To :   EUROPEAN COMMISSION
Information Society and Media Directorate-General

Re: **Public Consultation on Content Online in the Single Market**
July 2006

The comments of the Swedish Public Service Television Broadcaster,
Sveriges Television (SVT) on Content Online

QUESTIONNAIRE

TYPES OF CREATIVE CONTENT AND SERVICES ONLINE
For the preparation of this consultation, the Commission has identified the following types of creative content and services:
– **Audiovisual media online**
– film, television programmes, documentaries, news and blogs/vlogs, videocasts, series online, sports online, etc.;
– Music online (music downloads, ring tones, video clips etc.);
– Radio online (for instance podcasting, radio programmes, news, sport, etc.);
– **Games online** (such as Massively Multi-player Online Role Playing Games);
– **Online publishing** ('printed' material/books/newspapers online, etc.);
– **Educational content**;
– **Other creative online services** (cultural information, etc.).

QUESTIONS
Types of creative content and services online
1. Do you offer creative content or services also online?
- Yes
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.)?
- They essentially complement and extend the availability of the broadcast SVT offer, as follows:

- We stream most of the original SVT TV production (all factual, leisure and news production, culture except for feature film) and parts of our archives, both clips and entire programmes.
- We complement our broadcast programmes with extra material on related themes online.
- We invite our audiences to a dialogue on topics related to our programmes.
- We offer personalized services linked to current themes (test your knowledge on xxx, see which political party matches your opinion profile etc).
- We also create public service online journalism, faithful to our remit but not necessarily connected to any given broadcast programme.
- All streamed material is accessible through Windows Media Player and Real Player.
- A limited selection of programmes are podcast.
- In sum, SVT has been and will be a strong promoter of the online content market in Sweden, fostering our audiences to find content of their choice on TV, PC and mobile devices.

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.
- No.

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?
- No, the copyrights issues must be settled for the present distributions techniques.
If not, what are your concerns:
Insufficient reliability / security of the network? - No
Insufficient speed of the networks? - No
Fears for your privacy? - No
Fears of a violation of protected content? - Yes, a DRM system is a must
Unreliable payment systems? -No
Complicated price systems? – Yes, only flat rate pricing will be accepted by consumers.
Lack of interoperability between devices? Yes, too complicated to connect PC to TV, i.a.
Insufficient harmonisation in the Single Market? Etc.
- Concerning requirements on the legal environment, from a public broadcaster's point of view the existence of extended collective licenses (of which there are almost 40 years of experience in the Nordic countries!) is essential.

The Commission Recommendation on the management of copyright for music online is very confusing for the public broadcasters. Since public broadcasters through their remits generally have an obligation to serve the general public with content on line and deal with a great number of rights each day, a collective management is a must, if rights are to be properly cleared.

Music rights clearances become totally inoperable if rights are to be sought for all the right holders or organizations that might operate exclusive rights as a consequence of the recommendation!

According to the Directive 2001/29/EC on the harmonization of certain aspects of copyright and related rights in the information society, recital 18, the directive acknowledges management of rights such as extended collective licenses (which are considered as mere administration of rights and thus being in accordance with the Berne Convention). Recital 26 furthermore states that collective licensing arrangements are to be encouraged in order to facilitate the clearances of rights to commercial phonograms regarding the making available in on-demand services by broadcasters of their radio or television productions incorporating music from commercial phonograms as an integral part thereof.

Though the Commission recommendation referred to above obviously was not intended to be applied to public broadcasters' services to the general public, the recommendation still causes confusion with respect to its applicability. Not only is there a need for clarifications here to avoid further misinterpretations, but extended collective licenses should furthermore be recognized as an important tool, not only for broadcasters with a public remit, but also in course of the i2010 Strategy/digital libraries initiative, giving the public access to its cultural heritage.

Extended Collective Licenses ("ECLs") have played a crucial role in the Nordic Countries, ever since they were introduced around 1960. They are generally held by both broadcasters and right holders to be an important tool to clear the rights for broadcasting and for making content available, since ECLs strike a balance between interests and facilitate use to the benefit of both parties.

ECLs are built on a legal extension of agreements with representative collective organizations. According to the existing ECL on broadcasting rights in the Swedish Copyright Act, the right to use pre-existing works created by non-members is granted to the broadcaster through the legal license. All right holders are of course entitled to remuneration and all the right holders who wish to withdraw their individual works from the legal license's extension of the authorization to include their works are free to do so. In fact extremely few right holders do!

The introduction of ECLs should be combined with efforts to ensure better and more transparent governance concerning collective administration of rights, and can also take care of the problems linked to so called orphan works.

4. Do you think that adequate protection of public interests (privacy, access to information, etc) is ensured in the online environment?
- Yes, SVT through svt.se significantly contributes to public access to information nationally and internationally. Recently, the SVT election site, dedicated to the parliamentary, regional and local elections on Sept the 17th, had visitors from 130 countries.
How are user rights taken into account in the country you live / operate in?
- In the Swedish Constitution the citizens are guaranteed right to access to information. The Personal Information Act sets strict limits to the use of personal ID information in data files.
- SVT has the same accessibility goals for the online services as for the broadcast ones, which, i.a. means availability 24/7, navigation adapted to needs of users with various handicaps and variable text size on the site svt.se.

5. How important for you is the possibility to access and use all online content on several, different devices?
- According to the SVT remit, our content should be available on all technical platforms that can potentially be adopted by a large portion of our audience. The SVT remit for the period 2007-2009 will include a special responsibility to respond to the needs of the younger audiences, which means that the relevant content should be available on devices the young people use.
What are the advantages and / or risks of such interoperability between content and devices in the online environment?
- Due to p2p, social networking and other emerging distribution mechanisms on the Internet, SVT can no longer claim absolute control over the environment in which our content appears. The same distribution mechanisms bring, on the other hand, SVT content to viewers who seldom view SVT TV channels.
What is your opinion on the current legal framework in that respect?
- Concerning our opinion on the current legal framework, see the answer to question 3.

6. How far is cultural diversity self-sustaining online?
- Yet to be proved. The present pioneer-phase in the development of the online market will in due time turn into a normalized market and the multitude of cultural expressions may be overshadowed by commercially feasible mainstream content.

Or should cultural diversity specifically be further fostered online?
 - SVT has a responsibility to promote cultural diversity online on the same regulatory grounds as apply to broadcasting. For the cultural diversity SVT's contribution is twofold: it directly gives the users more choice and indirectly sets a standard for competitors on the market.

How can more people be enabled to share and circulate their own creative works?
- Media literacy – including the ability to use interactive web services - should be a part of the basic curriculum in every school system in the EU and be promoted as an element in life-long learning programs. SVT and its sister organizations in Sweden observe this need in broadcast and online services.
- The remaining copyright related issues that hinder the non-commercial use of the public service broadcasters' rich archives should be settled by law, if no solution can be reached through agreements between the broadcasters and the rights owners.
- Editing tools should be made available to users in the browser.
- User generated content should be integrated in the broadcast TV output – given that related copyright matters can be settled.

Is enough done to respect and enhance linguistic diversity?
- SVT promotes the Swedish language in all its activities, i.a. in the rich output available on the svt.se, and has services in the official minority languages in Sweden, Sami, Finnish, Meänkieli and Romany.

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.
- No comment.

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?
- Mobile browsing as a complement to mobile TV, a potential booster of interactive services.
- Aggregator services, an "EPG" for the online environment.

Do you intend to offer these new services only at national level, or in whole Europe or beyond?
- On national level only.

If not, which are the obstacles?
- The SVT task is to serve the Swedish audiences.

9. Please supply medium term forecasts on the evolution of demand for online content in your field of activity, if available.
- As for the SVT content, the use of the video content has grown 600 per cent the past two years and the traffic on the svt.se grows steadily 50 per cent a year, and there are no signs of a slowdown.

- The number of households connected to broadband networks grows steadily and is expected to reach 64% in 2007. Each new broadband user is expected to contribute to the overall use of online services by a multiplicator >1.

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.
- Yes, particularly concerning the 3G networks, divergent pricing policies cause uncertainty on the market.

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?
- Most of the SVT content online will be free of charge. A fee to cover incremental copyright costs for archive material may be introduced in the future.

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?
- A tendency towards pricing that favours a "walled garden" approach, particularly among operators that offer mobile TV, does not promote growth in the market.

13. What kinds of pricing systems or strategies are used in your field of activity? How could these be improved?
- In addition to free-of-charge services (financed by a TV licence fee or commercials) there are subscription and pay-per-view services on demand. There is evidence accumulating on the proposition that flat rate works best in an environment where the technical development quickly outdates pricing based on capacity use.

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?
- Europe-wide or multi-territory licensing is not a solution for online services; since "insisting upon managing copyright on a territory-by-territory basis makes no sense when there are no borders online", as put by commissioner Charlie McCreevy in his speech "Music licensing for the 21st century (SPEECH/06/558)!

What is needed instead is the application of the country of origin principle for the clearing of rights, just as in the Satellite/cable Directive (and for the same underlying reasons), and in conformity with the Television without Frontiers Directive and with the future Audiovisual Media Services Directive.

The application of the country of origin principle in addition to extended collective licenses is what public broadcasters need to set up online services in fulfillment of their public remits and at the same time making sure that right owners' interests are respected.

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?

- See the answer to the questions 3 and 14 above.

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.)?

- A back bone in the distribution of remuneration is and should be representative collecting societies, exercising extended collective licenses (see the answer to question 3 above).

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?

- See the answer to the questions 3 and 14 above.

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

- SVT has an obligation to develop online services that extend the broadcast content beyond TV viewing and in many cases set a standard for the market.
- By introducing public services on the internet, by contribution to investments in broadband networks outside commercially sustainable areas and coordinating efforts of private and public operators on the market.

Release windows

19. Are "release windows" applicable to your business model?

- No.

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?

- SVT users will also in the future be best served by network neutrality.

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?

- Unauthorized SVT clips circulate on a number of social networks and portals on the Internet, which is always harmful and may cause damage to rights owners outside the SVT. Observed breaches are, as a rule, pointed out to the responsible operators.

Do you consider unauthorised uploading and downloading to be equally damaging?
- Yes

Should a distinction be made as regards the fight against pirates between "small" and "big" ones?
- No. They are more or less networked.

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?
- We have seen no evidence of effect.

Do you have specific proposals in this respect?
- No.

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?
- Yes, the technologies are presently under evaluation.

Does peer-to-peer file sharing (also of uncopyrighted material) reveal new business models? If so, please describe them?
- Yes, the method provides cost effective distribution and allows for a higher quality in the bitstream.

Rating or classification
24. Is rating or classification of content an issue for your business?
- No.
Do the different national practices concerning classification cause any problem for the free movement of creative services?
- No.

How is classification ensured in your business (self-regulation, co-regulation)?
- By co-regulation.

Digital Rights Management systems (DRMs)
Digital Rights Management systems (DRMs) involve technologies that identify and describe digital content protected by intellectual property rights. While DRMs are essentially technologies which provide for the management of rights and payments, they also help to prevent unauthorised use.

25. Do you use Digital Rights Management systems (DRMs) or intend to do so?
- No, we don't use DRM today, but we may tomorrow.

If you do not use any, why not?
- We provide non downloadable on demand streaming.

Do you consider DRMs an appropriate means to manage and secure the distribution of copyrighted material in the online environment?

- Yes, provided that the developers can stay ahead of hackers.

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?
- We can't offer our users downloadable drama for example.

27. In the sector and in the country or countries you operate in, are DRMs widely used?
- No, not widely.

Are these systems sufficiently transparent to creators and consumers?
-

Are the systems used user-friendly?
-

28. Do you use copy protection measures?
- Yes. Our streaming-files can not be downloaded.

To what extent is such copy protection accepted by others in the sector and in the country or countries you operate in?
- It is accepted to a high extent when it concerns streaming.

29. Are there any other issues concerning DRMs you would like to raise, such as governance, trust models and compliance, interoperability?
- The DRM schemes should foster the underlying principles of the European Community law and policies, such as the free movement of all broadcasting services, on the basis of the country-of-origin principle.

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?
- The archives of the public service broadcasting companies are historically and culturally unique and contain material of great interest to the public.

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.)?

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.)?
- Promotion of further spread of affordable broadband infrastructure and deployment of a variety of services – including public services - in the networks.

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?

- EU should ensure also in the future the member states' competence to define, finance and organize public service broadcasting and, as a consequence of the technical development, public online services that promote the social, cultural and democratic development of these societies.

The Directorate-General Information Society and Media of the European Commission invites you to reply to this Questionnaire by **13 October 2006**.

Please submit your comments in a generally readable electronic format. All submissions will be published on the Commission's website if not requested otherwise.

If you would like your contribution to be treated confidentially, please indicate this at the top of the first page of your submission.

Should you want to add a cover letter please do so in a separate document.

In case your comments exceeds four pages please start your submission with an **executive summary**. All submissions should be mailed to the functional mailbox of the Audiovisual and Media Policies Unit of the Directorate-General for Information Society and Media: avpolicy@ec.europa.eu.