



Belgique: Association des Scénaristes de l'Audiovisuel and Scenaristengilde vzw **Bulgaria:** Bulgarian Association of Film, TV and Radio Scriptwriters – BAFTRS **Danmark:** Danske Dramatikeres Forbund... **Deutschland:** Verband Deutscher Drehbuchautoren e.V. **Ελλάδα:** Ένωση Σεναριογράφων Ελλάδος **España:** Federación de Asociaciones de Guionistas del Audio-visual (FAGA), includes: Asociación Galega de Guionistas; Autores Literarios de Medios Audiovisuales; Escritors Valencians de l'Audiovisual; Euskal Herriko Gidoigile Profesionalen Elkarte; Guionistes Associats de Catalunya **Finland:** Suomen Näytelmäkirjailijaliitto - Finlands Dramatikerförbund ry **France:** Union-Gilde des Scénaristes **Island:** Félag leikskálda og handritshöfunda **Ireland:** Irish Playwrights and Screenwriters Guild **Italia:** Scrittori Associati Cinema e Televisione **Nederland:** Netwerk Scenarioschrijvers **Norge:** Norske Dramatikeres Forbund **Portugal:** Associação Portuguesa de Argumentistas e Dramaturgos **Sweden:** Sveriges Dramatikerförbund **Serbia & Montenegro:** Nezavisnost **Suisse:** Scénario **United Kingdom:** Writers' Guild of Great Britain

Attention: European Commission
DG Information Society and Media

Date 2006-10-13

Subject: Response of the Federation of Scriptwriters in Europe (FSE) to the consultation on Content Online.

Below is a completed questionnaire of the FSE to the Commission's consultation on content online.

Yours sincerely,

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FSE President

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QUESTIONS

Types of creative content and services online

Q1. 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.)?

The Federation of Scriptwriters in Europe defends the interests of scriptwriters in Europe. Script- or screenwriters provide the stories for audiovisual works: They write screenplays for radio, television, feature films and other kinds of film like short films, documentaries and films distributed by the new media via the internet.

The script is the creative beginning for all audiovisual works and content. It comes first in the production process. Screenwriters provide creative 'content' online as well offline.

Q2. 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.

Screenwriters are concerned with online content relating to audiovisual works and the online services which make audiovisual works like films and TV programmes available online.

Consumption, creation and diversity of online content

Q3. 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.

Screenwriters are in many European countries considered to be the (co-) author of their work. In this way their authors' rights as creators in the online world are safeguarded. There is the huge problem relating to payment for the exploitation of these rights by third parties and to protect content from miss-use and piracy. There are no safeguard mechanism, not even DRMs, which are proof against miss-use and piracy.

What is also a big concern is the failure and lack of legal commitment of online service providers to guarantee making for the use a proper remuneration for the use of copyrighted content. Authors are concerned that their work will be traded without them receiving any reward.

Q6. 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?

Screenwriters, like most rights-holders want their work to be seen and appreciated. Consequently, screenwriters favour the greatest possible access to consumers and the greatest possible diversity and variety for consumers. The more cultural products and the more variety and interest there is, the more dynamic the sector will be, the greater the demand and viewer interest and the greater the opportunities for creators like screenwriters will be.

Competitiveness of European online content industry

Q7. 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.

Europe's strength comes from its cultural diversity. Its rich history and linguistic diversity has made Europe a vibrant and dynamic creative space producing all kinds of artistic and creative works. Europe's films and TV programmes are seen all over the world. They are innovative rather than purely commercial, European authors deal with sensitive and topical issues relating to national and regional tastes and issues like gender, race and, politics. This variety makes European audiovisual works interesting as well as enjoyable resulting in a healthy demand for European audiovisual products. However, a weakness in Europe is accessing funds. Europe's audiovisual industry is fragmented and it has not yet been able to finance ambitious films and TV programmes to the same degree as the US audiovisual industry which is concentrated.

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

Q8. 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?

We see all distribution platforms and delivery systems (streaming, PPV, subscription, VOD, P2P, etc) being used all over Europe.

Payment and price systems

Q12. 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?

Screenwriters sign contracts with producers on the use of their work. These contracts ought to respect the rights of the author (copyright) and ensure that royalties are paid to the author. Royalties are determined according to agreements reached by screenwriters and their representatives with the producers. FSE cannot give a proper answer to this question as the situation differs from country to country.

Licensing, rights clearance, right holders remuneration

Q14. 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?

No, creative businesses would not necessarily benefit from Europe-wide or multi-territory licensing and clearances. As the licensee will, generally speaking, not have contacts all over the world nor knowledge

of every world market. It might be better for the purpose of exploitation to give out several licenses all over the world. The problem otherwise is that the licensee will probably only exploit the license for the markets that he knows of. This might be different within Europe but probably even then it may not be wise to do so: it would depend on the kind of work. Another problem might be in times of conflict about payments for online use: which law will be applicable and whom do you deal with? With world-wide licenses FSE foresees problems in this field.

Q16. 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.)?

Creators, screenwriters need safe DRM and/or a system of levies. Collecting payments for online works would best be done by collecting societies. There no other practical means.

Legal or regulatory barriers

Q17. 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 content available on line is partly created and provided by screenwriters. The income of screenwriters is based in large part on the remuneration of their rights, that is to say, the exploitation of their authors' rights. The point is that the industry looks in general at authors' rights as an obstacle to develop online service models. This is of course not true, intellectual property rights should be considered as the basis for an industry model yet to be developed. This was the stated opinion of WIPO and also senior European Commission official at the Helsinki conference in July 14, 2006 on copyright in the online world. A barrier in developing online content services is that industry seems not really prepared to pay for this new form of exploitation of content.

Q18. How does the country you mainly operate in encourage the development of creative online content and services?

FSE operates at European level, not at national level and therefore cannot answer this question.

Release windows

Q19. 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?

FSE would like to state that the distribution on different platforms might create forms of cannibalisation of the authors' work which is not in the interest of the authors nor – in the end - of industry.

Digital Rights Management systems (DRMs)

Q29. Are there any other issues concerning DRMs you would like to raise, such as governance, trust models and compliance, interoperability?

FSE is worried about the safety of DRM. There are no systems yet that can protect the work of screenwriters in a sufficient way. Therefore a system of levies is needed. Also for older works brought on the Internet screenwriters will need to be protected by levies as they do not have DRM. On top of that DRM does not guarantee proper and fair remuneration for authors.

The question should also be raised who will pay for developing safe DRM.

What role for public authorities?

Q32. What could be the role of national governments / regional entities to foster new business models in the online environment (broadband deployment, inclusion, etc.)?

National governments could help authors' organisations to raise awareness amongst the public that content does not come for free and has to be paid for. National governments could also try to seriously fight piracy and counterfeiting by punishing the culprits who violate authors' rights.