

“Telecom package – preparing for a 3rd reading”

The transcript of the speech by Secretary General Malte Behrmann
in a seminar by The Greens/European Free Alliance at 7.9.2009



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**Telecoms package:
Preparing for a 3rd reading**

Thank you again for inviting me, I will try to keep it short. I want to however say this from a lawyers perspective, I am also a lawyer, that there are numerous discussions about efficiency and digital judgement all the time. I think that we can not review digital court decisions just for the shake of efficiency in every case... just because of efficiency arguments. That is something I say as a lawyer; I say it before my speech. I think that it will be my personal contribution to this discussion here. This is not only happening here...in lot of places efficiency argument are used in legislative procedures.

My name is Malte Behrmann, I'm a lawyer at EGDF in Berlin.

European Game Developer Federation: EGDF

- ASSOCIATION OF DEVELOPERS:
 - Trade Body & SME NGO
- Representation of interests in Brussels as European association of developers
- Best Practice exchange
- Elaboration of mutual positions (technology, content)
- Members:
 - UK, AT, DE, FR, SE, DK, FI, NO, BE, NL, LU, ES
- The federation represents more than 600 studios, which together employ over 17000 people. All new jobs!



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I represent the European Games Developer Federation. I'm the general secretary of this organization, so I am a content producing industry. So we are actually affected by the Telecom Package just because of direct revilement to content industry. I didn't even think about the Telecom Package before, until people started poking to me about this kind of content related matter.

We are an association of developer associations all over Europe, I am also involved in German association, and we have members all over western Europe. I would say, today, we represent over 600 studios, which employ together almost 17 000 people. We had not been invented 20 years ago, so all these 17 000 jobs have been created over last 20 years, which is maybe one of the reasons I can say that computer games are [next slide please]

Importance of Games

Games are cultural objects

- DG Competition C 47/06 (ex N 648/05):
"certain video games may constitute cultural products"

Game development in Europe is an economic, cultural and technological challenge, because they are at the crossroads of three issues:

- Cultural diversity = democracy
- Economic development = jobs
- Technology = technological position

=> Innovation catalyst in the information society



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cultural objects... but... it is a cultural objects which are basically quite new. And It's probably the first, and until today the only, truly digital cultural object, which always has been digital from the beginning. That's makes our position different to traditional media, which are also cultural media as computer games, but which had more problems in transitioning themselves into the digital era than we have.

Game development in Europe is an economic, cultural and technological challenge, because games are at the crossroads of all these three issues. When I started politics for computer game developers for about 7 years ago, the ministries always sent me to the other one. The Minister of Culture said: "I'm not responsible, it's the technology who is responsible", and they said "I'm not responsible, you have to go to the economy", and they said "no, no, no, economy is not responsible, you have to go back to the culture".

So I figured over the years that actually we're all three of them: we're culture, we're economy and technology. And guess what, now all three ministries want to be responsible for us, in all countries and also at the European level. So what happened is that people actually understood that games are so important, because they touch all three of these fields and not only one of these: cultural diversity, which means democracy; economic development, which means jobs and technological innovation, which means basically stuff like Lisbon agenda and stuff like that on the European level.

So, I come from a little bit outside the Internet world, as we create computer games. And when we started, we didn't necessarily create computer games for the Internet. We have made computer games for consoles...

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Trends

- **Consoles**
 - Faster, Stronger, Better...
 - **Human Interfaces**
 - Wii, DS...
 - **Online**
 - Direct to consumers
 - **Games are THE functioning interactive content in a 3D internet world**
 - Boom of browser & online games (just a new hype ?)
 - Community as new shaper
 - Content aggregator is the new centre
 - They broaden now to digital content
- Convergence ? !**
it is happening now – surprise !
- **This changes**
 - supply and demand (business models)
 - value chain / value network
 - audiovisual medium services (linear - non linear)
 - Online games are not so piracy-vulnerable as off line (contrary to music) !



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When I started to work with computer game politics seven years ago everybody in industry was talking about next generation console... everybody was talking about faster images... stronger computers... better computers... INTEL actually has prospered a lot from our strong development [INTEL says: Thank you for that.] No problem [laughter]

Then some three-four years ago, suddenly we had new human-machine interfaces from Japan like Wii and stuff like that. Suddenly, a new trend came across that nobody really had expected. But the biggest trend we have – and that's not just discussion – it is a structural change as the online game. It is a trend which goes directly to the consumers. And the weird thing about computer games, and the funny thing is that my members, they don't really believe that they are actually in the very centre of convergence and they are the pioneers of the free internet and of the future.

They don't really believe that they have this kind of important role, but slowly, slowly now they are starting to understand what happens around them and where they are positioned and that the convergence is happening. Surprise, it just happens now. Actually, when I started to be interested in media politics more than 10 years ago, people were talking about convergence all the time. Then it was not happening. And now it is happening and nobody believes it.

The important thing about online games is that it changes supply and demand. It changes business models. It changes the value chain, and that is what I would like to talk to you about for about four or five minutes more.

The other thing, which is important, is that online-games are not so piracy vulnerable as off-line games, which are put on the Internet and heavy downloaded – similar to music and film – and then you have the basic piracy problem. You do not have this kind of piracy problems when you have genuine online games, which are on a server and as they are on a server you have to log in. Even in China you can become very rich running those, where there is no enforcement of copyright at all.

And that makes this for me very clear, that actually the whole anti-piracy discussion, which is very necessary and I am not against it from a fundamental point of view, but the whole piracy discussion is actually a problem of transitioning the channel. It's not necessarily a problem as such, because there are business models in content industry, which are easy with piracy problems.

There's of course also the problem that sometimes pirates copy the whole server and then you have also a problem. That happened for very big games. But let's neglect this kind of problem, because that probably solvable otherwise. [next slide please]

When I started to being interested in game politics and fought for game developers in political context, I started to raise the issue of public funding for games development similar to film industry, because I thought, or we thought that computer game developers have a similar position in society as film producers, reflect culture to a new generation and we should be aware that it is necessary that we have German games, that we have French games that we have Scandinavian games. But what happens, is that these kinds of discussions are going on and slowly administrations started to support game development. But beyond that, we have the Internet and we have online games doing most of the job themselves, because suddenly we have a new value chain, where developers start to develop computer games and put them in the Internet and distribute them directly through the Internet to the end consumer.

And suddenly the publishers, distributors, the retailers – who get most of the money, most of the revenue – are cut out as the middle men and suddenly the developers themselves can actually receive a fair contribution for what they have put into their game development. That is a very new and recent developments and I must tell you I have witnessed this myself.

I have seen game developers, starting with 6 people. They came to us as a small company. And now they are 300. And they are really big, and I am surprised myself. That is the kind of thing I want to preserve, I want to preserve a free Internet, because I think it actually is NOW a chance for Europe to have Internet as a free and not overregulated.

[next slide please]

If you look at the Internet, if you look at the retail games of last years, you see that online and mobile are becoming more and more important compared to package retail. This is long structural change. It is probably a little bit quicker now, because the crisis was very good for online distribution.

But we must see that the dark blue thing [in a chart in the presentation], that's controlled by the oligopolies, that's controlled all by non-European companies, but the light blue stuff, that's the online games. Some are Korean games of course...some are also controlled by oligopolies, but many of these online games are controlled by independent (European) game developers who are just putting their games on the Internet. And that's good.

So I have to be quick, so I have just a few comments for the Telecoms Package ... [next slide]..

Traditional Value Chain



- Many parties between developer and consumer
- Each party takes a share of the revenue

Online Value Chain



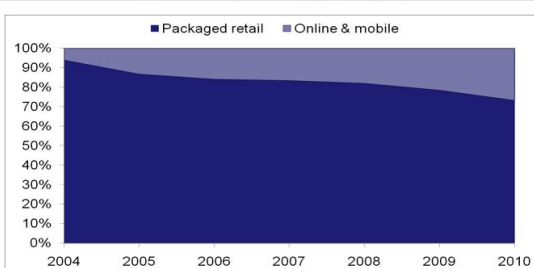
- Fewer parties means more revenue for the developers



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Western retail games versus online & mobile – 27% of market by 2010 – retail's dominance slowly being eroded



Source: Screen Digest



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Problems of Telecom Package

- **Network neutrality**
 - The big risk of Network providers to start filtering content (e.g. online games, VoIP, video on demand services etc.) in order to block consumers access to services competing with their own
 - It should be up to a judge to decide what kind of cultural content is filtered from internet
- **Now the open internet is a winner for Europe**
 - Encourages to develop new more effective technologies
 - Encourages to develop new innovative business models and services
 - **Encourages to develop European content**



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I think it is a big risk to start filter content. It is not necessarily the filter itself (I mean people talking about China and stuff like that, but I don't think in Europe we will have same kind of level) The real problem is the risk of abuse, the risk of misusing the filter technique in order to prioritise your own content.

Some of the bigger telcos and some of the ISPs are starting to invest in content, and I personally think it's good, because I like investors for game development, every investor. But what happens when a strong network provider owns computer games themselves and suddenly they work better on the network than those from the others because they can find out which ones they are. And what happens, when they misuse legal reasons, which maybe have nothing to do with that, to make sure that their products are full across. And then we have a similar situation as we had in the off-line world concerning media distribution.

We always had a problem that there was, of course competition law, competition law... very nice law... but the reality was different. The reality of off-line distribution was: package deals for cinema, it was retail business for games and software in the stores, it was everything else than digital distribution. But the Internet is different, Internet is to a certain extent really fair distribution. We should preserve this kind of fairness, because that is good for Europe, because that encourages Europeans to develop European content.

It is very important that we understand that NOW (maybe in the beginning of Internet, when Europe is losing to a little bit way to United States and especially to California, because they were very strong). But now in the second phase, actually Europeans are starting to win the ground, I see it in my constituency, maybe it's not true for other parts of the Internet, but at least in online games definitely.

[next slide]

I think it should be very clear that the competition between the best games can only go through an open, and free, and not too regulated Internet – I had some thought over the weekend when I already had submitted my slides – so let me just finish with this. There is a saying in Germany: "There is no such thing as being a little bit pregnant". I think you should consider that when you fight for the freedom of the Internet, because you cannot just say: "yeah...we will allow a little bit of control or make a compromise".

No! I think that the core of the Internet has to stay free. That is really the most important thing. And having cooperation and discussions, and so on, is very interesting, but it is not really leading to the point.

The second thing is, that I really think that this kind of regulation is to a certain degree innovation hostile and again a threat to Europe. You should underline it, when you talk about it, because I think that it is an argument that is always heard in Europe.

Thirdly, I would mention that the French constitutional court ruled out Olivennes based on this debate. And from Germany I can tell you that people always say in Germany: "the French constitutional court only had a problem with the fact that if you are kicked out of the Internet, you still have to pay for your Internet connection." But as far as I understand it this decision was based on much larger considerations than that and it has actively been used to disinform the public debate.

I think also that you should take it into consideration that this is attacking the Parliament, the European parliament as a body. That the parliament as a body has taken a very, very, very famous decision about the freedom of the Internet. And when it is really starting to overrule, it is going to heart of the European Constitution and you should really also be very clear about that.

Problems of Telecom Package

- **Prioritisation is bad for competition**
 - Network providers will have a possibility to decide what kind of cultural products consumers have access to
 - Different service levels could limit access to culture based on consumers income
 - equate to a situation where one would only have a limited access to a road to a theatre although one would have money to pay one ticket to get in there



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Any questions left ?

Email to: Malte.Behrmann@egdf.eu

Thank you !



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