



**EUROPEAN COMMISSION**  
**Information Society and Media Directorate-General**

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**PUBLIC CONSULTATION ON CONTENT ONLINE IN THE SINGLE MARKET**  
**JULY 2006**

**Comments by TEOSTO, Finnish Composers' Copyright Society**

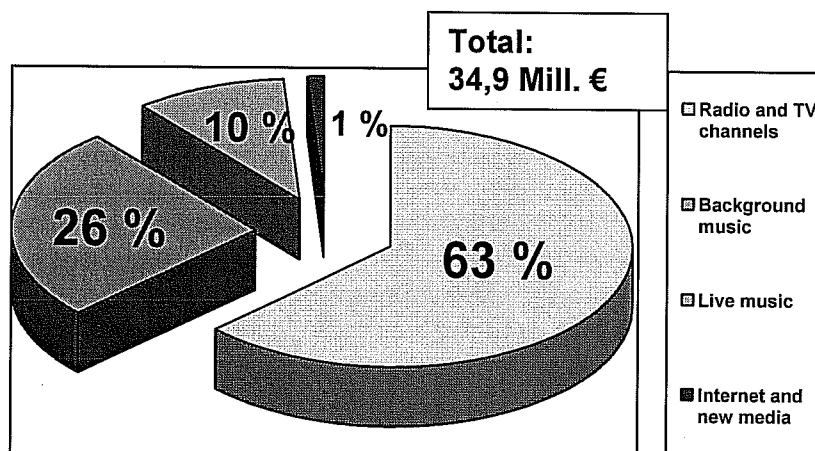
**About Teosto**

Teosto is a copyright society with a mission to manage the rights of composers, lyricists, arrangers and music publishers in Finland. Teosto acts as a link between music authors and music-using businesses and communities in Finland. Teosto also promotes music through Finnish Music Information Centre FIMIC ([www.fimic.fi](http://www.fimic.fi)) and European Music Office EMO ([www.emo.org](http://www.emo.org)).

Teosto is a non-profit association established and managed under the Finnish Associations Act (Law 503/1989). Teosto's mandate is not based on a concession or any other statutory act but on direct authorizations by 17,000 music authors (composers, lyricists) and 500 music publishers.

In 2005 Teosto collected a total of 34,9 Million € from various users of music in Finland. Operating costs in 2005 represented 11,9 % of total revenues. The remaining 88,1 % was distributed to domestic and foreign rightholders.

A break-down of the *main sources of collection* is as follows:



The 2005-2010 Ideological Strategy, endorsed by Teosto's General Meeting, focuses on four main points:

- Author's right to his creative work and to its economic results
- Acting as an interactive forum for the members
- Maintaining a Finnish copyright management service
- Development of new licensing methods for online music delivery

Teosto is a member of *GESAC, The European Grouping of Societies of Authors and Composers*. In the following, only questions with specific features in regard of Finland or Teosto have been responded. Otherwise, a reference is made to the response submitted to the Commission by GESAC.

## 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.)?**
- 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.**

## 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.**

Our main concerns are piracy in its various forms and the supply of commercially viable and culturally diversified services. These two issues are interlinked since the supply of services clearly will not take up unless the environment is safe and reliable enough. As regards internet piracy, we refer to the comments submitted by *The Copyright Information and Anti-piracy Centre in Finland (CIAPC)*.

Furthermore, the supply of online rights to B2C service providers is an issue regulated by the Commission's Recommendation on collective cross-border management of copyright and related rights for legitimate online music services (2005/737/EC) of October 18, 2005 and under special attention by DG Markt. We have on several occasions pointed out to the Commission that the the promotion of European culture means not only taking into account the interests of the largest Member States and their rightholders but also those of rightholders residing in the small and medium-sized Member States. In terms of copyright management this should in practice mean that local services and market presence are available to music rightholders and to music users in smaller Member States as well. This is necessary to safeguard the cultural and economic activity on the "grassroots" level, which at the end of the day is an indispensable condition for the emergence of pan-European success stories and cross-border businesses.

- 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?**

As for Finland, the right for privacy and user rights have both been ensured in many ways. There are several laws prescribing user's right for privacy and the confidentiality of electric communication. As an example, the objective of the Personal Data Act (523/1999) is to implement the basic rights safeguarding the right for privacy, e.g. protection of private life, when processing data. Act on the Provision of Information Society Services (458/2002) focuses on the freedom to provide electronic services. Obligations, formal requirements and issues regarding providers' liability are also stipulated in the Act. Moreover, the objective of the Act on the Protection of Privacy in Electronic Communications (516/2004) is to ensure confidentiality and protection of privacy in electronic communications and a balanced development of a wide range of electronic communications services.

Furthermore, the public control of data processing issues in Finland is active as well. The Data Protection Ombudsman, operating independently under the auspices of the Ministry of Justice, provides guidance and advice on all issues related to the processing of personal data and controls the observance of the law. The Ombudsman also participates regularly in the public debate on the protection of private life in the data environment.

- 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?**
- 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?**

It needs to be stressed that if cultural diversity is understood as small-scale, non-profit civic activity producing and circulating content of various kinds it is probably self-sustaining and dependant mostly on a non-restrictive regulatory approach on matters such as access to and distribution in the web. It is needless to say that building such activities on illegal exploitation of third parties' content has nothing to do with real cultural diversity.

However, we think that cultural diversity should be given a broader scope, including also commercial activities generating economic growth and prosperity. Indeed, in this case cultural diversity needs to be fostered, as referred to in point 3 above. We also feel that for small cultural and linguistic areas, such as Finland, both features are interlinked. It should also be borne in mind that delivering music online is by no means free of expenses but it requires substantial investments on technology and other resources, such as development and business management. This alone can be a major obstacle for small businesses and entrepreneurs to enter the market and become successful.

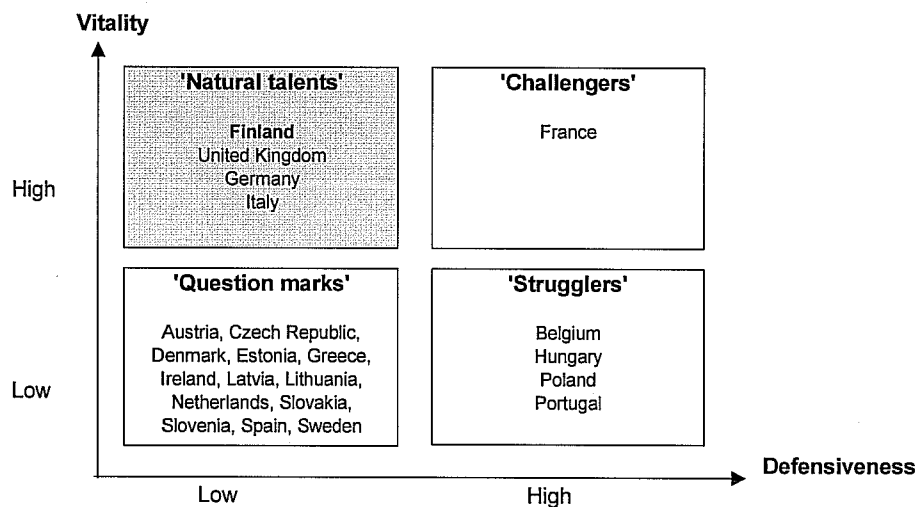
To point out an example on the field of music, the general "taste of music" in Finland is original and it is very much attached to the local culture and language. Market share of domestic music in Finland is more than 50 % of music sales, being exceptionally high compared to any other small market. This is further accentuated by the fact that the market is remarkably *consumer-driven*. For instance, there are no quotas or obligations to favour Finnish music in broadcasting or in any other medium unlike in many countries with a high domestic music share.

An international comparison conducted by CapGemini in 2004 (Music in Europe: Sound or Silence?) gives further evidence on the viability of the Finnish music market. The following table indicates domestic repertoire as *market value of sold recordings in 2002* in various European countries (*figure 5*, source: IFPI):

France	59 %	
Greece	57 %	
Lithuania	50 %	
United Kingdom	49 %	
Finland	46 %	
	<b>Highest</b>	<b>Lowest</b>
		10 % Austria
		13 % Portugal
		14 % Belgium
		17 % Netherlands
		19 % Ireland

In fact, the domestic value of record sales in Finland is still rising, being now 55 % according to 2005 statistics by IFPI Finland.

In terms of *vitality and defensiveness* the CapGemini study, by categorizing the "health" of domestic music repertoire, confirms the original and consumer-driven nature of the Finnish music market. Finland is a "natural talent" whose music market is not dependent on or built on protective measures (*figure 6*):



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.

## 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?

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

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

#### **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?**
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?**

In general, we refer to GESAC's comments on this. As for Finland, we are very concerned about the negative effects of internet piracy on the emergence of a healthy and viable e-commerce market, particular those caused by file sharing in P2P-networks. The present situation has been described in detail in the submission of The Copyright Information and Anti-piracy Centre in Finland. Massive piracy is a serious threat to investments in the network environment. If multi-national players with mainstream content attracting cross-border audience have great difficulties in launching profitable new services, it is even more so in regard of national talents and small businesses with limited resources for getting consumer attraction and enforcing their rights. This is clearly a dangerous scene in view of the viability of local culture and the European cultural diversity as a whole.

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.)?**

In general, we refer to GESAC's comments on this. As for the remuneration on private copying, please be informed that in July 2006 Teosto submitted its comments on the *Stakeholder consultation on copyright levies in a converging world*, launched by DG Markt. We refer to our response to the Commission on that matter.

It is note-worthy that while the primary objective of the Finnish system of fair compensation is to remunerate the right holders on an individual basis, the levy system also has a role as a *tool of cultural policy*. A part of the collected funds is annually allocated to so-called joint purposes of the right holders. These contributions are an element in securing the viability of

small-scale production of cultural goods and services. They also lower the threshold for new market entrants in sectors such as film making, where costs are relatively high even in the smallest productions.

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

In the Finnish market player arena there is a number of on-going initiatives, one of the most promising being the *Forum Virium Helsinki* project ([www.forumvirium.fi](http://www.forumvirium.fi)). In brief, the project is as follows:

*"Forum Virium Helsinki is a cooperation cluster focusing on the development of new customer-driven digital services and contents. Forum Virium Helsinki was founded by the initiative of many significant players in the sector of digital services: the anchor companies of the cluster are Digita, Elisa, Nokia, TeliaSonera, Finnish Road Enterprise, TietoEnator, Veikkaus, WM-data, YIT-Group and Finnish Broadcasting Company. The public sector is represented by the City of Helsinki, SITRA (The Finnish National Fund for Research and Development), TEKES (National Technology Agency of Finland) and VTT (Technical Research Centre of Finland). Forum Virium Helsinki's role is to act as the neutral matchmaker between the partners."*

In the regulatory front the *Finnish Ministry of Transport and Communication* has assumed an active role in proposing new measures and establishing Codes of Conduct in regard of information security in the network environment. The activities are exercised under a designated *LUOTI* project ([www.luoti.fi](http://www.luoti.fi)), in a nutshell as follows:

*"The Finnish Ministry of Transport and Communications' information security programme for 2005 to 2006 is called LUOTI, a Development Programme on Trust and Information Security in Electronic Services. It aims to promote information security in new multi-channel electronic services. In the end, its objective is to increase consumer confidence in the use of electronic services."*

*Within the programme, media houses, other content providers, service and network operators together with the information security sector seek new operating methods for the field. LUOTI also involves the resources of research institutes and universities as well as the views of authorities and legislators. A steering group that has members mainly from the business world is responsible for the strategic management of the programme."*

Teosto has participated in both the *Forum Virium Helsinki* and the *LUOTI* projects.

## 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?**

## 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?

## 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?

Please see the comments of GESAC and The Copyright Information and Anti-piracy Centre in Finland on this.

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 general, we refer to GESAC's comments on this. In Finland, the most recent anti-piracy campaign was launched earlier this year as a cooperative effort by the Ministry of Culture, The Finnish National Board of Education, The Copyright Information and Anti-piracy Centre, and LYHTY, cooperative grouping of Finnish authors and creative businesses. The campaign included a cartoon, which was distributed to all schools providing higher basic education (for pupils from 13 to 15 years of age) in Finland, a special teachers' kit complementing the material, and a web service "Pirate Factory" in Finnish and Swedish (<http://www.piraattitehdas.fi>).

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?

## 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)?

## 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?

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

#### 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?

#### 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.)?

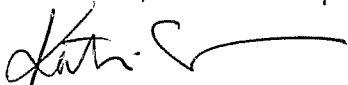
In general, we refer to GESAC's comments on this. As for other interests besides the protection of right holders, please see for instance point 18 above on the role of the Finnish Ministry of Traffic and Communication.

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?

In general, we refer to GESAC's comments on this. Furthermore, we would like to stress the need for supportive measures by the EU in regard of the protection and support of cultural diversity, as put forward for instance in points 3 and 6 above.

In Helsinki, on the 13th of October 2005

TEOSTO, Finnish Composers' Copyright Society



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