

# Response to the Public Consultation on “Content Online in the Single Market”

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As part of its continued commitment to involve stakeholders in the development of audiovisual policy, the European Commission has launched a public consultation on “Content Online in the Single Market”, which will supplement existing policy initiatives towards the audiovisual sector by adding an explicit approach to online content.

This document provides input to the consultation exercise in an individual capacity. In crafting this response, a number of thematic streams has been singled out for comment; although select items of the questionnaire are highlighted individually, it is not the intention to provide detailed answers to all of the questions raised. The object here is rather to suggest a wider perspective on possible priorities for further policy development and to highlight interconnections among the streams identified.

## **Objective and drivers of market evolution**

It is expected that the proliferation of audiovisual content will make a significant contribution to economic growth and job creation in the European economy given increased portability of content across platforms (“content fluidity”). The Commission identifies digital convergence as the key driver behind this expected development and foresees far-reaching implications for European competitiveness in what is by its structure a global content industry. In this context, it is proposed that “EU policies should aim at promoting fast and efficient implementation of new business models for the creation and circulation of European content and knowledge online.”

A number of broader thematic streams around which this policy effort is to be organized emerges from the questionnaire, cutting across its various subsections, and can be summarized in the following manner:

- Theme 1. Creation of online content;<sup>1</sup>
- Theme 2. Classification of online content;<sup>2</sup>
- Theme 3. Distribution, payment and protection of rights (esp. licensing and DRM);<sup>3</sup>
- Theme 4. Technological foundations (interoperability, equipment and software)<sup>4</sup>.

The submission concentrates on the initial two of these themes, and touches upon the latter in the context of each of them.

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<sup>1</sup> Items 1, 6, 7, 8, 17, 18, 30; note that some of the questionnaire’s items are not included under these themes due to their transversal character, while others can be assigned to more than one theme.

<sup>2</sup> Items 2, 6, 24, 30.

<sup>3</sup> Items 5, 7, 11, 12, 13, 14, 15, 16, 19, 20, 21, 23, 25, 26, 27, 28, 29.

<sup>4</sup> Items 5, 7, 10, 20, 31.

## **Creation of online content**

Availability of new distribution channels, increased capacity and emerging solutions for cross-platform portability allow for increased diffusion of existing as well as promotion of new types of content. In outlining the design of a broader Content Online policy, consideration needs to be given to the question to what extent traditional intervention designs can meaningfully be re-enacted in the online environment, taking into account the substantial differences in production volumes and diffusion mechanisms of much online content relative to traditional audiovisual production. Equally, further consideration needs to be given to the question which additional incentives European intervention can provide relative to existing support mechanisms at the level of national jurisdictions. As regards the television and film industries, research has repeatedly demonstrated that there is no shortage of European content per se; instead, limits on distribution, and licensing regimes impair more wide-spread circulation of audiovisual stock, especially as regards premium content. As broadband infrastructure becomes increasingly available throughout the Member States and network capacity increases, diffusion of content will depend on awareness building and accessibility enhancing measures (see below), as well as effective enforcement of standards of network neutrality (including competition law remedies) and sustainability of rights management solutions. While the latter could be supported through a European level rights clearinghouse based on recent experiences with the [www.cannesmarket.com](http://www.cannesmarket.com) portal (although scoping issues remain in the light of the Digital Content Observatory inquiry), major responsibility for demonstrating the feasibility of an effective pan-European rights management system rests with rights holders and collecting societies and the manner in which licensing practices are operated. In the absence of standardized rights management approaches, this remains subject to industry self-regulation, as would the necessary input to a pan-European clearing mechanism.

While acknowledging the fundamental role that technical and business considerations will have to play in advancing the online content agenda, this should not lead to policy being usurped by corresponding vocabularies that certainly provide the basis for growth, but cannot provide guidance with regard to the attainment of public interest objectives if goal functions are specified exclusively in quantitative terms. Indeed, undirected growth might prove antithetical to the goals pursued by this policy to the extent that it retains a commitment to supporting cultural diversity in the online environment, as indicated by item 6. It is therefore necessary that European interventions in favour of online content avoid indiscriminate treatment of content as a generic category; it is also necessary because of the wide variety of content awaiting digital distribution. Given the current input-based definition of cultural diversity developed in the context of the Television Without Frontiers Directive, and the possible problems associated with the expansion of this approach to online content due to underlying differences in production technique for large parts thereof, a new framework for the encouragement of European content might contemplate recourse to more content-oriented criteria, such as co-authorship or topic/genre or both; this would also be in line with increasingly differentiated consumption patterns while at the same time allowing European interventions to discharge a clear value-added function relative to existing content supply if a support mechanism were to be enacted. Given the importance that online and mobile online media are increasingly assuming in the socialization of younger media users, support to the production and distribution of appropriate content for these audiences should be included as a separate category in the forthcoming communication.

## **Classification of online content**

While creation of new content is indispensable for realizing the contribution of the online content industry to growth and employment, it cannot stand on its own. Failure to link new content to appropriate distribution channels may lead to over-saturation of some platforms, to the blocking of other avenues for content circulation and to a lack of awareness of innovative content and services on behalf of target audiences. Whereas the former two of these problems broadly concern interoperability and viable digital rights management solutions, the latter may effectively constitute the largest impediment to growth in the absence of strong brand identities to command consumer awareness. For this reason, tools and services performing guidance functions in navigating available content should constitute a strategic priority of European policies for the online environment.

One central tenet of existing policy that merits further development building on the existing regulatory framework and industry self-regulation initiatives is the development and deployment of indexing and/or labelling techniques for online content, in particular with a view to providing a safer online environment for minors. Such development could draw on previous interrogations into the possibility of cross-platform labelling mechanisms, and expand this to include multilingual content descriptors that help to increase international circulation in their own right. The creation of specialised pan-European search portals that cross-index national sites produced in other languages, which could be undertaken in conjunction with the development of such descriptors, would render existing national content more easily available to foreign audiences and by that token might be able to replicate the positive effect that the introduction of indigenous portals has had on the usage of indigenous content. This or alternative initiatives should also be used to increase the visibility of current as well as future initiatives under the eContentplus programme, including the wider online community beyond immediate beneficiaries so as to realise scope and diffusion effects upon completion of projects. Another possible way of supporting enhanced accessibility for online content would be the development of electronic translation facilities covering several or all of the Union's languages so as to aid efforts at content localisation; this could initially be developed with a limited portfolio of baseline languages into which and from which all other languages included could be translated. While not offering full direct translation capabilities among all languages, this model would greatly increase general accessibility of content in Community languages not widely spoken outside of their country of origin.

A second pertinent area of intervention for a European online content policy that builds on previous work undertaken by the Community is the extension of the Safer Internet Plus programme to focus on privacy issues. Given concerns over implementation of data protection requirements in the online environment, and especially in the context of third-country transfers, the development of privacy tags and/or labels to reflect content and service providers' approach to the protection of personal data, and possibly a corresponding enforceable obligation to display a general privacy policy statement, could help to build trust in eCommerce and online content usage. Such efforts are particularly pressing as an increasing share of the revenue stream for online services is generated directly or indirectly by minors who either are uninformed about the possible implications of releasing personal information online or lack the sensitivity necessary to gauge these risks adequately.

## **Content online in the single market**

Comments in the preceding sections have focused on the possible contribution of Community policy to improving circulation of content within the Union. In addition to joint production and specific distribution support measures, improving localisation through various support measures constitutes one of the means to increase the availability of content across borders. Yet localisation as a strategy of intervention may produce effects contradictory to the aim of furthering market integration by reinforcing adherence to linguistic boundaries that tend to reinforce the boundaries between national markets. One way of addressing this conundrum would be through the promotion of content, particularly such of an educational nature, that focuses on the issue of multilingualism (e.g. interactive content with dedicated sections for language skill acquisition); fostering an evolutionary approach to market integration like this requires particular consideration being given to youth media projects. Additionally, significant benefits of localisation efforts might be derived from a conscious internationalisation of online content to world regions with shared languages (Canada, Latin America, etc.) to increase market penetration. High-level flagship projects based on a collaborative structure under European leadership that engage topics of mutual interest may provide opportunities for growth at lower transaction costs to participating firms than full-blown conversion activities including both cultural and linguistic re-engineering; projects under such a heading should demonstrate a distinct European component to be eligible for consideration, preferably in terms of design and delivery in addition to organizational and financing requirements. Project selection could additionally be based on explicit consideration of interoperability and rights management standards. This external dimension of the single market for online content needs to be fostered with due regard to existing European schemes for international cooperation in the audiovisual industry, possibly through an integration of support mechanisms for offline and online content under one heading as support for external cooperation is extended to include the latter. In the medium term, the success of such external ventures could prove not only a source of continued growth for participants, but might also provide resources necessary for re-versioning of titles towards other parts of the single market. Project reporting requirements and/or evaluation efforts could aid in assessing the potential for such “diffusion through re-importation”- strategies.

## **Final remarks**

While this brief input paper has treated online content in a generic manner to flag up general issues of prioritisation, it is clear that the forthcoming communication will have to go beyond this and sketch out initiatives with regard to specific types of content; one part of the challenge will be to reflect on the differentiation between genuine online content and content produced for other platforms, the respective underlying business realities, and the options available to foster growth at various levels. Another will be to devise mechanisms that will make the online world a secure and trustworthy place to engage and do business in, irrespective of the particular access technology used. This implies overlaps with the wider issue of information society security, and prompts for simultaneous consideration of the results of the eCommunications review to arrive at a fair distribution of responsibilities between all parties along the internet content access chain. Finally, the communication provides an opportunity to reconsider the notion of European content, and the types of content and services that European policy should explicitly support in addition to providing the conditions necessary for new business models to thrive.