

Public Consultation on Content Online in the Single Market

Response by Nokia Corporation

This document is the response of Nokia Corporation to the Consultation launched in July 2006 by the EU Commission / DG Information Society and Media.

Nokia is approaching this consultation, as a stakeholder in the converging business environment enabled by ubiquitous networks and digital format of information, from the perspective of its main businesses of mobile devices and network infrastructure – and not as a provider or distributor of online content.

Comments and further enquiries about this contribution should be directed to:

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EXECUTIVE SUMMARY

The online content services are a prime candidate for large scale value creation and growth as digital format and connectivity already provide the necessary technical environment. Yet services grow slowly.

In this response, Nokia focuses upon the supply-side difficulties resulting in the slow emergence of services that would have sufficient appeal for wide consumer acceptance. Nokia believes that the significance and impact of these issues are, comparatively speaking, underappreciated at the current time. Demand side issues – including user trust and user convenience – are also very important but their favorable development is also negatively affected by the struggle in the ongoing value network formation.

The main contributions in Nokia's response are the following:

- Value network formation for online content services is proceeding slowly. Policymakers and industry should invest into analysis of the underlying reasons and into development of appropriate responses facilitating a faster definition of the commercial interfaces (tasks and transfers) between the value chain participants.
- More efforts are needed to deliver interoperability in practice. What matters are interoperable implementations in real products and services rather than technical standards on the books. In the area of online content, interoperability requires the support of openly available formats in services and terminals. The RTTE directive requirement for the publishing of network-to-terminal interfaces should be preserved and expanded to all Electronic Communications Networks and to content formats and DRMs.
- Network neutrality must be preserved.
- Digital online services will eclipse piracy and filesharing once service and price development offer a good value for money proposition to consumers, generally at prices significantly more advantageous than the pricing of legacy offerings such as music on CDs.

DETAILED RESPONSES TO THE CONSULTATION QUESTIONNAIRE

Nokia has chosen to respond to selected questions, those that it believes are the most important and those where Nokia's subject matter expertise provides particular insight. As several of the key themes offered by Nokia relate to multiple questions, this response is numbered independently of the questionnaire and instead references to individual questions are indicated in brackets.

- 1 (re question 3) The most important inhibitor, by a wide margin, to successful introduction and availability of online content services is business model immaturity. In most cases it is not feasible to provide online services by vertically integrated providers who would control the content, the distribution system, the communications infrastructure, the end user terminal, the ordering and payment systems etc. Instead, **a value network is needed, involving many players**. The value networks needed for each complete end user service is as yet immature. As a result, service is unavailable, is unduly cumbersome to use or has some other major end user experience deficiency, and/or is priced unattractively or lacks interoperability due to a vertical business model. What is needed is both end user simplicity/predictability and a significant degree of business interface standardization (NB not anything related to technical standardization). (re question 11) The friction between competing value chain layers, each aiming to maximize their share of the total revenue stream, continues to block deployment of services that would reach mass market penetration and deliver the network benefits of digital economy.
- 2 (re question 5) **Standards-based interoperability is paramount**. All services and all terminals should at minimum support openly available formats (including DRM) alongside other formats. The alternative to an interoperable landscape is an archipelago of isolated user communities, restricted pockets of controlled-access information and a jungle of service-specific devices that cannot utilize any other sources for digital content. In such an environment, the benefits of network economics are not realized and growth, employment and innovation will suffer as a result. Besides many other aspects, the regulatory review for electronic communications networks should keep the network-to-terminal interface disclosure requirement contained in the Terminals (RTTE) directive and extend that obligation to all kinds of Electronic Communications Networks and specifically include that obligation to include content formats and DRM interfaces. (re question 10 and question 29) **Lack of interoperability and sustained fragmentation by proprietary content formats and DRMs continues to be a significant barrier** to online services and lack of their adoption by end users. Regulatory measures should be considered regarding nondiscriminatory availability of (a) DRM technical specifications and (b) participation in DRM trust systems for distributing encryption and decryption keys and certificates necessary for trusted content distribution.
- 3 (re questions 12 and 13) Generally, **online payment systems are immature and inconsistent between markets**, and business opportunities are limited by the relatively high cost of traditional payment mediators (charge card processors like Visa) or those of online intermediaries (like PayPal, a service run by eBay). Appropriate policy responses conducive to deployment of small, cross-border online and mobile

payments should be taken into consideration also in the financial services directive reviewed by DG Internal Market. The goal ideally should be EU-wide deployment of interoperable low-cost online payment systems and/or electronic money including direct and real time debit based transactions. Future integration of such capability into customer interfaces will provide a significant boost to all online services, including online content.

- 4 (re questions 14, 15 and 17) **National fragmentation for rights clearance** is a major inhibitor of Europewide content services and corresponding device distribution. Rights clearance (licenses) for EU-wide distribution (or any subdivision thereof) should be available across Europe, ideally from multiple sources to provide healthy competition in rights clearance processing. Copyright levies (see next item) are inconsistent between Member States and in many cases punitive, harming all stakeholders.
- 5 (re question 16) **Rightsholders should be remunerated by the content distributors**, not by imposing levy burdens on device makers or by other indirect methods. Levies are an ineffective and market-distorting and fragmenting method for remuneration. Rightsholders – creators/authors, performers, producers and others in the creative end of the value chain – have a right to be compensated but, as appropriate content protection already is available and selection of protected or unprotected distribution thus is a matter of choice, levies should be entirely discontinued.
- 6 (re question 20) **Network neutrality is very important.** End users already pay for the entire capacity they utilize by consuming the services they access from their various locations. Nokia believes that is a fundamentally sound and beneficial funding and governance model for the network. Network infrastructure providers in any type of network should not discriminate between upstream sources of data streams accessed by the subscriber. Network neutrality is a fundamental need for *everything*. Innovation and service development will suffer and distribution structures will result in higher prices and reduced consumer choice if control of availability of content is dependent on the network.
- 7 (re requests 21-23 and 25-29) **DRM's major significance is to match the scope of actual consumption with the proposition offered to the consumer** - one gets as much use of the work as was paid for - not more, not less. In this way, DRM enables many kinds of business models. **Once these models mature and are priced in right proportion to the value they provide, large scale consumption of paid online content will be reality.** For instance, as protected content invariably is in significant respects constrained in comparison to previous unprotected formats (e.g. CDs), the corresponding prices of DRM-enabled content should be at a suitable discount from the legacy offerings. As this is broadly speaking not the case, digital content distribution continues to be perceived as not offering good value for money to consumers. Once value for money is provided, Nokia believes the demand for online distribution to take off very strongly. Unauthorized distribution and consumption will always be some part of the total picture but will fade to a relatively insignificant role once the DRM-enabled consumption models have developed to mature and recognized forms at prices acceptable to the consumer. This will yet take substantial amounts of time, based on observation of content industry's current levels of experimentation, so offline (physical media) distribution, besides advertising supported and public service broadcasting, will

remain the major part of total media content consumption. Nokia is deploying DRM capabilities in a wide range of devices, to enable online content consumption on its devices.

- 8 (re question 31) European manufacturers of equipment and software are ready to be a major presence in the total market once it eventually takes off. **The two most important barriers to that happening are the business model immaturity referred to in item 1 above and the continuing fragmentation referred to in item 2 above.** When these two issues are fixed, the market dynamics will change and tremendous growth will follow.
- 9 (re questions 32 & 33) Public authorities should focus on the continuing friction and fight for control in the transforming business environment which is preventing consumer-friendly and interoperable services from coming available to EU-wide consumption. This phenomenon is a **naturally occurring struggle in times of major systemic disruption**. The transfer of content services to online environments is a perfect example of such a disruption. Research of the problem and **development of policy responses, both by industry and government**, is called for. It makes a huge difference to European competitiveness and national economies whether the value networks necessary for emergence of large scale online services take a further 5 or perhaps 10 years, or more, to form. Much can be done to speed up the definition of the necessary commercial interfaces (tasks and transfers) between the value network participants and thus enable them to base the value network on appropriate transactions at competitive price levels.