



European Commission
DG Information Society and Media
Audiovisual and Media Policies
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Gramex Finland is a copyright society that represents 29.000 musicians and 6.000 record producers in Finland. Gramex Finland promotes and administers the rights of musicians and record producers as well as collects remunerations for the use of recorded music and distributes the remunerations among those entitled to them. Gramex Finland also promotes the general conditions of Finnish performing music and phonogram production.

Some of the questions presented in the questionnaire are not linked to the daily operations of Gramex. However, we would like to present the following comments to the following questions:

- 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?**

Gramex is a copyright society that licenses certain online services on behalf of its members, musicians and records producers. At the moment the mandate of Gramex is very limited regarding to these services: Gramex licenses only simul- and webcasting on the Internet, sound samples on the Internet and background music services.

However, it is possible that in the future the mandate shall cover also other online mass uses of recordings, such as podcasting or customised internet radio services.

Our principle is that our licensing is technologically neutral: if we license certain functions offline, we license it also online and on same terms. A good example of this are background music services, the terms are same to all operators regardless of which technique they are using (physical copies, streaming through internet, satellite, etc...).

- 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.**

Overall it has taken too long for the EU to implement the necessary legal frame for the legal and creative online markets. The slowness of the process can be seen in growing Internet piracy figures and at the same time struggling starts for the legal online markets. As a result of the slow progress there is also very anti-copyright climate in most of the Nordic countries.

- 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?**

The protection of public interests is adequate in the online environment in Finland and on the contrary, sometimes it seems that privacy issues hinder investigating of online piracy. For example in Finland ISPs are not allowed to check the identity behind dynamic Internet Protocol (IP) numbers in case where right holders inform ISPs about an infringement done by one of their customer. Therefore they cannot act on right holders' notices of claimed infringements. In most of the cases a simple notice from the right holder and passed by the ISP would probably stop the infringement. Because of the lack of these reasonable ways to stop the infringement, right holders are forced to rely on criminal complaints or civil court applications for right of information from the ISP.

- 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 would be desirable and easier for consumers that the devices would be interoperable. However, we look forward to the future with confidence that the normal market mechanism will increase the interoperability.

Unfortunately the uninteroperability of devices is sometimes used as an excuse for violating the rights.

- 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?**

Own creative works of people are a strong trend (for example YouTube and MySpace). It is important to note that if you are using works of other people as a part of your own work, you need to get licenses for that. Encouraging people to produce their own creative works should not mean encouraging them to violate copyright. Copyright societies are working for creating licensing models for this kind of use.

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.

While comparing for example Finland and the United States the major reason for why the creative online industry is more developed in the United States is that the United States implemented WPPT and WCT already in 1998 which gave a good start for legal online market. In Finland rightholders got the protection of WPPT and WCT as late as in 2004.

Of course there are also other reasons: linguistic diversity in Europe, more common markets in the US, lack of capital in Europe etc...

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?

Gramex Finland is dealing in business-to-business relations. We do not need any special online paying systems since we are not licensing to customers.

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

The pricing systems of Gramex Finland are tied to the amount of use of recordings. In the future more value could be given to the profits that online operators make.

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?

The rightholders of Gramex have already established multi-territorial licensing schemes to enable multi-territorial licensing of recordings for example for simul- and webcasting and background music services. Gramex sees this as an effective tool to license multi-territorial services.

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.)?

The levy system is intended for compensating private copying from the legal sources, it should not be used for compensating illegal use. We should have adequate national and international tools to minimize the piracy and guarantee the conditions for developing a legal online music market.

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?

As stated above the online -piracy is the biggest barrier.

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

Finland encourages the use of broadband and has invested on digital TV (the analog TV will shut down in the beginning of 2007) .

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?

Gramex Finland suffers from piracy mostly in the form of illegal internet radios. Most of the Finnish operators have turned legal after Gramex has contacted them but there are some against whom Gramex is considering legal actions. It is more difficult to take actions against the operators abroad.

In general internet piracy is seriously hampering the development of legal online music businesses. The local Copyright Information and Anti-piracy Centre in Finland (CIAPC), which member Gramex Finland is, estimates, that there are over 150,000 active file shares in Finland. As in Sweden the number of Direct Connect Hubs is extremely high over 750. These hubs are almost 100 % used to upload and download copyrighted content.

In a music market such as Finland, where over 50 % of the purchased music is local repertoire, this massive infringement is threatening the music sectors' ability to invest money and resources in new and interesting talent. The local diversity of music is in danger.

Actions taken by the CIAPC to curb the piracy have mostly been criminal ones. Last year CIAPC filed over 100 criminal complaints and more than half of those were targeted to Internet piracy. At the moment the biggest shortage of curbing the problem, is the lack of quick, simple, efficient and at the same time educative and reasonable ways to stop the infringement. Creative content and services must get cooperation from other players on the online market; especially from Internet Service Providers (ISP). At the moment ISPs are making revenues from some of their customers' infringements. ISPs must take their share of responsibility in stopping infringements of the copyright protected content. As explained earlier under question 3, due to the privacy legislation in Finland the ISPs cannot act on rights holders' notices of claimed infringements.

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?

CIAPC has been involved in several educational and awareness-raising campaigns. The latest has been in co-operation with the Ministry of Education and Finnish National Board of Education an educational package to all junior highs in Finland. The package contains a comic book for students, an information booklet for teachers and webpage to support the material (www.piraattitehdas.fi).

For us it crystal clear, that the piracy problem cannot be solved without strong ongoing educational programs. There is a need to involve the younger generation of students (grades from 1 to 6) and also teachers. As the principles of copyright are much the same in the EU, there could easily be educative material, which could be used in most of the member countries.

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?

Certainly this can be possible. Still one must bear in mind that changing the landscape from unauthorized P2P services to legal ones does not happen without proper legal framework, protection for creative content and swift ways to stop unauthorized P2P services.

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 do not play a significant role in Gramex Finland's licensing activities at the moment since Gramex Finland does not license digital music sale or other online on demand services. However, we demand our web- and simulcasting clients to use robust DRMs.

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?

Yes, there are robust DRM systems on the market. However, some of them seem to be quite expensive for some of our customers.

Yours sincerely,

Gramex ry (Gramex Finland)



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