

Uploads determines downloads. Uploading is therefore to be considered as a priority in the fight against piracy, although no distinction can in principle be made between upload and download in terms of damages caused to copyright holders.

Distinction should also be made between small and big pirates, occasional downloaders and mafia networks, but such is already the case in European case law.

Cooperation with telecom operators and ISPs should be sought. Drawing on the arrangements set out in the European Charter for the Development and the Take-up of Film Online, the Commission should provide a framework of appropriate measures soon.

Question 22

Education is one of the various dimensions of the fight against piracy and illegal file-sharing. But awareness-raising campaigns may have huge costs. A specific program could be therefore be developed at European level to support Members States and/or right holders' initiatives.

Question 23

Peer to peer is a technique enabling bandwidth savings and quicker downloading of voluminous files. Peer to peer can support illegal services as well as legal services, for instance if coupled to appropriated DRMs (see recent deals between US studios and former illegal P2P file-sharing software editors, such as Bittorrent), or if used for dissemination of promotional free audiovisual content.

What is refused by producers (as well as by almost all the other rightholders) is the option once proposed in some countries in order to legalise unauthorised P2P file-sharing through a legal license or any other similar form of expropriation of rightholders. Such an expropriation would be in contradiction with European and international law (Berne convention and WIPO treaties), irrelevant from an economic point of view (especially regarding the film industry which depends on pre-financing by TV channels, and which is characterised by the existence of release windows such as described under Question 19 above).

RATING OR CLASSIFICATION

Question 24

Rating or classification of content is meant to protect children from works not adapted for certain viewers. Ratings and classifications result from national sensibilities, and vary as well in the regulation process itself (self-regulation, intervention of public authorities, ...) as in the results (ratings may vary from one country to the other). This might apply to new online services as much as it does to traditional distribution means of audiovisual content, but it has in principle no incidence on circulation of works, because it only limits access of certain consumers to certain works.

DIGITAL RIGHTS MANAGEMENT

Question 25

DRMs are online legal service's basic instrument. They ensure territorial exploitation of works and adequate – although never full – protection of content against audiovisual piracy.

Question 26

Legal services are emerging in a world where illegal up and downloads are ubiquitous, and where digital content not protected by DRMs is already widely spread.

One can say that legal online services are supported by robust DRMs, but these DRMs will unfortunately never enable to deter illegal transfer of files with protected content over the Internet.

Question 27

DRM's penetration rate is following online services penetration rate. VOD is still in its early age. The existing offers are sufficiently transparent and user-friendly.

Question 28

Eurocopya supports the introduction of copy protection measures. Copy protection measures are accepted as long as they do not challenge the private copy exception as it was recognised under the analog off-line world. Allowed private copy possibilities should derive but not exceed what was allowed in the analog environment (for instance as far as audiovisual works are concerned, private copy should be left possible from TV programs, but forbidden from DVD, as it was the case for VHS tapes protected through Macrovision analog technical protection measures), and should be compensated for through appropriate levies.

Question 29

DRMs are not the universal panacea. As DRMs can manage remuneration attached to certain exclusive rights, levies are the only appropriate possibility to remunerate exceptions. Rightholders need both. It is not and it will never be a black and white situation. Consumers have acquired a kind of private copying playing field they want to protect. Levies provide the opportunity to maintain the exception while DRM's provide the opportunity to exploit exclusive rights.

COMPLEMENTING COMMERCIAL OFFERS WITH NON-COMMERCIAL SERVICES

Question 30

Opening of archives online can contribute to global promotion (and therefore development) of the new online market (see for instance the huge success in France of the INA FOD platform), but said "archives" **must remain limited to public domain works.**

If envisaged as an exception to exclusive rights, non commercial services (which should be strictly defined) and exploitation online of archives (which should then be limited to public domain works) should be analysed in view of the "three step test".

WHAT ROLE FOR EQUIPMENT AND SOFTWARE MANUFACTURERS

QUESTION 31

Manufacturers have already cynically taken real advantages from broadband development and accompanying illegal file downloading habits. This goes both for European and non European manufacturers, but the case of Philips (which sold its content providing affiliate Polygram in order to develop goods benefiting from illegal file sharing such as CD burners or DivX compatible DVD players) is well known.

For the rest, manufacturers have different approaches (see our comments under Question 14 above), but it is difficult to see where the specificity of European manufacturers could lie. All of them are taking full advantage and benefit from existing private copying exceptions in Europe by introducing new media and devices dedicated to private copy. Some of them, mostly non-European, are launching on line services which support the selling of their proprietary devices (Apple, and lately Microsoft; same deals also exist – but based on non-exclusive terms – between European-based companies such as Archos for electronic goods and Canalplay for online content platforms).

They now want to increase even more their revenues by convincing the European Commission to implement a phasing out of the existing private copy levies (which they allege are an obstacle to DRMs and online services).

WHAT ROLE FOR PUBLIC AUTHORITIES?

Question 32

Development of fast broadband networks is as essential as ensuring the production of European content. It should continue to be encouraged if focussed on enabling some categories of the European population to access legal online content. There should be a clear support from national and regional administrations to both promote legal online content implement policies enabling to tackle appropriately with illegal offers (see Question 21 above). Awareness-raising campaigns against illegal offers and piracy could also be developed at European level in cooperation with said national and regional administrations (see Question 22 above).

Public authorities should maintain a balance between the different stakeholders and prepare a playing field where new entrants could be welcomed.

Content production needs adequate financing. As a reminder, private copy levies – which are more and more explicitly challenged by the European Commission – brings about 300 Million Euros per year to the audiovisual industries. Instead of supporting the “phasing out” of the levies, Public authorities at national and European level should enforce the market to develop a fair revenue sharing system between the manufacturers, the operators and the content providers. Through DRMs and levies.

QUESTION 33

The market for video on demand services represents a cultural and commercial opportunity for the European film industry. The growing number of video on demand services reflects the public’s interest in this mode of consumption. However, the offering of European films is uneven, depending on the video on demand services provided and the countries covered.

The Media programme 2007-2013 should contain a specific action devoted to video on demand, intended to make available the catalogues of rights to European films, facilitating the clearing of rights, the making available (media and standardisation adapted to online distribution), availability of language versions and facilitation of upward flow of revenues.

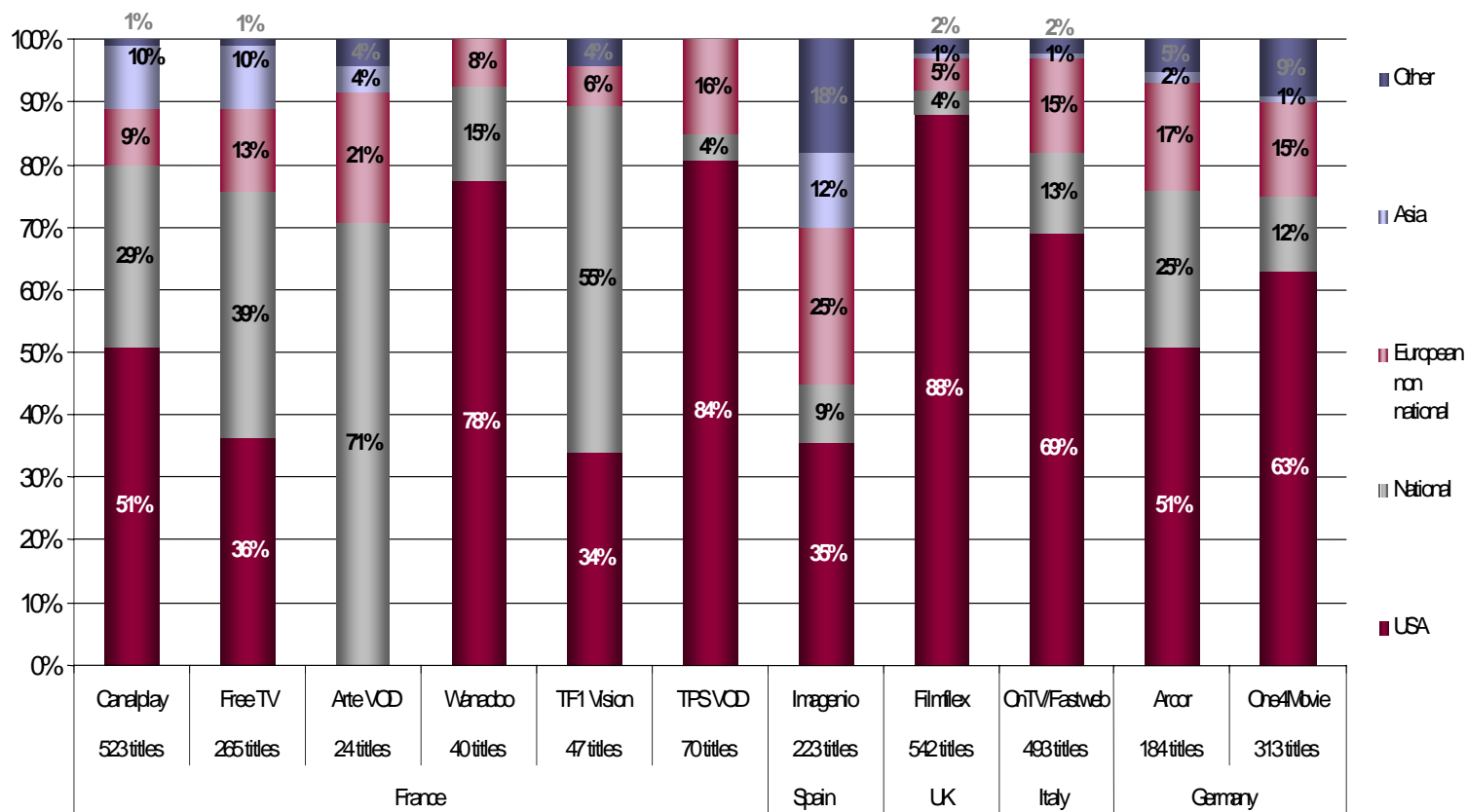
Such support should enable the shortcomings in the offering on certain services and in certain language areas to continue to be corrected. Such support should be formulated so as to be an incentive for rights holders to make available European works.

In parallel, developing an *ad hoc* program to finance fight against piracy and awareness-raising campaigns should be put up at European level.

Finally, terminating pending debate opposing levies and DRMs could only contribute to a more constructive cooperation between creative industries and IT industries in order to develop content online.

Appendix I

VOD libraries in Europe, by country of origin (feature films only, based on February/March 2006) :



Source : NPA Conseil

Appendix II

Admissions to European films distributed in Europe (2005)

Provisional ranking drawn up from data available for twenty-four European countries, including Turkey (analysis of approximately 85% of admissions in the twenty-five Member States of the European Union). This list does not cover films made in Europe with the aid of American investment.

	Original title	Country of origin	Year	Director(s)	Admissions
1	Alexander (1)	GB / FR / NL / US	2004	Oliver Stone	7 497 599
2	Pride and Prejudice (2)	GB / FR / US	2005	Joe Wright	4 728 894
3	Brice de Nice	FR	2005	James Huth	4 585 203
4	La marche de l'empereur (2)	FR	2004	Luc Jacquet	4 258 873
5	Der Untergang (3)	DE / IT	2004	Oliver Hirschbiegel	4 111 463
6	Oliver Twist (2)	FR / CZ / GB	2005	Roman Polanski	3 951 108
7	Torrente 3, El Protector	ES	2005	Santiago Segura	3 551 138
8	Nanny McPhee (2)	GB / US / FR	2005	Kirk Jones	3 517 382
9	Les poupées russes (2)	FR / GB	2005	Cédric Klapisch	3 304 198
10	Bridget Jones: The Edge of Reason (4)	GB / US / FR / DE / IE	2004	Beeban Kidron	3 133 733
11	Hababam Sinifi Askerde	TR	2005	Ferdi Egilmez	2 896 425
12	La tigre e la neve (2)	IT	2005	Roberto Benigni	2 848 601
13	Match Point (2)	GB / LU / US	2005	Woody Allen	2 740 077
14	Iznogoud	FR	2005	Patrick Braoudé	2 656 819
15	Manuale d'amore (2)	IT	2005	Giovanni Veronesi	2 644 146
16	Transporter 2	FR	2005	Louis Leterrier	2 560 576
17	Palais royal!	FR / GB	2005	Valérie Lemercier	2 478 005
18	Natale a Miami	IT	2005	Neri Parenti	2 415 433
19	Die weiße Massai (2)	DE	2005	Hermine Huntgeburth	2 329 939
20	The Magic Roundabout	FR / GB	2005	D. Borthwick & J. Duval	2 247 834

(1) 2 059 208 admissions in Europe in 2004

(2) Still in distribution in 2006

(3) 5 394 361 admissions in Europe in 2004

(4) 16 231 612 admissions in Europe in 2004

Appendix III

ANNEXE 1

VAT RATES APPLIED IN EU MEMBER STATES ON CULTURAL GOODS

30/11/2004

OLD MEMBER STATES

0 = zero rate (exemption with refund of tax paid at preceding stage); [ex] = exemption

Member State	Books	Newspapers	Magazines	Admissions to cultural services, shows (cinema, theatre)	Reception of Broadcasting		On-line information, CD, records, audio and video cassettes
					TV licence	Pay TV / Cable TV	
Belgium	6 ² /21	0 ³ 6/21	0 ⁴ 6/21	6	[ex]	21	21
Denmark	25	0 ⁵ 25	25	25	25	25	25
Germany	7	7	7	7	[ex]	16	16
Greece	4	4	4	4	[ex]	18	18
Spain	4/16	4/16	4/16	7	16	16	16
France	5.5 ⁶ 19,6	2.1 ⁷ 19,6	2.1 ⁸ 19,6	5,5	2,1	19,6	19,6
Ireland	0	13.5	13.5	13.5	[ex]	21	21
Italy	4/20	4	4	10	4	20	20
Luxembourg	3	3	3	3	[ex]	15	15
The Netherlands	6	6	6	6	[ex]	19	19
Austria	10	10	10	10	10	20	20
Portugal	5	5	5	5	19	19	19
Finland	8	0 ⁹ 22	22 0 ¹⁰	8	8	22	22
Sweden	6	6	6 [ex] ¹¹	6	[ex]	25 6 ¹²	25 6 ¹³
United Kingdom	0	0	0	17,5	[ex]	17,5	17,5

² books other than material wholly or substantially devoted to advertising matter

³ Applies to daily and weekly publications only.

⁴ Applies to daily and weekly publications only.

⁵ Applies to newspapers which qualify under the thorough definition of the law (paper format, publish news – no high add or chat content, published regularly, editor is certified for journalist training, etc.).

⁶ Books not barred from sale to youth and excluding pornography.

⁷ If registered with the publication agency.

⁸ If registered with the publication agency.

⁹ Daily newspapers only.

¹⁰ Applies to non-commercial publications only.

¹¹ Member information bulletins, in-house publications and supplies made by non-profit organisations (charities).

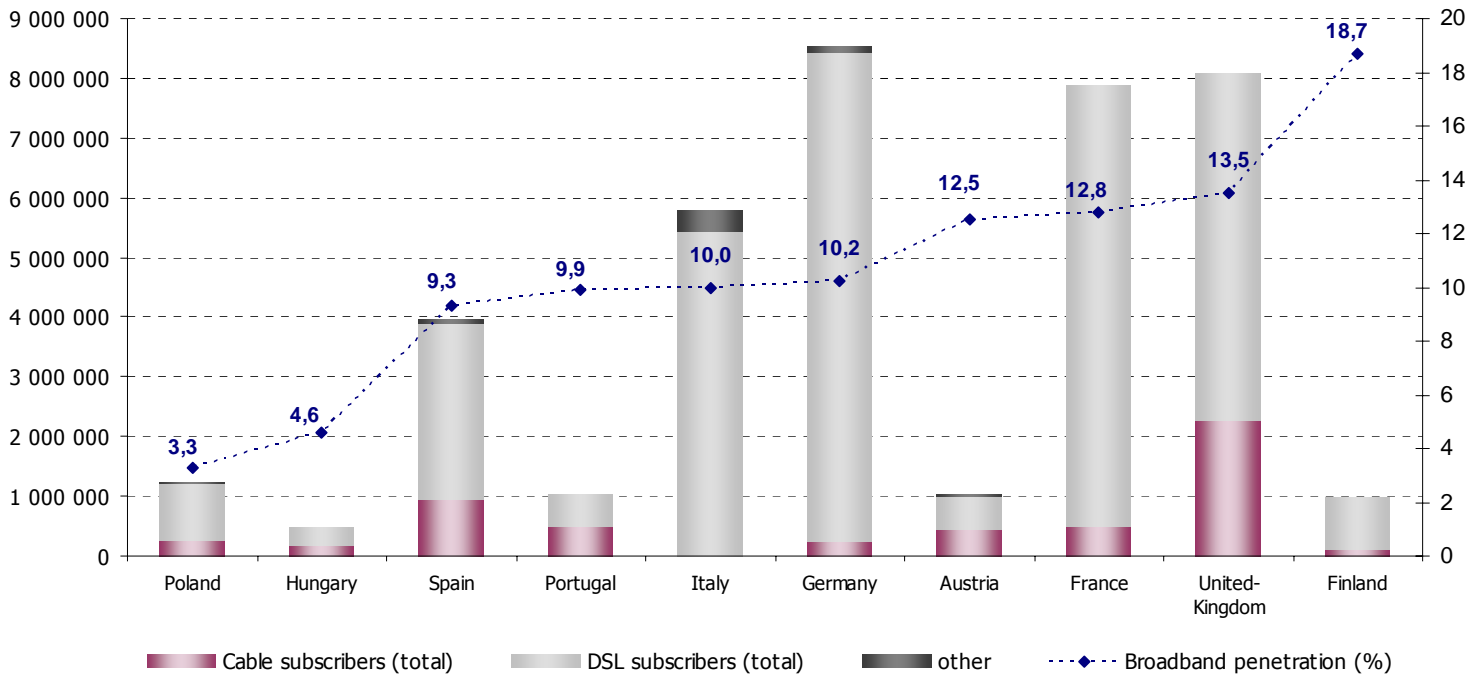
¹² CD reproducing the content of a text existing in printed form

¹³ CD reproducing the content of a text existing in printed form

Appendix IV

Broadband penetration figures in various European countries in 2005

OECD average Broadband penetration in 2005 was **11,8%** (11,8 per 100 inhabitants).



Source : OECD / NPA Conseil