QUESTIONNAIRE
Reply by TeliaSonera AB

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? 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.)?

We presently do not offer content but are engaged in distribution and packaging of our partners´ content online such as IPTV over our fixed network and mobile TV and other partner content via our mobile portals.

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? 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.

As pointed out in our reply to Q 21 it is illegal in all Nordic countries to download (make a copy of) a copyright protected work from the Internet if the original is illegal. It may be an obstacle for the consumer to use online services in general if he fears that he might be downloading something from an illegal source and he should have known better.

In addition, see answers to Qs 5, 14, 16, 21-23, 25 and 29.

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?

Issues of public interest are a priori a matter for politicians, taking different aspects into account. TeliaSonera, as a trusted player, firmly protects its customers´ privacy. These roles should be preserved when solving issues of public interest such as crime-prevention and crime-investigation.

We believe that existing legislation on privacy protection in the countries where we operate adequately addresses privacy and security concerns.

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?

We perceive that the user-demand is to reach any content on any device. We believe that the issue of rights clearance incl remuneration to rights holders must be clarified before a vibrant market for online content on any device could develop. Definition of common EU principles on this issue is necessary.

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?

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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.

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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. Do you intend to offer these new services only at national level, or in whole Europe or beyond? If not, which are the obstacles?

The user wants simplicity and cost-control and one model that has been perceived of meeting these demands is the subscription model.

9. Please supply medium term forecasts on the evolution of demand for online content in your field of activity, if available.

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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.

There is a risk of lack of interoperability between different kinds of works (i.e. music, film, text) and the DRM-systems evolving.

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?

We see our role mainly as a transferer of payments between end users and content providers.

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?

See Q 11. A system for revenue sharing may sometimes also be used.

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

See Q 12

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?

In general, we agree that the main obstacles to the growth and availability of Internet-based services in the EU have to be removed i.a. by introducing effective models for cross-border licensing of copyright-protected content in the online environment.

We support the objectives and ideas behind the Commission Recommendation of 18 May 2005 on collective cross-border management of copyright and related rights for legitimate online music services. Sufficient anti-trust provisions must be part of the solution.

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 Q 5 in relation to online content on any device and over any technical platform.

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.)?

We believe that the indirect system of levies might be detrimental to incitements to take part in development of new business models for the distribution of content. In the Consultation in June 2006 on Copyright Levies in a Converging World, the Commission pointed to a number of problems within the present system of copyright levies. (We have submitted comments to that consultation.) We feel that other forms for remuneration have to be found, e.g. a move towards more consumer friendly cross-border licensing models.

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 our answer to Q 5 in relation to online content on any device and over any technical platform, and our answer to Q 16 on levies.

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

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Release windows

19. 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?

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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?

We do not agree with the description of the Internet. We also note that "net neutrality" is included in the 2006 review of the Regulatory framework. We prefer market solutions based on customer demands and the competitive situation. Any competition problems should be handled under general competition law.

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? 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?

Clearly, users have a legitimate demand for file-sharing (up- and downloading) of <u>non</u> copyright protected works. It does not imply any particular problems. However, file-sharing of copyright protected film and music totally outside of rights holder control ('copyright piracy'), is a legitimate problem for rights holders. Our main business model is the provision of access, paid by monthly subscription fees. This model is not affected by illegal file-sharing. In our role as a distributor and packager of content, we do not directly suffer from piracy. However, it must be noted that our business model will grow in parallel with users choosing legal alternatives with TeliaSonera as a part of the value-chain.

We feel that the debate about <u>illegal</u> file-sharing has, lately, to some extent been overshadowed by the development of business models based on <u>legal</u> file-sharing. In Sweden, the Government recently gave an assignment to a special investigator to propose measures to further stimulate the development of consumer friendly, legal alternatives for accessing music and film on the Internet. The special investigator should propose changes to the Swedish copyright rules, if necessary.

In all the Nordic countries it is allowed to make a private copy (e.g. in connection with downloading) of copyright protected works without the consent of the rights holder, providing that the original is legal (software excluded). To make available to the public (e.g. via uploading) a copy of a copyright protected work without consent is illegal. So, a user who legally downloads a copyright protected work and makes a copy may not make the copy available to others through uploading.

A problem, however, is that file-sharing over the Internet today normally implies both downloading and uploading of files at the same time. Another problem is that a private user when downloading often has no means to determine whether an original / a source is legal or not. We believe that technical and legislative solutions must be found to avoid that private users commit illegal acts when downloading from the Internet. New offerings for the legal sale of music and film online is the most important element in this development, but also other measures are probably necessary, e.g. education and sanctions. Possibly, private downloading and copying must be made legal, irrespective of the legality of the original. We do not consider that the introduction of new forms of levies is a viable alternative to compensate rights holders for illegal downloading and private copying.

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?

In addition to finding solutions to the problems indicated above in our answer to Q 21, we believe that information, education and awareness-raising campaigns will be necessary in order to increase knowledge, understanding and acceptance of the copyright system. This is fundamental in an information society and could be seen as a form of 21st century literacy. It is important that the receivers of such information perceive the sender as having high credibility.

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?

We would like to refer to two recent market examples of online film offerings. They are described in this Swedish article:

http://www.computersweden.idg.se/2.139/1.76393

and here are links to the actual sites:

http://www.film2home.se/se/

http://www.publiken.se/sv/

Rating or classification

24. Is rating or classification of content an issue for your business? Do the different national practices concerning classification cause any problem for the free movement of creative services? How is classification ensured in your business (self-regulation, co-regulation)?

It is the content providers that are in the best position to classify content.

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? 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?

Our partners are using DRM-solutions. DRM-systems can be an efficient way of protecting content. However, we believe that the DRM systems should not be allowed to transfer complete control to the content owners of the way digital content is used and distributed.

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?
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27. In the sector and in the country or countries you operate in, are DRMs widely used? Are these systems sufficiently transparent to creators and consumers? Are the systems used user-friendly?

DRM is quite widely used for online music and video content.

28. Do you use copy protection measures? To what extent is such copy protection accepted by others in the sector and in the country or countries you operate in?

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

- The main issue is whether or not DRMs will find general acceptance as enablers, not disablers, to ensure and enhance consumer choice and competition. We believe that DRM systems should not be allowed to transfer complete control to content owners of the way digital content is used and distributed.

- As to interoperability we would like to point out that DRM systems could be used to implement specific business models. In such cases, interoperability issues should be solved by the market actors.

- Obviously, in Member States where levies are applied to digital equipment and media, the use of DRMs will have to be taken into account to ensure that rights holders are not overcompensated for private copying. Please see our answer to Q 16 as well.

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?

We believe that the same issues arise online as off-line.

One issue is whether such content would compete with commercial services and on what terms. Non-commercial content can also be offered as a unique service, clearly not competing with commercial services.

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.)?
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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.)?

Please see our answers to Qs 5, 21 and 25.

We also believe it is important that Governments base any solutions regarding liability for content upon the provisions of the E-commerce Directive.

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?

- *Cross-border licensing models, (see answers to Qs 14 and 16)*
- *Principles for online content on any device, (see answers to Q 5, 21 and 25)*
- *Exchange of experiences and best practices*