IP/06/1071

Bruxelles, le 28 juillet 2006

Accroître la compétitivité du marché européen du contenu en ligne: la Commission ouvre une consultation publique

La Commission européenne a lancé aujourd'hui une consultation publique sur les moyens de stimuler la croissance d'un véritable marché communautaire unique du contenu numérique, comme les films, la musique et les jeux. La Commission entend encourager le développement de modèles commerciaux innovants et promouvoir la diffusion transfrontière de différents services de contenu en ligne. Elle est également désireuse de savoir comment les techniques et appareils européens peuvent faire leurs preuves sur les marchés novateurs du contenu en ligne. Les contributions apportées dans le cadre de cette négociation serviront à élaborer une communication de la Commission sur le contenu en ligne, qui devrait être adoptée à la fin de l'année. Les réponses peuvent être transmises jusqu'au 13 octobre 2006.

«La fourniture de contenu en ligne, comme des films, de la musique et des jeux, ne joue pas seulement un rôle dans l'accès à la culture en Europe, c'est aussi une formidable opportunité, pour l'industrie européenne du contenu, d'étendre ses propres marchés», a constaté Mme Viviane Reding, membre de la Commission responsable de la société de l'information et des médias. «Il est fondamental de faciliter l'accès au contenu en ligne et d'assurer sa distribution. J'espère que les contributions à la consultation permettront de recenser précisément tous les obstacles qui subsistent à la mise en place d'une industrie européenne compétitive du contenu en ligne, et que l'UE doit aplanir. Le secteur européen du contenu en ligne ne pourra concurrencer celui des autres continents qu'à la condition que soit créé un marché européen du contenu en ligne à l'intérieur duquel les talents et les compétences des auteurs, artistes et créateurs sont justement rétribués.»

La consultation publique lancée aujourd'hui par la Commission (intitulée «Content Online in Europe's Single Market») vise à ouvrir la voie vers la mise en place d'un véritable marché unique européen de la fourniture de contenu en ligne. Le contenu en ligne peut contribuer grandement au développement du secteur européen des technologies de l'information et des communications (TIC) et des médias. En Europe de l'Ouest, les marchés des systèmes de mise en commun du contenu en ligne devraient tripler d'ici 2008 (la part de l'utilisateur/du créateur étant multipliée par dix). Ces développements sont supposés se propager dans le secteur, qui représente déjà 8% du PIB de l'UE.

Voici quelques-unes des questions posées dans le cadre de la consultation sur le contenu en ligne organisée par la Commission: quels sont les obstacles économiques et réglementaires au développement des services de contenu en ligne sur le marché unique européen? Quelle est la compétitivité de l'industrie européenne du contenu en ligne par rapport à celle d'autres régions du monde? Un agrément et une autorisation couvrant le territoire européen ou le territoire de plusieurs pays seraient-elles utiles pour les entreprises du secteur de l'innovation? Des progrès doivent-ils être faits en matière d'interopérabilité des systèmes de gestion des droits numériques (DRM) en Europe? La consultation qui débute aujourd'hui fait suite à de précédentes initiatives de la Commission visant à développer un marché unique européen pour la fourniture de services musicaux en ligne (voir IP/05/1261).

La toile de fond de la consultation de la Commission sur le contenu en ligne est la convergence rapide des médias audiovisuels, des réseaux à larges bandes et des appareils électroniques. La disponibilité et l'adoption de connexions «à larges bandes» et à haut débit facilitent non seulement l'accès, pour les consommateurs, à un éventail plus large de contenus numériques innovants que ce que l'on aurait pu imaginer il y a dix ans, mais également la création de contenus eux-mêmes. Dans le même temps, la capacité des techniques à larges bandes de traiter des volumes élevés de données permet aux entreprises européennes d'offrir des contenus et des services nouveaux et d'ouvrir de nouveaux marchés.

La création d'un marché unique ouvert et compétitif pour le contenu en ligne est l'un des grands objectifs de l'initiative «i2010 – Une société de l'information pour la croissance et l'emploi» adoptée par la Commission le 1er juin 2005 (voir IP/05/643). En juillet 2005, des chefs d'entreprises du secteur des TIC et des médias ont accepté de travailler en collaboration avec la Commission sur un «programme pour ouvrir l'économie numérique de l'Europe», qui donne la priorité à la promotion des marchés des contenus par une protection effective des droits, des dispositions en matière de licences et par l'encouragement à une utilisation licite des contenus (voir IP/05/900). La «charte européenne pour le développement et l'adoption du cinéma en ligne» est un premier exemple concret de solution aux problèmes que rencontre l'industrie européenne du contenu en ligne. Cette charte a été présentée en mai 2005 par Mme Reding et approuvée par des réalisateurs de films et des chefs d'entreprises le 23 mai 2006 à l'occasion de la Journée européenne du 59ème festival international du film de Cannes (voir IP/06/672).

La consultation sur le contenu en ligne lancée aujourd'hui a aussi pour but de recueillir l'avis des parties concernées sur les initiatives d'autorégulation comme la charte européenne du cinéma en ligne, afin de déterminer si l'initiative pourrait servir de modèle pour des initiatives du même genre dans d'autres secteurs du contenu en ligne et si des mesures réglementaires sont nécessaires au niveau de l'UE pour garantir l'achèvement d'un véritable marché communautaire du contenu en ligne.

Les réponses à la consultation – qui est ouverte aux entreprises, en particulier aux fournisseurs de contenu et de services internet, aux associations de consommateurs, en particulier celles appartenant à "la communauté de l'internet", aux régulateurs et à toute partie intéressée – peuvent être communiquées jusqu'au 13 octobre 2006.

Pour de plus amples informations sur la consultation publique et sur le document de consultation, se reporter à l'adresse suivante:

http://ec.europa.eu/comm/avpolicy/other_actions/content_online/index_en.htm

28/07/2006

Public Consultation on Content Online in the Single Market

July 2006

INTRODUCTION

The availability and take-up of broadband, and the increasing possibility to access creative content and services everywhere and anytime, provide new opportunities for growth and jobs in Europe. To consumers, it means new ways to access and, partly, to influence creative content available on worldwide networks such as the internet, both from home and in mobile mode. For European companies, it means the possibility to offer new services and content and to create additional markets.

New creative services and content available online are diverse: music, films and other forms of audiovisual works, blogs, newspapers and magazines, books, games, educational content, etc. To help consumers manage this unprecedented diversity, search engines and other instruments such as electronic programme guides are increasingly important, becoming more and more efficient and complex (multimedia, multilingual) and blurring the borders between content and access business.

An important element of the online creative economy is the growing level of interactivity between the content provider and the consumers, with the consumer able to become a content creator (user-generated content). Other key elements are the increasing dematerialisation of creative content available to consumers and the increasing number of devices enabling consumers to access creative content in an efficient and friendly way.

With the emergence of these new devices, networks and services, content and network operators, right holders, consumers, governments and independent regulators have to address new challenges. Successful answers to these challenges are keys to growth and jobs in Europe. They can best be addressed at European level as most these new services certainly need the twin advantages of economies of scale and cultural diversity which the EU internal market brings. So EU policies should aim at promoting fast and efficient implementation of new business models for the creation and circulation of European content and knowledge online. These policies may include legislative or regulatory actions, recommendations promoting best practices, co-regulation, research and financial support. Furthermore, self-regulation must keep playing a key role in the online environment.

An example of some of the challenges to be addressed and how these challenges can be tackled is the 2006 European Charter for the Development and the Take-up of Film Online. Initiated in May 2005 by Commissioner Viviane Reding, it was agreed by business leaders on 23 May 2006 at the Europe Day of the 59th Cannes Film Festival. (http://ec.europa.eu/comm/avpolicy/other_actions/content_online/index_en.htm**)**. The Charter is open for signature to all interested parties.

With i2010, the Commission has launched a new integrated policy approach to the Information Society. i2010 identifies digital convergence as the main driver of change and aims at ensuring that the EU will fully benefit from the opportunities and prospects for strengthening the Single Market. i2010 describes four challenges for convergence: speed, rich and diverse multilingual content, interoperability and security. It calls for a consistent framework for information society and media services in order to promote investment and competition, while preserving public interest objectives and ensuring the protection of consumer interests.

Western European online content-sharing frameworks and markets are expected to triple by 2008 (with the user/creator part growing tenfold)[1]. These developments are expected to multiply across the sector, already accounting for 8% of EU GDP today. However, the impact of digital convergence will be felt globally and will lead to increased worldwide competition.

How should EU policy be designed so as to stimulate the creation and legal distribution of creative online content and services in Europe? What are the obstacles to the implementation of successful new business models? How can public policy promote a satisfactory degree of cultural and linguistic diversity in online content creation and circulation? How can European technologies and devices be successful in creative online content markets?

Several groups of stakeholders are particularly concerned by these issues: authors, creators and performers; producers; distributors; consumers and more generally the online Community; telecommunications companies and access providers; and the ICT industry.

This document officially opens a public consultation for the preparation of a Communication on Content online to be adopted by the European Commission at the end of this year. The Communication will explore added-value actions that could be taken at European level to improve the competitiveness of the European online content production and distribution industry. It will also examine the types of instrument which could be used: hard/soft legislation, promotion of best practices, financial support, etc. It will take into account the results of the online creativity conference organised by the Finnish Presidency of the European Union, in co-operation with the European Commission, on 13 – 14 July 2006 in Helsinki (http://www.creativityonline.fi) and of the conference “Content for competitiveness; strengthening the European creative industries in the light of the i2010 strategy” organised by the Austrian Presidency of the European Union on 2 – 3 March 2006 in Vienna.

The deadline for comments is **13 October 2006**. The following questionnaire reflects some of the challenges to EU policies from the point of view of DG Information Society and Media as well as concerns / ideas previously expressed by groups of stakeholders mentioned above. Comments can of course raise other issues related to content online.

[1] European Information Technology Observatory (EITO) 2005.

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? 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.

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?

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?

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.

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?

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.)?

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?

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?

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?

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.)?

33. What actions (policy, support measures, research projects) could be taken at EU level to address the <u>specific</u> issues you raised? Do you have concrete proposals in this respect?

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.