



**European
Game Developers
Federation**

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.)?

Our member companies develop computer and console games, increasingly in an online environment. Due to the digital nature of our services, no difference is made between offline and online experience as they are one and the same. Today online gaming is often seen as an additional experience and mostly offered for free to strengthen the user community that buys our products. Also, in other areas, distribution partners are offering our PC games for purchase and download online. The main difference is that for the products that have some online component to them, we usually offer some kind of user forum for the consumers to discuss their experiences with our products, and that online offerings usually lengthen product life.

The strongest online context lies in games which are only or mainly available online, typically multiplayer or massive multiplayer games (MMOG). There appears to be a large awareness for so called MMOG's (Massively Multiplayer Online Games), however one should not forget that the majority of the games that are sold in the supermarkets across the continent are not such MMOG's but nevertheless also offer significant online options (such as 2, 4 or 8-player tournaments, races, downloadable paid content, highscore lists, chats etc.). Social networking sites as they'll evolve as places of user generated content.

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.

There is a grey area concerning IP protection and royalty payback in terms of content creators. Current laws are possibly not apt as they date from a time where our technology was non-existent. An example could be the current music publishing legislation which is suited for replication (disk) distribution and not digital distribution. At the current rate there are too

many DRM systems. Further - when it comes to videogames and music - unclear laws and practices concerning usage also create an area in which it becomes difficult to clearly track royalty revenues. Piracy is an issue, particularly regarding PC games. Access control is also an issue in the console game space. Non- European console manufacturer controls access to the content that can be offered online for the games played on their console. In this context should be mentioned, that there are some elements of technology for game development in Europe. One of the biggest challenges of the next years will be to make development environments for games in Europe more interoperable.

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?

Data Privacy is obviously a big concern, particularly considering the free information flow to the US and the lack of awareness for data privacy. Privacy is ensured only as far as the technology that protects it. Privacy is ensured only as far as the technology that protects it. It may be a concept to provide annual audits / reports of the security of such systems providing comfort to the public at large. The member states have privacy laws, but until the public is given audited records or reports each year, we must trust that those responsible for the system are in fact taking care of us.

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 should be able to come to a point where using online content on a device is as user-friendly as it is to watch the same program on various types of TV sets: it's normal. However, getting online and mobile content to be compatible with any user out there will be a big challenge. The fragmentation of device and network technologies is an issue that can only be addressed by companies working together on sets of standards that make sure that applications are cross-device compatible. One must not forget that different devices require different user interfaces. Not every type of content is suitable for interoperability in the first place. Information content (News, Websites, Weather, Navigation, Search) and Music are well suited. Movies, Games etc. are less suitable, because of the way this content is normally consumed. Additionally, accessing entertainment across multiple devices becomes more of a generational issue than anything else.

The advantage of interoperability of devices is that users can receive content how they want to when they want to. The risks of such things occurring are the creation of standards from private businesses or furthering grasp of larger corporations who have the monies necessary to develop platforms that provide such possibilities. The establishment of a legal framework is one step towards solving this issue, but eventually content providers from Europe have to define these standards under the umbrella of the public authorities themselves. This is the only way that European based companies will succeed in creating international standards that compete with other countries.

Interoperability is important, but there are different levels of interoperability. For content creators most important is the interoperability of the tools and development environment they are working on and the platforms for which they are producing, this way of functioning is inevitable in the not so distant future.

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?

The contradiction between the single, economic market which needs harmonization and on the other hand "cultural diversity" as an EU buzzword is sometimes difficult to grasp- it is however two sides of the same medal. One of "the" most significant benefits that Europe has is that it has such a number of diverse countries and cultures. This could lead to the perfect atmosphere to create abundantly original, high-quality content. Europe can and has to become "the" cradle for content creation. We should definitely stimulate cultural diversity in our area. For this, it is very important to look across country borders since worldwide, a difference can only be made, if it is done on a European level.

Games are an increasingly cultural phenomenon. They influence already today the imagination of generations. Gamers do not fit any more to the stereotype of young and male computer addicts; they are an inherent element from the middle of our society. Already today they are an important element of the audiovisual landscape. But in the era of triple play, their importance will even increase as they are the nucleus of interactive entertainment. In democratic countries the question, whether something is cultural or not can not be decided upon in an ivory tower. It is the matter of the people and they decide about it every day by playing games. The specificity of nonlinear interactive entertainment is that it needs constant attention – in difference to linear media, which happen to become background media. This shapes trends and values and the way of thinking in our society – even stronger than in linear media. In an open system cultural diversity might be able to self-sustain online quite well, though its segmented in more niche areas such as portals and chat rooms. But networks are not designed for exchange. The E- content environment will have even stronger bottleneck and network effects for the game industry (see the WoW-case).

In this context the question on cultural diversity is well in place. Indeed it is a problem, as most of the games do not vest from Europe. The important figure in this context is the home market share, not the simple comparison of US imports. Due to our observation network effects increase in digital and online distribution in our sector. An average person only can remember a couple of websites in a specific context, not more. Therefore it is quite realistic, that the mass market of online games will concentrate on a few brands (e.g. WoW). Many other producers will either have to go through other distribution channels or will be endangered. As a result, it has to be taken into consideration that in this context above all cultural diversity faces new challenges and might decrease.

In the games themselves cultural diversity risks therefore to decline in the online age. On the one hand, it is the ultimate outcome of the European project that diversity will be reduced, and this is acceptable. On the other hand, it is important to maintain an individual European

culture based on the strong pillars of diverse cultural traditions. In the traditional content industry (Movies, TV etc.) this diversity would have been shredded by American Blockbuster culture long ago, if it weren't for established mechanisms that maintain a level of cultural diversity (national and EU film subsidies). In games, there are only very few of these mechanisms yet, whether for online or offline games/content. We believe it is very important to strengthen the cultural identity in the games sector just as it happens in the other sectors, to make sure there will still be typical French, German, English or Spanish games in ten years. The language barriers shrink the target markets for each game, and in times of rising production costs due to consumer expectations, this makes products targeted at smaller markets unprofitable. In consequence more 'Hollywood' mainstream is produced even within Europe.

An important possibility to create awareness is the implication of user friendly portals, which offer the innovative companies the possibilities to be seen to a wider public. It is probably a good idea, if the public side takes a stake here to allow a minimum of competitiveness either by regulation or by supporting alternative distribution networks. It is important however to state, that game development is a rare and highly professional craft which implicates high software and creative skills; therefore it is not enough to set game developers equal to those who create user generated content.

The language issue is that the online world supports the propagation of English as a standard language of business and communication. Cultural diversity should be fostered online by offering multi-lingual support, but it should come down to the users to ask for support in the language of their choice. As for sharing creative works, users need to be provided a sense of security in which they can "easily" share works. Current technology is still a hindrance for those who don't understand technology. Linguistic diversity comes down to a business decision most of the time.

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.

In the games industry, the weakness is a certain lack of broad acceptance of our cultural media with policy makers (generation problem – current policy makers have not grown up with the media "games" in their childhood, and therefore cannot relate to it the way they can to movies, TV, music and books) and a general scepticism towards new technology in many areas. Other areas in the world that have understood the growth potential in games have simply been faster (Korea, China, USA, Canada, Australia, Japan etc.). Also, Japanese and US companies (Sony, Nintendo, Microsoft) control the access to the online channels on their game consoles, and Europe is always last to receive access to these technologies. It is important to understand that game consoles stand a very big chance of becoming the online access point to the living room of the future, as the games market grows, and the consumers playing games grow older and older. It is only a matter of time until one can buy movies, music and all kinds of other content via these portals. Billions are being invested by the platform holders to be in control of these access points. PC's and set top boxes simply haven't made it into the living rooms at the same rate (PC's), or can't offer the same consumer experience (Set Top Boxes). Europe has no own game console, therefore only limited direct access into the living rooms.

Another weakness is the diverse market, with its many different languages, creating an inhomogeneous market. In some areas of world (for instance in Asia and especially in Korea) online content and online games are the mainstream of gaming. 70% of Korean gaming is online. Koreans also have very strong government support to online game development. That offers Korean online game developers a competitive advantage compared to European developers.

The strength in Europe is the overall high level of education. In order to navigate in the digital world of the 21st century effectively, education plays an important role. The inability to use computers and the internet effectively will be the illiteracy of the future. Europe is doing a good job in keeping education high.

European design has always been strong and can set trends that spread worldwide. Unfortunately other regions have access to capital support that understand the knowledge based / creative economies and further incubate these sectors with financial support. In Canada there is access to subsidies, incentives, and capital that assists in the creation of the videogames industry. It's hard for EU based developers to compete when forced to comply with national regulations that have not yet recognized the importance of this sector. Most is created by freelancers or independents that work on projects that last anywhere between 18-24 months in office like environments, but with the caveat that once the project is finished they move on unless another project comes in. The current regulatory framework makes it difficult for freelancers and independents to commit towards a company without becoming qualified as an employee. This places the creative and the business they work for in a difficult situation as they're forced to provide support that the projects they work on don't cover.

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?

It has been estimated, that in the future an increasingly significant part of gaming will be online. In a country like Korea where the broadband rollout already took place this is happening. From European perspective this means, that online game development needs more investment in the future. European game developers have the capabilities to create competitive online games. Creating that content should be supported by EU.

Game technology can be considered as they key to content on the triple play era, as it manages interactive content. A wide range of business models seem possible in this context - TV networks and telcos as well as manufacturers can become valuable partners. Their database allows new business strategies beyond the traditional game publishers. But so far most of these groups stay back. It is a big opportunity in the games industry, that there are chances to offer additional paid content that the user can buy after he has played the retail game. Additional revenue streams can be generated this way, and it can be offered worldwide via the game console networks. Also, this is possible on the PC, but worldwide the PC games market is not as important and large as the console market, and piracy is a bigger issue.

The opportunities for these online content business models are limitless, particularly considering increased customer faithfulness to the developing game studio, which can keep its products alive for much longer by offering such additional content. The obstacles are that the access to these channels is not always freely available. Furthermore there are practical obstacles that generate from a lack of understanding of the business models employed across the continent. A serious campaign on educating traditional support structures on the importance of knowledge and creative based businesses is necessary. And Europe needs to establish more centers of creativity in order to attract strong talent and further enhance the competitiveness of Europe.

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

It's estimated that online gaming will be the fastest growing sector of gaming globally in next few years. According to PWC the value of online gaming will be around 25 % of total value of gaming market 2009. Internal predictions speak of online game content offered to consumers will increase by a factor of five in the next 5 years. Even if these forecasts have not necessarily an any higher value than weather forecasts, it is probably true, that the online game sector will grow significantly with and beyond the roll-out of broadband in Europe. Europe has a great opportunity in capturing the lion's share of this activity. However, more has to be done in supporting the content creating SME's.

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.

In the console space it is access to the distribution channels and the ability to create games using these consoles in the first place are serve as barriers. The barriers of entry into the console game development market are very high. In the PC world it is mainly piracy and the inhomogeneous market that is the issue. Broadband availability is a key for console and PC games. Growth in number of Broadband and 3G subscribers offers game developers and operators a possibility to create good quality content to a larger user base. However, the bandwidth alone is not good enough. Also technical standardisation is required in order to achieve as coherent market as possible. In this context it is important to stress that the technology to create games also needs interoperability in Europe. It is not only necessary on the level of devices, but also on the level of creation, because – often underestimated – creating games are also a technological challenge. Software and hardware costs are higher than in other parts of the world. Key software is generally priced x 1.5 to 2x more than it is in North America. This places a burden on the companies.

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?

Revenue share models seem to be similar to those of the film-industry, but more biased to the content exploiters. Game developers as content creators are at the beginning of the value chain. They have always higher risks in securing revenue stability. Especially in the context of high market entrance barriers (access to the consoles and the console online channels

controlled by the platform owners, high prototype costs and piracy and payment methods in the PC field) it is difficult to prosper for independent companies based on the principles of cultural diversity. For the EU to promote the sector there must be a focus on providing an environment in which SME's can survive and freelancers and independents can operate more freely. Further common standards for royalty distribution should be developed.

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?

Non- European platform holders offer a payment scheme. This is an advantage to the open PC market, where everyone is using different systems. Stable, easy-to-use multi-national micropayment systems are the key to a successful mass-market online content distribution. Wide acceptance of credit card payment is helpful, too. Maybe a European standardisation approach could be helpful here, if it takes needs of consumers and the industry into consideration and really aims at becoming a standard (no consumer or content producer costs).

Online games are mainly paid for by credit cards. In some countries, however, credit cards or specifically international credit cards are not widely held. Here, direct debit – authorised, recurring charges to bank accounts – also of importance. In the case of mobile phone games, including online games, the predominant payment is by premium SMS.

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

Non- European platform holders offer easy to use micro payment systems that are well designed and require little improvement. It is one of the big benefits they can offer the content providers using their channels. This could be the potential gateway of the European telcos into this field.

In the PC space, credit card payment has become the standard, and it works ok – but not for teenagers or kids that only want to spend very small amounts. It should be noted, that especially credit card transactions are not really viable for small payments, due to per-transaction costs. Credit Card abuse is an issue.

Today, online games are generally paid for by monthly subscription. There are no obvious technical or other issues standing in the way of paying per time or per volume of content accessed, or for incremental, episodic content. It is probably more a matter of tradition and customer preference or habit.

The one widespread non-subscription payment system, premium SMS, is used not only for mobile content. It should be noted that this is a very inefficient payment system, in general, with overhead, layers of commissions, and transactions costs often leaving the content provider with well below 50 % of the consumer price.

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 the games industry, this is not such a big problem as in other areas. This aspect is not particularly hindering to us. The languages pose more of a problem, as the games has to be localized a lot in Europe (costly). The system would need to be completed electronic and manageable by the user. Major issues would be the cost for such a licenses and what specific legal coverage the licensing would cover. If it would provide transparency over revenue streams from point of sales across the EU than this could be interesting.

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?

From the game developer perspective: None really. Harmonizing moral rights in the EU could be beneficial. Further specification of current IP / copyright laws and better communication between music stake holders is nice too have.

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 authorized / unauthorized private copy, etc.)?

Games are made by professional SME's which make a living from that. They are highly innovative and build creative works. They should be protected and remunerated. Games as such are no user generated content. We should take the stance of paying the creators of content. In general, levy systems are good for creators. We aim at similar models as in the film industry. However, there are practical issues here due to ability to track copies, etc. Until we can effectively track units and distribution of material we're speaking about placing the universe into a bottle. Future consequence of convergence is the creation of a royalty system that clearly stipulates each actor and the role they served in the creation of product. The public side should make sure, that console online channels are more open and access costs are reasonable.

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?

The regulatory context for online games from a development perspective is blurry. We have to state, that the regulatory systems are not yet prepared to respond to the new challenges. Main aspects for developers are on competition regulation to maintain competition on every level of the value chain. Unfortunately the access is often controlled by game platform owners.

In a cultural context we strongly support direct support as in the film industry (CNC, FFA etc.) and fiscal measures for game development support, as they are currently discussed in France and already set up in Canada and Korea. While these kinds of measures can not replace the private business, we believe, concerning competition regulation, games should be part of the “cultural exception”. Games are becoming more and more culture just as films and music.

Regulation should support those, who take high risks to make projects happen in a cultural and innovative environment. IP is one of the few assets developers can create a long term growth strategy on (implying high risks). Therefore regulation should not make it so easy for them to give up their IP. On the contrary it should support him by creating works of cultural value to everybody.

Labour law should respect Freelance and Independent’s flexibility. The industry needs more flexible regulation when it comes to working with them.

Important is competitiveness against peer companies in the new member states: Competing companies in the new member states care less about licensing their production software, and can therefore offer even cheaper content than they normally could consider salary levels only. More awareness about licensed software in the new member states is required!

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

At the time of writing, we are not aware of any European country specifically providing such encouragement, financial or other. However, the multimedia support system of France (through CNC), game development support of Norway (through Norsk Filmfond), and game development support of the Nordic countries (Nordic Game Program), certainly can be – and are – supportive of online games development.

Recently a few funding schemes have emerged in the creative industries that also encourage innovative online content. National funding schemes exist only in very few cases.

Belgium does support the creation of creative content but not really the creation of online content specifically. In fact, it is a regional topic between Flanders and Wallonia. The trend in Flanders is that innovation and technology are supported and pushed significantly over the last couple of years. At the moment its unclear how far this also applies games.

In Germany local support agencies give money in the context to foster the local industry. In some Länder strategic approaches exist, but they are rarely becoming operational. It is better in those regions where cities equal the Länder levels (Berlin, Hamburg). On a national level there are technological projects through the ministry of economics, but nothing for the content side.

There is an emerging political focus on the games industry including on line games, and recently a few funding schemes have emerged in the creative industries that also encourage innovative online content.. It is very important that the European community increases the focus on the European games industry, developing a (regulatory) framework supporting the development of the potential of the industry

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?

Games are still a gift-driven industry. Sales peaks during the holiday season or easter, end-of-school-term will remain even in the online space – even though some minor decline is to be expected. Traditionally Christmas has been a release window, but with the convergence to online distribution the Christmas release may end up falling to the wayside. Getting products finished for the biggest release windows as described above is important. Also, there are release windows when games are launched at the same time as corresponding movies, which is also an important factor in the convergence age.

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?

Network neutrality is a high value and should be strictly established without any exceptions. This does not mean that policy should be neutral to technology in general. It has to be seen as part of the rule, that competition should be kept alive on every level of the value chain. Network neutrality is also a cultural value, as it allows in principle everybody equal access for the distribution network of the future for games.

We see big risks that Quality-of-Service will mainly be beneficial for large multinational companies, and that SME's and customers will be the losers in the equation. A preferential distribution would probably be given to those content providers who have a strategic interest in keeping their point of sale – privileges in the digital age. For the producers this is bad news as again not the best quality or concept is decided upon, but the “preferential” distribution channel. There is a certain chance, that the internet can support the idea of democratisation of distribution. It is not sure, if this will actually happen. QoS seen in a large scale could be a tool to de-democratise the internet. Regulating the internet in the manner is like creating commercial television in the United States. In the end there will be few providers of content with creators of content fighting to be seen. Creation of such an environment would be counterproductive.

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?

Piracy affects the games industry. Large damage is made to the industry by piracy, especially in the PC space, where games are copied freely. We have a long experience with that. Piracy has existed for the games industry as long as computer games exist. A successful copy protection is one that leads to the game being available online only after 3-4 weeks after release, and not after 2 days. The actions taken are physical copy protections on the disk, and the use of DRM for online distribution. The benefit of the console game space is that piracy is more difficult, mostly requiring hardware modifications to the console – and therefore making it less feasible for the mass-market.

However, a debate can be held, if the actual creators (developers) of content are damaged as much as the publishers / distributors are hurt and this is due to the business model that exists in games. Although we know that piracy can even have some positive marketing side effects, it has to be battled by in principle. At the end of the day creators are equally hurt. Additionally it is now becoming increasingly also a developer problem. The question is however, if DRM and other trusted computing solutions will really make a difference. From our perspective it is rather to be doubted, that a substantial impact on piracy will be made by subtle changes in the regulatory context and the introduction of these systems. Online distribution however as such will be more relevant, as it allows a better control over the end user.

Piracy isn't good, but taking the fight to the individual isn't the solution. Fighting larger piracy rings and educating the public on the damage it causes is a better approach. Some distinction between “small ones” and “big ones” should be made, but it is doubtful whether chasing the big ones will be sufficient in the long run. The big ones definitely need to be treated with repressive measures since what they do is purely criminal activity. A larger and more delicate part is the piracy that's committed by the users. These people mainly don't operate with malicious intentions but do want to dispose over a lot of content that is too expensive to buy it all. This combined with the fact that the bulk of the people don't have a clue about the amount of work that's behind the creation of a game. Piracy in this area can only be fought by a combination on both these fields. Making sure that the retail prices go down so that this barrier is lowered but maybe even more important, make sure that the retailers get an idea about the passion, effort and money it takes to create a piece of content.

In regards of a distinction between digital and physical piracy, the trend does shift and it will continue to shift towards digital piracy. The reason is quite simple. More and more users dispose over high-speed connections and more content is made available for download next to retail boxes. Additionally, disc copying is with the latest copy protection environments still harder to get by than simply downloading a piece of content.

We believe it is absolutely crucial to remind the new member states and other eastern countries (Russia, Ukraine, China, Korea etc.) to take more active steps against piracy. Not just against mass producers, but actually also against companies developing their products with copied software. The internet knows no boundaries, and so does pirated software or content.

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?

Several EU member states run anti-piracy campaigns, whether it has an effect or not is difficult to judge. We believe countries should look at utilizing their specific talent to speak about this. However, it should be said that utilizing scare tactics or metaphors that link piracy to extreme drug use, violence, or hard crime shouldn't be used.

In the Netherlands placing local businesses engaged in game development helps to place a face to the people being affected. This also helps encouraging support for the local industry. This is done actively in Austria, People are being made aware, which is a good thing. Generally, Austria has a pretty low piracy rate. In Germany anti-piracy activities are focused in a specific organization (GVL), which is above all supporting the authorities. Awareness-raising campaigns are set in place by the film industry in Germany.

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?

If we let users freely distribute content that they simply cannot use, they'll soon stop doing so. P2P technologies can never be properly controlled, and traditionally as soon as they are commercialized, users migrate to the next free p2p software. We do not see how money could be made using p2p that couldn't be made using other distribution strategies as well.

However, it is definitely an area we have to explore since the distribution trends are changing. If the software is built to provide an accurate measure of what files are being distributed and who the end receiver ultimately is. There has to be a way to generate billing information. The key to this might be creating some kind of an online validation interface that only allows authentic users to use a specific piece of content, regardless of place. Look for instance at WoW: This mass success story has the perfect protection built in: your personal profile is stored on a server. If you don't dispose over a unique username and password, you cannot play with your characters. You can play 'your' game on any PC that has the game installed, as long as you have your name and password.

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)?

In general, rating does hinder free movement of content dramatically. In the games industry, the classification is mainly a self-regulation. However youth protection is a crucial aspect when distributing games or movies, and it must not be weakened in Europe. A European standard which could be desirable will probably not be established as cultural traditions and different values in the member states make a standardization very difficult. One possibility is to look at the German model, the rest of Europe uses the PEGI system. On the other hand, as within Movies, it is important to accept that the games industry also produces content for a

mature audience and that grown ups should be able to choose their content freely, as long as proper rating procedures are followed.

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?

Copy protection measures in our view, serve best to protect static and linear material. Any such material can always be copied through digital or analogue means. It is only a matter of the level of quality degradation you are willing to accept in a copy, moral and legal issues notwithstanding. Games, as interactive material, and online games in particular, can per definition not be copied. Each usage or experience is unique, and requires access to the game logic. If some of this logic is not resident on the user's equipment, a verified, authorised access is relatively easy to establish.

Game developers have indeed used DRM for online distribution. It is a good method to secure intellectual property against misuse. But it has two sides; it may not become extremely annoying for consumers, as it happens nowadays sometimes in the music industry.

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?

Yes, there are several vendors offering DRM solutions for games. DRM systems are expected to have some applicability in non-online mobile phone games, but generally accepted and widely adopted standards are not in place yet.

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?

They are widely used for distribution, with reasonable success, and reasonable transparency to the creators and consumers. For other things, they are not widely used.

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?

Copy protection is widely used in the sector to protect retail games from piracy. It is reasonably accepted by consumers, as long as no 'root kits' and other spying software are installed on the PC.

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

In the experience of the developers, a lack of piracy-awareness and freely available pirate copies in the new member states could ultimately force game-producers more and more into online distribution (such as in Asia, where the absolutely only way to make money with games is online distribution using DRM). Whether this is good or bad remains to be seen.

DRM systems, in the sense that the user's hardware and operating systems have undocumented, inaccessible, and unalterable areas and functions, have a number of potential problems. The issues range from hardware and software quality and reliability to data integrity and personal integrity, privacy and freedom-of-speech. If such DRM systems are controlled solely by non-European private interests, they are, of course, even more questionable.

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?

There is still very little cooperation between those who maintain and build up online archives on a non commercial basis and game developers. This aspect has definitely to be explored more in the future. There are however regulatory barriers as e.g. platform holders often do not allow the usage of open content.

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.)?

From the game developer's point of view, the central problem is, that no vertical console system hails from Europe. Console systems are also aiming at networked and digital distribution. That means that for a long time the game hardware will be imported in Europe. First look and first research privileges lie in other world regions. Console manufacturers have created an exploitable and controlled channel into the living room for millions of people in Europe. Europe has no such channel due to the lack of a European console manufacturer. The idea, that set top boxes might replace them is not very likely to happen. Consequently it is necessary to be as independent as possible from hardware innovation, eg. by supporting a standardized middleware layer "behind" the hardware.

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.)?

One issue concerning the games industry is, that government should lower market entry barriers for content producers for Europe e.g. by making sure, that the European games industry has equal access to technology (especially in the console context), and that the access is fair and reasonable for all European companies. By accepting games as a cultural and audiovisual media, public regulation and support systems can be applied to games. Especially in the development side funding is necessary for cultural diversity.

In an networked environment the role of government as trust holder of cultural diversity becomes even more important as network effects will increase in the digital age. The role of government is then to make sure, that a strong variety of content – in our case games – reflects the cultural values and traditions of the member states.

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, it is necessary to pay more attention to the subject of game development and to have a positive attitude about it. There are several possibilities, which have to be taken into consideration. Regulatory measures should value the cultural, technological and economic impact of a flourishing game developer community for the whole of Europe. They should value games as a cultural and audiovisual medium in the rapidly changing information society. The definition of culture can not be made up in an ivory tower, but in a democracy it is necessary to look at the people – and they have opted for games as culture a long time ago.

Content and technology funding can help supporting the industry on the two necessary ends: IP as a result of content creation on the one side and technology on the other. It is necessary to study closely the impact and spread of (online and offline) game consoles in European households in the next 10 years. This is often neglected in our opinion.

Content funding, which can be legitimized culturally, should be given support e.g. in the context of project development (e.g. prototypes). On the other side the barriers of R&D innovation are blurring in a service driven economy. Technology funding should especially take into consideration strategies for lowering the market entrance barriers for European content producers and the little control Europeans have over console, hardware and interface technology. An important role of the EU level lies in finding interoperability standards for middleware for interactive content creation taking into consideration open source layers as well as proprietary solutions.

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