



Response from the Federation of Screenwriters in Europe to a

QUESTIONNAIRE FOR THE PUBLIC CONSULTATION ON THE OPEN INTERNET AND NET NEUTRALITY IN EUROPE

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The Federation of Screenwriters in Europe groups 27 writers guilds in 21 European countries representing about 7000 writers for film, television, radio, the theatre and the internet.

We are deeply concerned that **an absence of regulation in the area of net neutrality will lead to a situation where existing major players will squeeze out competition by purchasing preferential access at faster speeds and consigning innovative, creative and entrepreneurial content to the margins of slow lane access.**

Much existing practise is already moving in this direction.

"It's a myth we have net neutrality today - we don't," according to Andrew Heaney, executive director of strategy and regulation of the UK company TalkTalk, in a contribution to a recent eForum organised by Ofcom in the United Kingdom. Asked specifically if TalkTalk would afford more bandwidth to YouTube than the BBC's iPlayer if Google was prepared to pay, Andrew Heaney argued it would be "perfectly normal business practice to discriminate between them".

The net, an unparalleled new market place for innovation and new ideas

As an organisation representing creators the focus of concern of the FSE is audio-visual production. The internet has already become a major new source of distribution for existing audio-visual content. Many broadcasters now make broadcast material available on line through, for example, catch up services. Online services to make back catalogues of existing feature films available to consumers are also becoming feasible.

But in parallel with the relatively straight forward transfer of existing services to the internet the net also provides an extraordinary and unprecedented

opportunity for the development of new and previously unknown services provided by entrepreneurs, SMEs and creative individuals.

The extremely low barriers to entry for the offering of online services combined with the extraordinarily large audience which can be reached make the net an unparalleled new market place for innovation and new ideas. The success of the internet is not just the new household names of Google, YouTube and so on but also the very many small enterprises launched on the net or which use the net to conduct aspects of their business.

Included in this group are an increasing number of writers who are producing programmes to be distributed directly on the net. This trend is more common in the United States, where the volume of production for the net is sufficiently large that annual award structures have been launched and writers with highly established reputations have written and produced specifically for the net, but is also developing in Europe.

The prospect that preferential access would be given to those in a position to pay threatens to extinguish the extraordinary potential of the net and to reduce it to just another channel for the distribution of Hollywood film and television programmes.

Existing channels for the distribution of audio-visual content are so heavily dominated by the major global film and television production companies based in the United States that the European Union has felt it necessary to impose quotas for European product on European broadcasters (audio-visual media service providers) through the Audiovisual Media Services Directive. The EU also expends considerable funds through the Media programme to support the distribution across borders of European feature films in cinemas. These supports to the European audio-visual industries are explicitly considered necessary in the context of the domination of these markets by content produced by the multinational conglomerates that dominate the film and television production and distribution markets.

An open internet could offer an opportunity for the distribution of audio-visual content, whether specifically designed for the net or not, in an equal and nondiscriminatory way which could avoid the need, in the name of cultural diversity and protection of European cultures, to try to impose quotas of European audiovisual product on the net. But such an open internet could not survive if small enterprises and individual creators were consigned to the internet slow lane because they were unable to compete financially, for preferential treatment, with Google or the multinational conglomerates which dominate production and distribution of audiovisual content in traditional markets.

We would agree with Julius Genachowski, Chairman of the Federal Communications Commission of the United States who in a recent speech to the Brookings Institution in Washington said,

“The rise of serious challenges to the free and open Internet puts us at a crossroads. We could see the Internet’s doors shut to entrepreneurs, the spirit of innovation stifled, a full and free flow of information compromised. Or we could take steps to preserve Internet openness, helping ensure a future of opportunity, innovation, and a vibrant marketplace of ideas.”

The FSE is submitting these remarks to the Commissions questionnaire on net neutrality in the hope that the Commission will see **the benefit of an internet market place open to innovating SMEs and individual creators rather than one dominated by a small group of pre-existing multi-national conglomerates recycling existing content.**

An open internet protected by regulated net neutrality is in the best interests of both consumers and of the creators and entrepreneurs who want to reach them.

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