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*Comments by Finnish Federation for Communication and Teleinformatics, FiCom,
on
The Public Consultation on Content Online in the Single Market*

QUESTIONNAIRE ON CONTENT ONLINE IN THE SINGLE MARKET

The Finnish Federation for Communication and Teleinformatics, FiCom, is a co-operation and lobbying organisation in the field of industrial policy concerning the Finnish communication, teleinformatics and message transfer sectors. FiCom's members are companies and other entities that operate in the communication and teleinformatics sector in Finland. FiCom's members employ approximately 45 000 employees. The total turnover from Finland of FiCom's members is about EUR 6,5 billion. FiCom represents telecom operators and internet operators, message transfer agents, data network equipment and system manufacturers, installers and administrators, software and ICT-houses, companies providing on-site ICT equipment support as well as e-commerce and e-consulting enterprises.

FiCom welcomes the consultation on Content Online in the Single Market and has used the the questionnaire document as a basis for giving the answers to most of the questions. The replies are as follows:

QUESTIONS

Types of creative content and services online

1. Do you offer creative content or services also online? If so, what kind of content or services? Are these content and services substantially different from creative content and services you offer offline (length, format, etc.)?

As you can see above our members represent different kind of businesses in the ICT sector. Many of our members' are not content providers. Our members' who act also as role of content providers can offer content via telecom operator's (our members) mobile portals or over fixed/ mobile network. The telecom operators act

in this chain as a provider of necessary means for their content provider partners providing e.g. network-capacity and billing services from them.

2. Are there other types of content which you feel should be included in the scope of the future Communication? Please indicate the different types of content/services you propose to include.

Consumption, creation and diversity of online content

3. Do you think the present environment (legal, technical, business, etc.) is conducive to developing trust in and take-up of new creative content services online? If not, what are your concerns: Insufficient reliability / security of the network? Insufficient speed of the networks? Fears for your privacy? Fears of a violation of protected content? Unreliable payment systems? Complicated price systems? Lack of interoperability between devices? Insufficient harmonisation in the Single Market? Etc.

The present environment is not enough conducive to developing trust in and take-up of new creative content services online. There are at least some important concerns which we are worried in this field:

European copyright legislation doesn't encourage the use of different kinds of platforms by online industry in Europe. Any new platform for substantially same online content or service to the same user at the same time cannot be the basis for new compensation for collecting societies. In order to encourage European level diverse online content an service offerings' competition with worldwide online content and service there is no choice for the multiple remuneration.

FiCom supports the idea of removing the main obstacles to the growth and availability of internet-based services in the EU (e.g. offering effective models for cross-border licensing of copyright-protected content in the online environment). In the Commission's consultation in summer 2006 on Copyright Levies in a Converging World, the Commission presented a number of problems within the current system of copyright levies. Our members think that new forms for right holder's remuneration should be found in the future (e.g. move towards more consumer friendly cross-border licensing systems).

We think in ubiquitous society e.g. content would be transferred through different networks in a way, where these networks would support each other and end user's terminal would be capable of choosing the best way to receive content. In general to say our current transfer rate capability is insufficient for e.g. the delivery of high bitrate content and it should be the significant theme in all Europe to improve effective data transfer rates. Otherwise bottlenecks may occur in fixed networks in relation to the last mile, if e.g. high bitrate content should be distributed.

There is too much European as well as national legislation covering online environment. The role of self-regulation among market players should get more significant role in online context. Any additional restrictive regulation would diminish development of new online content and services.

4. Do you think that adequate protection of public interests (privacy, access to information, etc) is ensured in the online environment? How are user rights taken into account in the country you live / operate in?

Yes. The protection of adequate public interests is ensured in the online environment. The usage of identification data has been precisely legislated in Finland and we think it will also e.g. provide sufficient protection for a consumer's privacy. Also the usage of personal data (e.g. credit card information) is precisely legislated and this should also provide security e.g. vis a vis a consumer's fears in relation to misuse of his credit card information.

5. How important for you is the possibility to access and use all online content on several, different devices? What are the advantages and / or risks of such interoperability between content and devices in the online environment? What is your opinion on the current legal framework in that respect?

It is very significant for the future development of European level online content and services, manufacturers of devices and users/consumers of these online content and services that all online content can be accessed and used on many different devices. FiCom considers that the user-demand is to reach any content on any device. As we mentioned earlier (answer for question 2) in ubiquitous society, e.g. content would be transferred via different networks in a manner, where such networks would support each other and end-user's terminal would be able to choose the best way to receive content.

Versatile ways to broadcast the same content are needed and in this sense the copyright owner's exclusive rights should be limited for the general good and an enriched usage of cultural inheritance. From FiCom's point of view definition of common EU principles on this issue are necessary. Basis should be derived from the rights already procured, e.g: rights for extensive broadcasting rights vis a vis population (e.g. DVB-T) should automatically cover any other possible way of transmission of content in other networks as well to the same end-users.

6. How far is cultural diversity self-sustaining online? Or should cultural diversity specifically be further fostered online? How can more people be enabled to share and circulate their own creative works? Is enough done to respect and enhance linguistic diversity?

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Competitiveness of European online content industry

7. If you compare the online content industry in Europe with the same industry in other regions of the world, what in your opinion are the strengths and weaknesses of our industry in terms of competitiveness? Please give examples.

The essential weakness of online content and service industry in Europe concerns complicated copyright structures. European level online content and services can't afford any new collecting societies, levies or other costs in competition of other regions of the world. There is no need for new roles for the collecting societies.

New business models and transition of traditional ones into the digital world

8. Where do you see opportunities for new online content creation and distribution in the area of your activity, within your country/ies (This could include streaming, PPV, subscription, VOD, P2P, special offers for groups or communities for instance schools, digital libraries, online communities) and the delivery platforms used. Do you intend to offer these new services only at national level, or in whole Europe or beyond? If not, which are the obstacles?

From telecom operators' point of view one possible opportunity is subscriptions offered by operators, because the user wants simplicity and cost-control. Question concerning how widely the new services are going to be offered we cannot give the general answer.

9. Please supply medium term forecasts on the evolution of demand for online content in your field of activity, if available.

10. Are there any technological barriers (e.g. download and upload capacity, availability of software and other technological conditions such as interoperability, equipment, skills, other) to a more efficient online content creation and distribution? If so, please identify them.

As mentioned above (answer for question 5) it is very significant for the future development of European level online content and services , manufacturers of devices and users/consumers of these online content and services that all online content can be accessed and used on many different devices. FiCom considers that the user-demand is to reach any content on any device. In ubiquitous society, e.g. content would be transferred via different networks in a manner, where such networks would support each other and end-user's terminal would be able to choose the best way to receive content.

Bottlenecks may occur vis a vis IPTV and other video-related content in fixed networks in relation to the last mile, if e.g. high bitrate content should be distributed. Current transfer rate capability is insufficient for e.g. the delivery of high bitrate content.

11. What kind of difficulties do you encounter in securing revenue streams? What should in your view be the role of the different players to secure a sustainable revenue chain for creation and distribution online?

Payment and price systems

12. What kinds of payment systems are used in your field of activity and in the country or countries you operate in? How could payment systems be improved?

The payment systems in Finland consist of traditional invoicing, bank payment, online credit card payment and mobile payment. Among the current payment systems telecom operators are actors in the mobile payment system and their role is to

transfer payments between the end users and content providers (payment service providers).

13. What kinds of pricing systems or strategies are used in your field of activity? How could these be improved?

Many online content and services are offered against a payment on subscription, licensing, pay per view basis or pay through a payment account. There are also advertising funded online content and services in the market and these online content and services are in most cases free if charge and open to access for the customers/users.

Licensing, rights clearance, right holders remuneration

14. Would creative businesses benefit from Europe-wide or multi-territory licensing and clearance? If so, what would be the appropriate way to deal with this? What economic and legal challenges do you identify in that respect?

We repeat the same answer as in question 2 which is that we agree that the main obstacles to the growth and availability of Internet-based services in the EU have to be removed. One example for this could be to introduce effective models for cross-border licensing of copyright-protected content in the online environment. The strengthening the position of complicated copyright structures (such as collective societies) should be avoided because it would only lead to increasing prices for consumers and other users of copyright.

15. Are there any problems concerning licensing and / or effective rights clearance in the sector and in the country or countries you operate in? How could these problems be solved?

Finnish ICT sector in general has faced some difficulties reaching reasonable agreements with the collecting societies and the interpretations of the copyright act vary to a great extent between parties. Some collective societies e.g. consider that if the end-user is charged with money by a third party for the usage of the third party's network, they consider such a third party automatically being a broadcaster subject to procuring itself the necessary rights to broadcast content, even though in effect the third party would be providing to the content provider only the means to transfer the content to the end-user and be charging the end user for the usage of the third party's network.

The current problem in this field in Finland concerns the mobile television. The mobile television services have not succeeded so far because of collecting societies' demands for double compensation.

As we have mentioned in answer 5 we perceive that the user-demand is to reach any content on any device and over any technical platform. There should be multiple ways to broadcast the same content and in the sense the copyright owner's exclusive rights should be limited for the general good and enriched usage of cultural inheritance.

16. How should the distribution of creative content online be taken into account in the remuneration of the right holders? What should be the consequences of

convergence in terms of right holders' remuneration (levy systems, new forms of compensation for authorised / unauthorised private copy, etc.)?

As Commission presented in the Consultation on Copyright Levies in a Converging World last summer there are a number of problems within the present system of copyright levies. FiCom feels that other forms for remuneration have to be found, e.g. a move towards more consumer friendly cross-border licensing models.

Legal or regulatory barriers

17. Are there any legal or regulatory barriers which hamper the development of creative online content and services, for example fiscal measures, the intellectual property regime, or other controls?

The European online content industry cannot afford complicated copyright structure and strengthening the position of collecting societies. The ICT industry consider sometimes very difficult to reach fair and reasonable licensing contracts with the collecting societies. We feel that other forms of copyright owner's remuneration should be found.

Furthermore copyright structure should facilitate the use of various kinds of platforms and modification of works to be used in such platforms. Any new platform for relatively same online content or service to the same user at the same time cannot be basis for new compensation. The view that each new platform or distribution channel leads to a new right compensation leads back to the times when technology didn't produce new platforms or distribution channels at current pace. The view like this does not work neither in favour of the content industry nor the users. This problem Finnish ICT industry is facing with the mobile television issue mentioned above (answer for question 15).

18. How does the country you mainly operate in encourage the development of creative online content and services?

Copyright legislation in Finland is taking care of creators' rights.

Release windows

19. Are "release windows" applicable to your business model? If so, how do you assess the functioning of the system? Do you have proposals to improve it where necessary? Do you think release windows still make sense in the online environment? Would other models be appropriate?

Networks

20. The Internet is currently based on the principle of "network neutrality", with all data moving around the system treated equally. One of the ideas being floated is that network operators should be allowed to offer preferential, high-quality services to some service providers instead of providing a neutral service. What is your position on this issue?

Piracy and unauthorised uploading and downloading of copyright protected works

21. To what extent does your business model suffer from piracy (physical and/or online)? What kinds of action to curb piracy are taken in your sector/field of activity and in the country or countries you operate in? Do you consider unauthorised uploading and downloading to be equally damaging? Should a distinction be made as regards the fight against pirates between “small” and “big” ones?

Finnish telecom operators, whose role mainly are to be distributors of content, do not directly suffer from piracy.

Telecom operators do not consider that the introduction of new forms of levies is a viable alternative to compensate rights holders for downloading and private copying.

The business models of audiovisual media online content and services suffer from “online piracy”, i.e. content aggregators and search engines that build up their online business on their online content and services. These online pirates exploit the others’ content and investments for it. The traditional piracy is not an important issue yet in this field of business but there are already signs that piracy is emerging also to other areas of online content than film and music. In order to handle this problem in the future the online piracy should be treated as any other piracy. It is also needed to raise the general awareness and understanding of this phenomenon to limit the piracy.

22. To what extent do education and awareness-raising campaigns concerning respect for copyright contribute to limiting piracy in the country or countries you operate in? Do you have specific proposals in this respect?

FiCom believes that information, education and awareness-raising campaigns will be necessary in order to increase knowledge, understanding and acceptance of the copyright system and thus helping to limit the piracy especially in a longer term. The above issues are also important as regards to finding a reasonable balance between the online content industry, creators and consumers/users regarding use of copyrighted works in online content and services. It is obvious, that the copyright system should be fair in order to get the awareness-campaigns and other ways of spreading information to work.

23. Could peer-to-peer technologies be used in such a way that the owners of copyrighted material are adequately protected in your field of activity and in the country or countries you operate in? Does peer-to-peer file sharing (also of uncopyrighted material) reveal new business models? If so, please describe them?

Rating or classification

24. Is rating or classification of content an issue for your business? Do the different national practices concerning classification cause any problem for the free movement of creative services? How is classification ensured in your business (self-regulation,

co-regulation)?

Digital Rights Management systems (DRMs)

25. Do you use Digital Rights Management systems (DRMs) or intend to do so? If you do not use any, why not? Do you consider DRMs an appropriate means to manage and secure the distribution of copyrighted material in the online environment?

DRMs are not yet widely used in our members' businesses (e.g. they are used in the sale of online music and video content). The use of DRMs is likely to increase as simpler and more customer friendly DRMs are available in the market. So far the DRMs available are expensive and very difficult to use. It is still a great challenge to guarantee that consumers can understand what they are buying and what are entitled to do with the online content. In practice the DRMs currently available create limitations to possible business models in many business sectors involved with online content and services.

Telecom operator's partners are using DRM-solutions and operators also offer their partners the usage of proprietary DRM systems. DRM-systems can be an efficient way of protecting content. At their best DRMs can help the online content industry to react to a reasonable demand by the consumers to give all consumers the equal content/service under the same terms. DRMs offer also advantages to right holders and consumers.

26. Do you have access to robust DRM systems providing what you consider to be an appropriate level of protection? If not, what is the reason for that? What are the consequences for you of not having access to a robust DRM system?

27. In the sector and in the country or countries you operate in, are DRMs widely used? Are these systems sufficiently transparent to creators and consumers? Are the systems used user-friendly?

*DRM is quite widely used for online music and video content.
Please see the answer for question 25.*

28. Do you use copy protection measures? To what extent is such copy protection accepted by others in the sector and in the country or countries you operate in?

Copy protection methods are not widely used in the fields of our members' businesses.

In general it can be estimated that the consumers do not accept the usage of such copy protection systems, if they would need to have a private copy e.g. for different devices. Instead of copy protection measures copyright legislation environment

should better facilitate online content industry's need in providing customers/users divers online content and services with reasonable and competitive terms.

29. Are there any other issues concerning DRMs you would like to raise, such as governance, trust models and compliance, interoperability?

Complementing commercial offers with non-commercial services

30. In which way can non-commercial services, such as opening archives online (public/private partnerships) complement commercial offers to consumers in the sector you operate in?

Non-commercial services are also able to offer services like opening archives online. The provider of general broadcasting service in Finland, Yleisradio Oy, opened a "living archive" for the general public of their old archived television material (<http://www.yle.fi/elavaarkisto>).

What role for equipment and software manufacturers?

31. How could European equipment and software manufacturers take full advantage of the creation and distribution of creative content and services online (devices, DRMs, etc.)?

The users/consumers of online content and services should be allowed to use European online content and services in technology neutral manner with devices, DRMs etc. that they are based on open standards.

What role for public authorities?

32. What could be the role of national governments / regional entities to foster new business models in the online environment (broadband deployment, inclusion, etc.)?

As answered before for questions 5 we think possible ways to foster new models are e.g. assuring enough ways of making the usage of content available on various devices as well as ensuring the rights of the end-user to use such content.

33. What actions (policy, support measures, research projects) could be taken at EU level to address the specific issues you raised? Do you have concrete proposals in this respect?

Some suggestions:

- *Principles for online content on any device (answers for your question 5)*
- *Reinforce general understanding and awareness of copyright and other IPRs*
- *Exchange of experiences and best practices*

FiCom is a co-operation and lobbying organisation in the field of industrial policy concerning the Finnish communications, teleinformatics and message transfer sectors. Our member are Aina Group, Alcatel Finland, Corenet, Digita, Draka Finland, Elisa, Ericsson Finland, Finnet Group, Etelä-Satakunnan Puhelin, Forssan Seudun Puhelin, Hewlett-Packard Finland, Microsoft Finland, MTV Interactive, Nortel Networks Finland, Saunalahti Group, Siemens Osakeyhtiö (Information and Communication), Suomen Erillisverkot Oy, Suomen Numeropalvelu, Finland Post, TDC Song Networks, TeliaSonera Finland, Tikka Communications, T-Systems Finland, YIT-Primatel, SW Television Oy/Welho.