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SUBJECT: EGDF Response on public consultation on the green paper of the European commission, concerning preparing for a fully converged audiovisual world, gross, creation and values.

Question 1: What are the factors that enable US companies to establish a successful presence in the fragmented EU market despite language and cultural barriers, while many EU companies struggle? What are the factors hindering EU companies?

The main factors behind the strong position of US companies in the European audiovisual markets are by their nature historical. They relate to post world war considerations. Some years after the Second World War Europe started to support film productions and introduce public TV, but they never managed to interrupt the strong position of US companies. This development was mainly connected with network effects that are properly and well described in the document. In a digital networked environment, the role of government as trust holder of cultural diversity becomes even more important, as network effects will only increase. Thus the role of government is to make sure that a strong variety of content – in our case games – continue to reflect the cultural values and traditions of the member states. A strong computer games industry is important in Europe because game development is by its nature economic, cultural and technological at the same time. Consequently, it promotes the cultural, psychological and economic perspectives of the creative position and it is an innovation catalyst in the information society.

Our European culture environment is based on different languages and communication clusters and this differentiation cannot be neglected. A good example is Switzerland. Switzerland has a common legal system or fairly common legal system, but still French-speaking Switzerland and German-speaking Switzerland follow the release windows of the cinema movies of France or Germany. Consequently, a legal reform could actually have only limited impact; it is recommended to look into policy measures beyond regulation. In the games industry, transnational approaches are more common than in the traditional film industry, even though games are part of the audiovisual sector.

Therefore games could be seen as a model here. The EU could do a lot in supporting development here.

One of the main challenges European game developer studios face while growing up is the lack of venture capital funding compared with their US counterparts. The USA, and especially areas like Silicon Valley, has their own unique venture capital ecosystem that cannot just be copied to Europe, where investors are much less risk taking and have their unique cultural traditions. As the quickly growing games industry in Finland demonstrates, Europe has to find its own model that is based on both public funding and private investment. The Finnish Funding Agency for Technology and Innovation (Tekes) funds the development of both technological and business innovations in the area of audiovisual industries. When this funding is combined with national and European funding for audiovisual content, Finnish developers have great opportunities take risks and produce ground breaking new and innovative content. Even in Finland only rarely private investors step in before the companies have something concrete to demonstrate for them. Thus, in general, private investment follows the public investment, not vice versa. Therefore both European and national innovation funding agencies should secure that they can offer a large number of small grants (e.g. 100 000€) for innovative SME's in the audiovisual sector.

Question 2: What are the factors affecting the availability of premium content? Are there currently practices relating to premium content at wholesale level which affect market access and sustainable business operations? If so, what is the impact on consumers? Is there a need for regulatory intervention beyond the application of existing competition rules?

At the moment, there are the following types of income streams: payment for premium games (pay-per-download), payment for in-app purchases (microtransactions) and payment from advertising. For the game development sector in Europe, in-app purchases, as a part of the so called free-to-play business model, have become more and more relevant. Within this model, games are not sold as products, but items within the games or players' adventures are monetized in a service like manner. Touching down directly to the end consumer has been important for the success of European game developers during recent years. Large single payments have been replaced by many small micro-payments, which have become complicated to administer as well.

In this context, it must be recognized that, based on the experience of European game developers, the more different payment solutions and billing solutions they integrate into their games the more money they can collect through in-app purchases. However, payment systems differ massively from country to country. Mobile game developers can receive payments from the app stores of platform owners, from aggregators from app stores operated by e-commerce platforms or app stores operated by Mobile Network Operators. Furthermore, a wide variety of service providers offer additional income streams to developers/publishers with in-game advertising. Mobile game developers who are working with publishers receive money from the publishers, in accordance with the publishing contract they have closed.

The recent market development has, however, seriously limited the access to European payment options for European content. The mobile games market as a whole can be roughly divided into the Smartphone/Tablet market and the feature phone market. In the Smartphone and tablet market the payment solutions of Apple, Google and Facebook are dominating. Their systems provide integrated solutions for all three payment types, but are limited to credit card billing and their own internal voucher and coupon system. The rest of the market, mainly driven by handset manufacturers and operators, offer a variety of payment systems including Premium SMS billing and Operator billing. At the moment, every player in the value chain sets his own rules and revenue shares although the 30% platform/ 70% developers/publisher seems to become the industry standard.

Consequently, it is a more and more important question, which are the payment methods most of the app stores are using. In practice this means that in addition to global credit card companies it

is recommendable to allow access to other more European payment providers (e.g. operators, mobile payments, NFC, vouchers). This might require both industry actions and, if they don't work, legislative actions. Billing, for example, could be a possibility for European telecommunication operators to re-enter the value chain. But we must admit that the current closed ecosystems of payment do have a better impact on payment methods from a developer's point of view (e.g. Apple). Therefore a loosening of the ecosystem should not be used to worsen the situation.

European publishers and developers are ready to share their experience, knowledge and thoughts on how the current payment mechanics and related issues can be improved and bring forward common recommendations for the large players, who are now dominating the industry, namely Apple, Google and Facebook. The European developers need to be listened to when it comes to related standards and payment solutions. In this context, we underline the necessity of having the voice of the game development sector heard. This could be done via information and research activities and the involvement of the relevant players in the discussion at an early stage. Ideally European actors should be able to do billing for their content, not be forced to use Non-European closed ecosystems for payments.

Especially one should look into the possibilities given by the new Single Euro Payments Area, SEPA. The current version of the SEPA is a system that is now implemented all over Europe; it thus seems to be the right time to get into contact with SEPA for the next round, especially concerning enabling SEPA payments in mobile applications. Thus the key stakeholder groups in this area should participate in SEPA governance forums and other similar European initiatives. Beyond SEPA, billing systems need to be better tuned from the content producers' point of view in order to make Europe grow quickly and to overcome national differences within the common digital European market. We underline here that the games industry can develop pioneering new systems, which could also eventually lead into a broader European industry initiative.

Question 3: Are there obstacles which require regulatory action on access to platforms?

Although the Internet is an effective instrument for multifaceted growth, its openness makes it vulnerable to manipulation. By controlling the flow of data, network operators potentially have the ability promote their own content, to the detriment of others. This can distort the digital single market for European SMEs. The preservation of network neutrality in Europe will help to ensure continued technological and economic growth.

Thus the equal access to platforms is highly relevant. Net Neutrality is an important issue, because small game developers need to be able to compete with large ones in a level playing field through the same network. Therefore it is necessary, that regulation insures that the network operators themselves do not throttle or cut content on their discretion. It is very much appreciated, that the commission has recently launched activities to enforce net neutrality in Europe. This will stabilize Europe and enforce its competitiveness.

Consequently, the EGDF appreciates the European Commission's concern for the free and fair access to the Internet and welcomes the recent regulatory proposals. In particular, the EGDF applauds the stated objective of preserving the open and neutral character of the internet, as limits to the functioning of this motor of economic, technological and cultural growth will have a negative influence on the development of Europe as a modern, innovative and productive society.

The rise of the online content and the app-economy market has not only produced opportunities for creative, quality driven content, it has also created opportunities for regulators. The challenge is to prepare regulatory and technological solutions, which make Europe a winner of the rapid changes of the digital age. On the other hand, policy must be carefully crafted not to destroy the cultural achievements of digitalization by changing the rules too radically. The aim must be to keep innovation and change possible in a world, where content networks reshape the face of the Internet. The danger is real, that filtration and differentiation will have a significant impact on the selection and distribution processes of content. Any policy affecting the Internet needs to be

vigilant that it is not used as a vehicle for entrenched interests. Using various issues as effective smokescreens (such as youth protection, the war on terror, online piracy or child pornography), business oligopolies have been able to create regulations and initiatives that serve business interests. It is imperative that such influences regarding the net neutrality debate are resisted.

Question 4: Do the current AVMSD requirements provide the best way to promote the creation, distribution, availability and market appeal of European works?

The audiovisual media service directive needs to be adapted to the new distribution channels. In this context, it needs to be discussed, whether the audiovisual media services directive could in the future also be applied on games. Specifically online games and virtual worlds are in reality part of the audiovisual sector. Therefore they should also be part of the standardization efforts as well as the regulatory context. The borders between the audiovisual TV oriented parts and the audiovisual sector which is presented by the games industry are blurring and will converge with the new generation of game consoles in 2014 and smart TV systems.

The rapprochement of games and linear contents will bring a decisive boost for European content production. This is naturally embedded in the technological development, which is a natural result of the further development of the Internet (and the mobile space) as a common platform. With the new opportunities provided by HTML5 in the cloud environment both communities are approaching a common standard for the distribution of digital content. It is expected that this standard will be operative in about a year's time.

However, film producers and game developers see the opportunities of HTML5 from different perspectives. So far the film and TV standardization processes have been mainly driven by initiatives like HBBTV or IPTV, digital cinema projection and the new 3D standard. Now, however, it is clear that the next standard for developing and distributing, the content is going to be HTML5 although there are still many open questions related to its upcoming development.

From the game development end, the focus of the standardization discussion is much more on actual software programs, which become de facto standards, such as Flash or Unity utilizing many existing solutions than on the standards themselves. Therefore the way game developers perceive HTML5 is different than the way linear contents producers see it. Consequently, it is expected that game developers will make HTML5 more than just a standard. It has to compete against existing middleware solutions and therefore needs features, which align it to a certain degree to them.

The economic significance of the content layer, games and audio-visual, is increasingly relevant, as other European actors are struggling to survive. From the carrier end, significant legacy players are already merged and new actors appear. Obstacles are not only technological, but also related to business models and regulation. As the result of the introduction of the cloud technology, the network convergence will be completed. However the services offered in the cloud differ significantly from the ones existing now and other, completely new, players will arrive in the field. Today, cloud services are managed by companies like Amazon, Microsoft, Google or Apple. This reality demonstrates how, as cloud becomes more relevant, Europe is once again losing out. None of these companies existed 25 years ago. They are new and disruptive companies, offering new kinds of innovations. It is not likely, that a similar development will happen with European legacy companies.

Luckily for Europe, from a content producer perspective, the technical convergence will lead eventually into a relative insignificance of the gateway and the display. The content will come from the cloud and be accessible simultaneously by a large number of very different displays and human-machine (or better human-cloud) interfaces. However, it is likely that non-European conglomerates will try to exploit the technological fragmentation to secure the position of their walled gardens in the value chain. Only if European actors in converging media value chain join their forces now to boost the technological standards, we can secure that there will be non-fragmented digital single markets for converging media content in Europe.

As the result of technological convergence, the cooperation between the game and linear contents industries is only likely to increase in the near future. While some games (Heavy Rain, for example) are becoming closer and closer to films and thus are starting to require both the artistic talents and the expertise in running the huge multinational production from the film industry, some films are starting to implement more game like production methods (e.g. Iron Sky).

In the digital media markets, content drives technology, not vice-versa. The everlasting dream of game developers and film producers melting their content has been there almost forever. The initial idea of converging media is that eventually interactive and linear entertainment will converge and that new hybrid systems allow new types of media to come into existence.

In the past, there have been many attempts to make an accessory film to a game or an accessory game to a film. Unfortunately, these attempts were often limited in quality. For a real convergent content development, one needs to take different production cycles of the interactive and linear content into consideration. Despite all efforts by producers, developers, publishers and distributors, this scenario has, however, rarely taken place in the mass market. Often the quality of games, which were produced alongside with films, is not at the level expected. And it has been similarly difficult to produce decent quality movies based on a game. Furthermore, many actors in the production communities ceased to believe in the convergence of production clusters and activities because of different production methods and cycles.

At the moment, an increasing number of experimental and commercial trans-media productions are emerging. These productions encompass linear and interactive elements. Now, when both the interactive and linear content are starting to use the same cloud based technological solutions, the same standard and the same mediums to distribute the content, the borders between them are starting to blur. Consequently, European games and audio-visual industries need to take joint actions to better understand, which different approaches to this new cloud-based development are made possible by the new opportunities and how they could be explored to create digital growth and jobs in Europe.

The interactive content is more oriented towards the interactive experience (e.g. gameplay) while the linear content follows the tradition of the narrative. The cultural tradition of Europe is tightly interwoven with narrative, linear structures. Even though the dialogue principle has also a long tradition in the organization of thinking (see e.g. Plato) the usual rule of dramaturgy has been established by Aristotle and did change only little ever since. The traditional European way of telling a story concentrates on a linear storyline and thus the story driven way of organizing thoughts is dominant in today's Western World. The interactive principle as a new paradigm of storytelling has been the subject of research manifold. Some say, that the way Asian cultures communicate come closer to interactive communication than our European linear style. However, its concrete implementations on the cloud based story telling are still open to be seen.

Consequently, in our opinion the complications above show that more deep revision is needed.

Question 5: How will convergence and changing consumer behaviour influence the current system of content financing? How are different actors in the new value chain contributing to financing?

As demonstrated by the development in the games industry, it is a possible scenario that the role of distribution will reduce massively while production and distribution become more and more one entity, directly facing the cloud service to bridge a gap to an end-consumer. This new model gives new opportunities for content producers and IP owners to reach the end-consumer directly. However it also requires massive additional know how, capital and human resources. The role of legacy publishers/broadcaster is changing already and will continue to change. Functions of these players will split up into different roles or even cease to exist. Other, new systems with new actors are starting to emerge.

From a game production perspective service elements have become more and more important. For the majority of European game developer SMEs as well as film and television companies, one of the

most important results of this paradigm change is to finally get a direct access to the consumer and therefore the point of sale by using the bridging cloud technology. However, appearing as a one-size fit-all solution, this approach is problematic for some in the industry. Therefore it is important, that any roadmap for the future does not become disconnected from the financial realities regarding state funding, or excludes de facto the offline challenges in terms of distribution.

When it comes to digital growth, specifically those creative industries are highly interesting, which are digitally reproducible. Consequently, this concerns specifically creative industries related to audio-visual media, such as games (interactive), film & TV (linear) and audio.

Cultural and creative industries consist of artistic, cultural, technological and scientific, design and architecture activities that fall in both manufacturing and service sectors. They employ around 10 million people and have a turnover of nearly €800 billion. EU policy makers now recognise that the creative and cultural industries (such as advertising, architecture, arts, crafts, design, fashion, films, music, publishing, video games, TV and radio etc.)³ run some of the most dynamic activities in Europe. However, the term "cultural and creative industries" covers a wide range of segments, many of which are significantly different from one another, also in terms of workflows and creative processes involved. The high scalability of games and films allows the project of focus on segments, which underline a potential growth upside scenario.

Furthermore, some components of this group (ICT industries, for example) are among the most advanced technological sectors of the economy with very high levels of innovative activities. Merged film and game industries exploiting these technological solutions cover an important key-turning point within the whole creative industries sector. However, although technology is enabling this change, creativity is at the core of these activities and fundamental to their growing importance in the modern knowledge based economy.

The strong SME orientation (e.g. "le régime de l'artisanat") covers both, the game and the film industry. The advantage of SME's is to be more flexible and more used to get things done. That is why they are at the forefront of innovation – specifically in the media business. Consequently, in the field of converging media, tiny is big.

However, even though SME's do carry the largest weight of innovation and the risk is mostly taken by private entrepreneurs and individuals, it can be stated, that innovation funding from the EC rarely arrives at these ends of the value chain. This is particularly true for the creative sector.

The use of different strategies by micro-SME's is necessary small scale, highly dynamic and requires risk taking. The structural characteristics of these micro-SME's impose a requirement for dynamic entrepreneurship skills, but do not seem to provide clear paths to the growth of these SMEs. Smaller enterprises tend to adopt a more flexible and dynamic attitude, when responding to market opportunities.

In the creativity sector, innovation and growth comes from SME's. If successful, they grow quickly also in Europe. The Finnish company Rovio, which created the game Angry Birds is one example of this in the mobile space and the German company Bigpoint another one in the browser space. Only the growth of SMEs will lead to substantial success in this area. Meanwhile Europe risks to lose out once again, as it happened about 80 years ago, when feature film was sponsored (US Hollywood cinema).

Culture and creative industries have become an important driver for jobs, growth and exports. Creative industries are representing 4.5% of the total European GDP (3.8% of the workforce). European industries, in particular small and medium enterprises, need to be more coordinative and supported to increase production and innovation and to create a dynamic response to the changing market conditions. The media consumption of interactive works and linear works has stayed separate so far. They have created separate clusters of production communities, which apply different technologies, target different user groups, modes of consumption and modes of pre-financing. In an optimal situation, the communities learn from the best practice examples from

each other. Already now the European communities of game developers and film producers are partly overlapping.

In 2007, a consortium which was commissioned by the EC published a study on "Interactive content and convergence: Implications for the Information Society". Already then the study stated that "the already the long awaited digital convergence is now truly coming of the age. European broadband Internet and mobile networks now make it possible to broadcast, stream or download digital content from a diversity of platforms to a variety of devices, often on an on demand, interactive basis. (...) The new technological environment creates great opportunities for European content providers and platform operators. Europe has shown an impressive area of new media developments over the last 18 months in terms of supply as well as demand side. "The report identified different issues, including technology and economic issues, of co-operation. Within the five years after the report has been effectuated, many innovations have passed by on the technical side: digital shift in production, online revolution on the content side, smartphones & tablets over the cloud. If we look at the conclusions of the study today, we can easily state that although creative industries have reached a certain degree of convergence the creative industries the film and TV cluster on the one side and the interactive video game cluster on the other side as well as the audio cluster have remained in the end separate. A better understanding of their respective challenges would offer a profitable ground for more convergence in the digital environment.

Film producers start their production usually when they have already closed a distribution agreement as a part of their project financing. As of today, the Internet and other online distribution channels have not managed to contribute substantially in a similar way. The evolution, however, seems to lead in a new direction fulfilling this gap (e.g. crowd funding). On the other side games have changed their business models from models based on prepaid retail games to online direct-to-consumer free-to-play business models based on virtual item sales. The latter are leading the way especially on mobile and online platforms. This exploitation of new business models has been disruptively changing the game industry during recent years.

Mass-market television has so far retained a part of the control over the linear distribution channels on the film side. Specifically network based TV services have stood robustly in the market. This is likely to be connected with specific TV-related standards. It is however to be expected that the next generation of TVs, as well as the upcoming tabloid mobile phones, will allow enhanced convergence between linear and nonlinear technology, in particular as far as hybrid content is concerned. The upcoming cloud based solutions allow for the first time the imagination of concrete and realistic implementation of these scenarios in the mass market.

The cloud offers opportunities to design new forms of integrated products combining linear and non-linear elements. However, both communities are concerned that this convergence may be hindered by prejudices on both sides. However, this means that for the first time film and game developers have to also tackle with standardization issues related to it.

A number of challenges remain, in particular in respect to the specific business model attached to hybrid content. Indeed opposite to some other creative content such as music or fashion, developing a film story and/or gameplay requires a lot of investment that could be considered as R&D. Game developers and film producers have developed different appropriate business models to generate pre-financings and further revenue streams. Cloud environments offer opportunities to respond to a certain layer of consumers' expectation. It innovates in terms of content production as well as a complement to other modes of distribution online and offline, for both the game and the film industry.

Today, the media industry is successfully experimenting with specific cloud based content and business models. This implement the creative process developed in game industry that has been designed especially for digital content as a service, not as a retail product. This needs to be reflected in the production methods as well as in the creation of content itself.

Question 6: Is there a need for EU action to overcome actual or potential fragmentation and ensure interoperability across borders? Is there a need to develop new or updated standards in the market?

The HBB TV standard will most probably only have an intermediate role. Our vision is that the HTML5 standard will become more relevant very soon and will embrace not only TV but also gaming platforms. The HTML 5 standard is, from our perception, less proprietary and therefore more likely to be successful. At times, HTML5 has been heralded by some as the general solution for all platform and device fragmentation, while we have yet to see it even approaching the “write once, run everywhere” potential for games in general. In practice, this should mean that developers need to be much more engaged in browser development, to be active and vocal, ensuring that features vital to their production actually make it into the latest browser versions.

Hypothetically, HTML5 could have clear mutual benefit for developers and end-users alike, but for HTML5 games to have greater promise than that of Flash games, for example, some factors are necessary. The most important may very well be improving discoverability, or how the players/customers find the developers game/product. Another critical area is that of payment transactions, or how the parties securely, conveniently, efficiently, and with minimum drain from middlemen, exchange money.

That being said, HTML5 certainly has a place in games-like applications, such as advergaming (games used as commercial promotion vehicles, much like commercial TV ads), interactive training applications, and a lot of other products that are to some extent part of the games industry. Not in the sense that they are games, strictly, but in the sense that such products are a source of not only revenue, but also of wider media and other industry relations for the individual game development companies. When the aforementioned problems will be overcome (either by game developer involvement or the slower process of passage of time) HTML5 will become a more viable platform for all sorts of development and especially so in the mass-segregated market of games.

Overcoming the discoverability and payments processing gaps by setting up a general mobile games-listing site that would become a global – or at the least European – leading authority, and establishing trusted, easily implemented payments solutions, are obviously endeavors involving special skills and several man-years. But this would be for an unclear benefit.

Question 11: Is there a need to adapt the definition of AVMS providers and / or the scope of the AVMSD, in order to make those currently outside subject to part or all of the obligations of the AVMSD or are there other ways to protect values? In which areas could emphasis be given to self/co-regulation?

In the current version of AVMSD online games are not included. This is surprising, as online games do take part of the audiovisual media landscape. The situation is tricky, but eventually online games are a part of the audiovisual media sector and therefore also the audiovisual services directive should be applicable. There is no reason why it should not be the case. The idea, that business models are too diverse and financing systems are too different is not persistent. Specifically, this is true for the fact that more and more business elements do converge in the online space. The next round of the audiovisual media service directive therefore needs to concentrate on cooperating in interactive entertainment probably in the context.

Games are an integral part of the converged audiovisual world. Games have been acknowledged as audiovisual cultural products by both the member states and the Union. Video games have been digital from the beginning. As such, video game companies are the forerunners of a multitude of innovative content, services and business models driving today’s digital economy. As acknowledged by the European Union itself and many of its member states the game industry is an audiovisual industry. In the near future it is likely that games become the leading audiovisual medium, while films transform more and more to an ancillary medium. Games are rightly so exempt from talks on the EU – US trade agreement as part of the audiovisual sector.

Since at least 2006, the European Union has classified cultural industries as including film and video, video games, broadcasting, music, book and press publishing. The European Commission has acknowledged the rise of video games in contemporary culture in Europe, when it concluded that certain video games are genuine forms of cultural expression and in many policy documents addressing the European challenges in the audiovisual sector the Commission has systematically included the so called multimedia (including interactive works) under the broad definition of audiovisual works and acknowledged the fact that the development of video games and the creation of audiovisual works are merging more and more. Also some member countries, like Germany, Spain, France, Nordic countries and Netherlands, have decided that video games are cultural products and thus eligible for public support. On the global level, the cultural nature of some video games has been recognized by UNESCO. Their cultural value has also been acknowledged by the major regions competing with European games industry like the USA, Canada, Korea and Japan.

Question 12: What would be the impact of a change of the audiovisual regulatory approach on the country of origin principle and therefore on the single market?

The Country of origin principal has been an important factor of stability in the European audiovisual media landscape. As a given it should not be changed dramatically. It is however useful to think about concrete steps in opening a digital European market and to complete the European digital market as a title of the green paper has indicated. This can only be the case if there is a trans-European licensing system which favors trans-European deals in the private economy. The games industry in general has a more flexible approach to national cultures than film industry and other more traditional analogue media industries do have. However, it needs to be said that there are also in the games industry differences in cultural level, which need to be taken into a count. Therefore it is quite dangerous to do too dramatic changes here and the country of origin principle will probably persist for a while.

However, it has been challenged recently in the context of the tax environment. The double taxation, as a political problem, has emerged from the fact that there have been two different approaches on the taxation of micro-transactions within games. On the one hand, some member states think of these in-game-transactions as an issue regarding the company distributing the game. On the other hand, some member states consider it an issue concerning the end-user who buys the virtual goods. There are examples of European national tax authorities taking positions on this issue, such as Sweden, that have actually ruined game developer studios.

Double taxation is unacceptable within the common digital market. The new VAT regulation will be implemented in the European Digital Single Market Area from the beginning of 2015 and EGDF is currently discussing with Directorate General Taxation and Custom Union (DG TAXUD and other stakeholders about the key methods tackling the issues related to the double taxation (e.g. Mini One Stop Shop system a.k.a MOSS, system and auditing practices)). This very concrete development is thus closely monitored by EGDF on the behalf of the European games industry. It is especially important that the new rules are implemented in the same way in each Member State.

Question 13: Does increased convergence in the audio-visual landscape test the relationship between the provisions of the AVMSD and the E-Commerce Directive in new ways and in which areas? Could you provide practical examples of that?

The true convergence between interactive and linear media will lead to a number of important changes in the market. The fundamental change in media consumption and audience expectation creates new challenges for film- and television storytelling. This was realized in the trans-media TV-Series "The Spiral". In September 2012, five one-hour episodes were simultaneously broadcast in nine countries. This trans-European project combined traditional storytelling with innovative gaming, online communities and true audience involvement.

Another example of an ambitious trans-media project is revolving around the biggest train station in Europe, the Gare du Nord in Paris. The project includes a feature film, an interactive website, a documentary and a theatre play. The feature element of "Gare du Nord", produced by Les Films d'Ici's Richard Copans in association with co-producer France 3 Cinema, has wrapped after an eight-week shoot. Domestic and international distribution and sales are scheduled for release in the first half of 2013. The website will go live a few weeks before the film is released in order to create a buzz and the play will be performed at around the same time as the release. The documentary will be screened shortly afterwards.

Further example for collaborative work between linear storytelling and interactive gaming is the action-adventure psychological thriller video game created by French developer Quantic Dream, Heavy Rain. The video game is a story driven dramatic thriller modeled after film noir, featuring four protagonists involved in the mystery of the Origami Killer and a serial killer who uses extended periods of rainfall to drown his victims. This technique will be further developed in Quantic Dreams' current project.

The main thing uniting these projects is the fact that the business models behind them are converging. Most of the innovative business models, services and content are developed by small entities. The ground-breaking viral innovations happen in SME's often lead by university dropouts or citizens without formal higher education. Some of these companies become quickly highly successful. Facebook and Twitter in the USA, or European game developers running a turnover of dozens of millions like Supercell, Gameforge or Bigpoint started their business during last decade. Consequently, a strong SME approach to innovation is crucial for the success of European innovation policy. This can be found specifically in the creative sector.

Truly integrated business models however might pay a cultural price, as they might limit which kind of audio-visual products can be produced in Europe. As political processes are usually slow to respond to the rapid technological development, it is crucial that the best policy approaches are mapped already when the new technologies are emerging. This is the only way to secure that, if needed, policy makers are able to react in time to secure the future of the European cultural diversity and heritage that forms the crucial base for European digital content industry to compete in the global markets. Thus the time has come to see AVMSD and E-Commerce directive as one entity, not two separate entities.

Question 15: Should the possibility of pre-defining choice through filtering mechanisms, including in search facilities, be subject to public intervention at EU level?

The idea of predefining choice and filtering mechanisms is not supported by the European Games Developer Federation. Filtering is seen mainly as a source of potential abuse if in the context of anti-piracy campaigns or search.

The discussion on the future of the Internet presents a new challenge for Europe. The essential fact remains that the Internet needs to remain open to all for innovation and business purposes. Miststeps here could lead to the smothering of the flame of online innovation (especially in the field of online gaming) that has burned so brightly in Europe in recent years. Emerging European industries live from the freedom of the Internet by focusing on online content and service. The European single market is one of the greatest achievements of the EU, but easing up on net neutrality would set back the integration of European virtual markets, as it would build virtual borders through Europe based on national mobile and broadband networks.

The relaxation of net neutrality would have a ruinous effect on the free movement of knowledge and virtual services in the EU, as network providers would effectively be able to determine which kind of content consumers can access. For example, what happens when a network provider, who owns a proprietary computer game, uses their network position to ensure that their own product works better on their network than the games from other producers or networks? Of course, they will give preference to their own applications and services. Moreover, network providers might start

filtering content (e.g. online games, VoIP, video on demand services, etc.) in order to block or limit access to services competing with their own. This would result in distorted market conditions, reducing overall consumer welfare.

Europe has few big media companies (in the games development branch) and most are dependent on free and open internet provision. For European game developers, the appearance of a tiered internet system would be disastrous. It would allow in many ways the return of the worldwide distribution oligopolies of the analogue era – mainly non-European. The free internet was the historical chance for European content producers to overcome post-war distribution structures and to touch down directly to the consumer. An absence of network neutrality would allow these oligopolies to re-establish themselves and leverage their off-line position in the digital age.

Eventually, it comes down to whether or not we trust the network operators and especially the telecommunications companies that they would carry European content when the oligopolies pay more. The realistic answer is: “why should they?” The way in which the iPhone was been introduced to the European markets provides insight on what might happen. Rather than allow market forces to freely interact, Apple signed exclusivity agreements with formerly state owned national European telecoms providers to the detriment of the „invisible hand“. Thus, it is not only network operators who stand to gain from a lack of neutrality; media oligopolies also have an interest in inventing their own rules in the digital age. An alliance between these two forces could be a potentially dangerous situation for the independent European media industry and game development branch, which stand to suffer tremendously, as would the European consumer.

The network neutrality discussion is not about regulating the Internet; it is about ensuring that the internet remains fair for companies, who wish to innovate online, and consumers, who wish to pay for and receive unbiased internet access. This is the core of the discussion. Media companies are asking themselves, “What is happening with the internet? We are not able to control this market anymore!” It is these people who have an interest in leveraging their bottlenecks and their distribution oligopolies from offline to online. Thus, it is not so much about money, it is more about control. From out of nowhere, successful, independent developers are sprouting up and taking a chunk of the market for themselves. It is these people who bring innovation to Europe and it is our duty to support them. We should not cut them off by allowing the interests of the few to dominate the interests of the rest.

Question 18: What regulatory instruments would be most appropriate to address the rapidly changing advertising techniques? Is there more scope for self/co-regulation?

Advertising techniques do change quite radically. Advertising is today much more technology oriented than it was ten years ago. This has to do with the internet and the possibilities to drive campaigns through internet. These advantages need to be taken more serious by the European media production community. Visibility and discoverability becomes more and more an issue. Therefore it needs to be taken serious and it needs to be seen how a regulatory instrument could back up European productions.

The success of the App Stores and the emergence of free-to-play games with virtual currency and items are recent. Furthermore, with close to 200 new games launched each day on the App Store, it is hard for consumers to find their way. Discoverability of games by consumers becomes an important issue today, when 200 new games are launched on iOS only. Large companies with deep pockets can use marketing and user-acquisition tools to boost the visibility of their games. Smaller developers again might need publishers to help them reach their audiences.

Discoverability is a fundamental problem for game developers and the potential solutions are changing very quickly. A solution working today will probably not work anymore in six months, due to the disruptive changes that affect the market time and time again. It is thus not worthwhile, in

our judgment, to propose anything at this time that has any lasting value, and serves as a sustainable integral part of a roadmap.

Game developers have access to international markets. However, some game developers choose to work with local distribution partners. Finding the right reliable partner in each market is a lot of work and not many developers have the time and the money to investigate this. It can require traveling to conferences, meeting partners, visiting them in their country, before a contract can be signed. In countries where the app store is not the predominant route to market, such as in the emerging markets (the Middle East, Africa, India, Brazil etc.) working with operators can be a better solution.

Question 20: Are the current rules of the AVMSD appropriate to address the challenges of protecting minors in a converging media world?

In the context of protection of minors it needs to be seen that the situation is quite difficult. On the other hand film and TV are censored by different bodies. On the other hand within the gaming industries there are censorship bodies outside of Germany and the rest of Europe. Specifically the PEGI system is controlled by non-European (mainly retail) publishers and European producers of computer games do play only a very minor role in the context. The PEGI system has now become a business model for a few and has lost increasingly market shares over the last years. The audiovisual media service directive, when it is including online and mobile games, could be a good place to start this debate from scratch. That would be a very useful approach.

The history of the European regulation on the protection of minors systems within the computer game industry can be traced back to the times when parents were upset about their children playing games on PCs and consoles for too long and in an unregulated manner. The main motive of their anger was lack of ability to understand and control the process. This had a lot to do with the "generation conflict", which had been emerging in the similar way in earlier generations with the appearance of new media such as Rock'n Roll music or even earlier with the cinema. Self-regulation was first introduced in Germany with Unterhaltungssoftware Selbstkontrolle system (USK) and later in other European countries with Pan European Game Information system (PEGI), but rarely linked to governmental official interests. As a result, it was seen more as a purely industry driven parental advice.

The boom of mobile gaming has blended the different protection of minor issues together. For example, the existing issues regarding the protection of minor concerning mobile operators (SMS payments and the like) are merging with the issues concerning the content of the mobile games. At the moment, all relevant mobile platform holders such as iOS, Android and Blackberry do have their own proper protection of minor systems, only Microsoft applies PEGI.

The protection of minors systems are usually based on different classification mechanisms. From the European perspective, the challenge is that the European PEGI system is more burdensome than the others, as it has five age rating categories instead of the four used by all others, hence its being less attractive for developers. As the mobile platform holders have told the EU Commission they will not change their systems, any additional European regulatory complication, e.g. using the PEGI system as an additional measure, would become problematic and burdensome for European mobile developers,

Question 26: Do you think that additional standardisation efforts are needed in this field?

We envision some chances to reform the PEGI system in a way that excludes – unlike today – the interests of the overseas offline publishers, which have relatively little interest in the advancement

of the European industry or the European parents and users. Consequently, the PEGI system has become a business model of its own and is today controlled almost entirely by non-European retail publishers and console manufacturers where the voice of European developers is of minor relevance. It might be necessary to re-open the debate about censorship from a more European angle. European mobile content creators themselves should thus be encouraged to self-regulatory actions in the area of protection of minors.

In this context, it might be useful to develop technical standards on different ways of protecting minors in the mobile environment (e.g. setting limits for the micro transactions, presenting common age rating labels). On an API level, these standards would allow the implementation of a common protection of minors system for all mobile platforms at its highest stage in development. The research on making such cross-platform solutions for the protection of minors possible should be done as soon as possible. These talks should be driven with the active support of the content development community in Europe.

In Helsinki, on the 30th of September 2013

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