

DIGITALEUROPE VIEWS FOR A CONVERGING AUDIOVISUAL WORLD THAT BENEFITS EUROPEAN USERS "ANYWHERE, ANYTIME"

Brussels, 30 September 2014

DIGITALEUROPE believes that both technology-driven innovation and user demand drive the development of new, personalised, and exciting audiovisual services in Europe¹. Our vision is that European users are placed at the centre of the audiovisual and media experience - with full control over the content they access, where, when and how².

These market-led developments contribute to EU public policy objectives of creating a Digital Single Market, promoting and enhancing values (incl. media pluralism, opinion and culture diversity, child protection, and accessibility), and ultimately contributing to jobs and growth.

After analysing key contributions to the EU Green Paper "Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values", DIGITALEUROPE has identified the following converging views for a competitive environment for audiovisual (AV) services (1) and areas for further discussion (2).

1. Converging views for a competitive environment for AV services

- **A device-agnostic approach** is required in a converged AV world, as today's AV services can be accessed by any connected device (TV, tablet, smartphone, game console, etc.).
- **No market distortion** between market players exists. However, all stakeholders and policy makers should remain vigilant to tackle potential problems, primarily using EU competition rules.
- **A competitive environment** where operators and service providers are not allowed to discriminate competitors through throttling or traffic blocking or any other anticompetitive measures ensuring innovative services to emerge.
- **Voluntary market-driven standardisation** is best suited to update and improve basic standards as enablers in the converged AV market. A careful approach is required for all EU standardisation activities, so that the economies of scale offered by new technology developments to provide services across Europe are not eroded by the risk of technical fragmentation coming from local requirements.
- There is no **one-size-fits-all distribution solution for AV content in terms of network infrastructures and radio spectrum usage**. On the contrary, various technologies offer various solutions according to the user demand as well as to geographical and cultural specificities of each region.
- At this early stage of market development, **self and co-regulation** are more appropriate solutions than legislation to tackle the evolution of advertising, child protection, accessibility, media freedom and plurality.

1 As stated in our comments to the EU Green Paper on "Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values."

2 As shared by President Jean-Claude Juncker's political manifesto, "We can ensure that consumers can access services, music, movies and sports events on their electronic devices wherever they are in Europe and regardless of borders.", from "A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change". 15 July 2014.

DIGITALEUROPE’s recommendation:

We believe that legislative intervention specific to a converged AV world is not necessary at this stage. However, it is important that market and technical developments are closely monitored in order to ensure that a competitive environment remains and that, ultimately, European users can benefit from richer, more tailored, and innovative services.

2. Areas for further discussion

- **Possible change of the regulatory framework and the AV Media Services Directive (AVMSD)**

DIGITALEUROPE believes that today’s developments do not require a change of EU regulation. The market is still nascent and its success remains unpredictable. The distinction between linear and non-linear services is still relevant. Market developments are not showing signs of distortion but rather of disruption - which is positive for the end-user as it allows more choice, new entrants, and innovative services.

DIGITALEUROPE’s recommendation: DIGITALEUROPE agrees that in relation to the scope of AVMSD, before calling for new rules, the European Commission should provide guidance on how the current rules can be applied in the new converging AV world³. However, the AVMSD is only one of several policy areas relevant for the delivery of the Digital Single Market. Other relevant policy areas need to be aligned for users to benefit from the availability of any content, anytime, anywhere. This includes, inter alia, copyright (incl. copyright levies increasingly applied to Connected TV devices), net neutrality, radio-spectrum management, etc.

- **Commercial techniques and display of commercial communications:**

If everyone agrees that more tailored advertising techniques are made possible and have the potential to deliver innovative usage and economic benefits, there are conflicting views on who can decide what appears on the user’s screen – even while neither overlaying processes nor scaling on the television screen tamper with the broadcasting signal.

DIGITALEUROPE’s recommendation: We remain convinced that the choice of the presentation and possible combinations of different content on one screen should be determined and owned by the user on any connected screen. These developments do not call for a change of today’s rules.

- **Validity of the “must carry” and “must be found” concepts in a non-linear context:**

It is in everyone’s interest and one major concern of the CE manufacturer to ensure that search tools are user-friendly and efficient. The provision of a given content (“must carry”) and its pre-eminence in content offers and search results (“must be found”) should not be forced by legislation. Moreover, the concept of “must be found” carries significant potential for discrimination among content providers and has to be questioned as a whole, also under the perspective of the different kind of devices.

DIGITALEUROPE’s recommendation: The market (both the supply and demand side) should be left to deliver an increasingly rich and vibrant market for audiovisual content and services in Europe.

³ EBU response to the Green Paper on “Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values.” under question 11, p. 34.

- Challenges from diverging financing models:

Each EU country's financing model reflects national requirements and can be amended as such. This does not put today's rules into question – but it rather shows their differences and their effect on the Single Market.

DIGITALEUROPE recommendation: We believe that new rules on financing of content should be tested to the point of market wide acceptance. Therefore, any new financing model should ensure it does not negatively affect the ability of all market players to innovate and develop new offers that respond to user demands.

3. Realising the vision: giving users full control over what content to access, anywhere, anytime.

In conclusion, market players are best placed to realise this vision by forming new partnerships, developing new business models and most importantly creating new economic and cultural opportunities. The EU has a role to play too by ensuring that any policy development can help to achieve this objective. In particular, policy options should pass the Digital Single Market test – whereby a policy intervention should be measured against its impact on the Single Market (incl. by maintaining the country of origin principle, by facilitating the availability of content cross-border, by removing national barriers, by encouraging stakeholder dialogue, etc.).

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ABOUT DIGITALEUROPE

DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies.

DIGITALEUROPE ensures industry participation in the development and implementation of EU policies. DIGITALEUROPE's members include 58 corporate members and 36 national trade associations from across Europe. Our website provides further information on our recent news and activities: <http://www.digitaleurope.org>

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