

A decorative graphic on the left side of the slide, composed of numerous circles of varying sizes. The circles are colored in shades of red and orange, arranged in a pattern that suggests a network or data flow.

COPYRIGHT IN CONNECTED DIGITAL WORLD – NETWORKED SOCIETY

CPRT 2011, NETWORK INSIGHT SYDNEY 7-8 NOVEMBER

RENE SUMMER

AGENDA

- › Facts and Fact based
- › Supply failure
- › We think:
 - Enforcement just part of the solution
 - Stimulate growth of lawful digital services
- › **Conclusions**



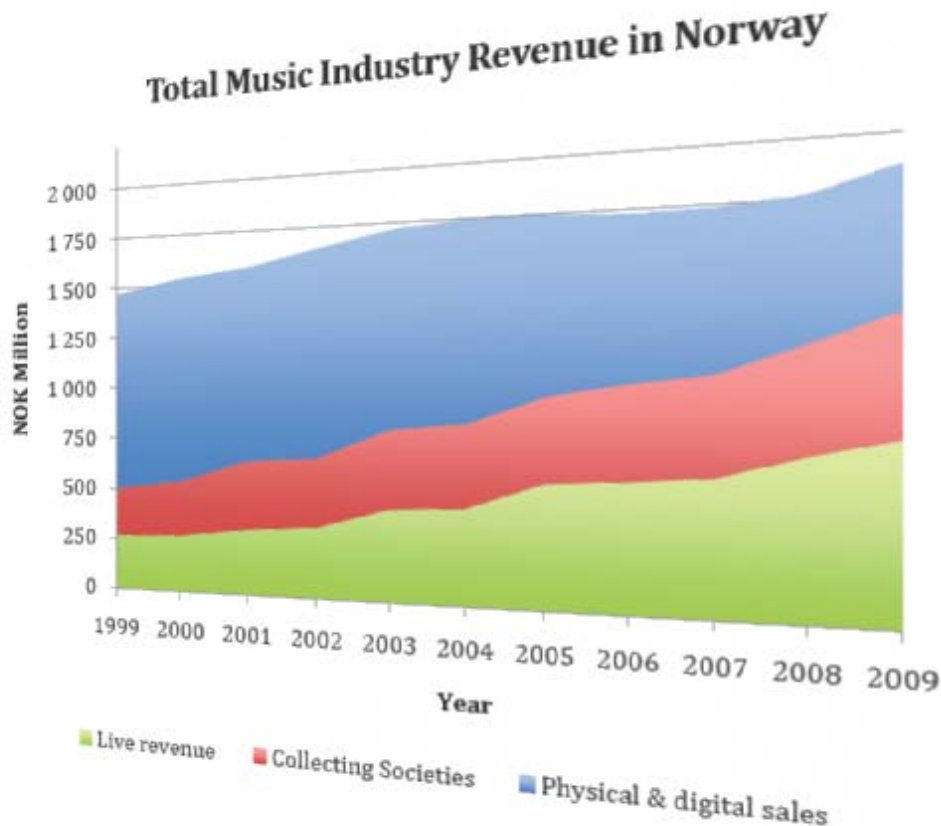
FACT BASED APPROACH - HARGREAVES REPORT

- › Such research as exists indicates that **we should be wary of expecting tougher enforcement alone to solve the problem of copyright infringement.**
- › Instead, Government should respond in four ways:
 - **by modernizing copyright law;**
 - **through education;**
 - **through enforcement and**
 - **by doing all it can to encourage open and competitive markets in licensed digital content,**
- › **which will result in more legitimate digital content at prices which appeal to consumers.**

Source: An Independent Report by Professor Ian Hargreaves, page 6 May 2011

GOING DIGITAL - NORWEGIAN TOTAL MUSIC INDUSTRY - IS NOT A ZERO-SUM GAME

- › Total annual industry revenues grew from 1.4 BNOK to 1.9 BNOK which is + 36%
- › Number of Music artist increased by + 28%
- › Per Capita inflation adjusted annual artist income has increased by +66%



Source: The Norwegian Music Industry in Age of Digitalization, Bjerke & Sorbro, BI Norwegian School of Management, Oslo 2010

DECLINING PHYSICAL SALES

- › Format shifting (LP-CD) peaked around year 2000
- › Lawful digital services displacing physical sales (Korea, Norway, UK, Sweden)
- › Increased competition from other platforms, Music (CD sales) migrating to TV (X-factor, Idol, Gaming,
- › Increased competition from Live Performances



Sources: GOA United States Government Accountability Office, Report to Congressional Committees, Intellectual Property, April 2010. See also: Harvard Business Review File-Sharing and Copyright, Felix Oberholzer-Gee and Koleman Strumpf, May 2009, Digital Opportunity, a review of intellectual property and growth, Ian Hargreaves, May 2011 UK

ATTRACTIVE LEGAL SERVES DISPLACING UNLAWFUL CONSUMPTION

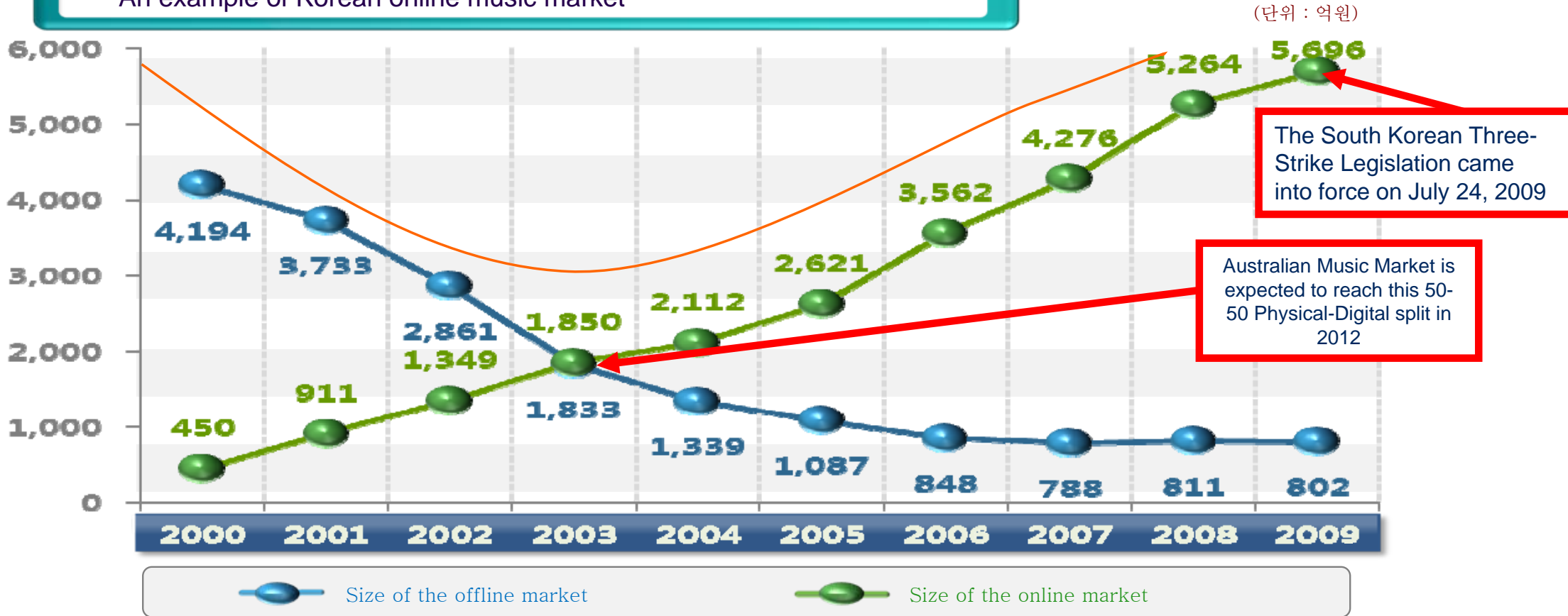
Study from Norway (Norwaco/Synnovate Report 2011 for 2010):

- › The Norwegian collecting society Norwaco, findings over the last few years, are quite remarkable.
- › From 2008 to 2009 the number of illegal copies of music fell dramatically
- › In 2008, Norwaco calculated that 22339 pieces of music were copied illegally every week.
- › A year later, the number was almost halved, to 13538. > down **-40%**)
- › In 2010 the number had gone down even further to 11793 > further down **-13%**)
- › **No enforcement measures; threes-strikes or graduated responses were introduced during this period.**
- › Spotify , a legal digital music service (among others) was introduced in **2007/8**

Source; <http://norwaco.no/nor/content/download/7259/83338/version/2/file/Synovaterapport+2010.pdf>

CASE STUDY KOREA: TIMING AND AIM

An example of Korean online music market



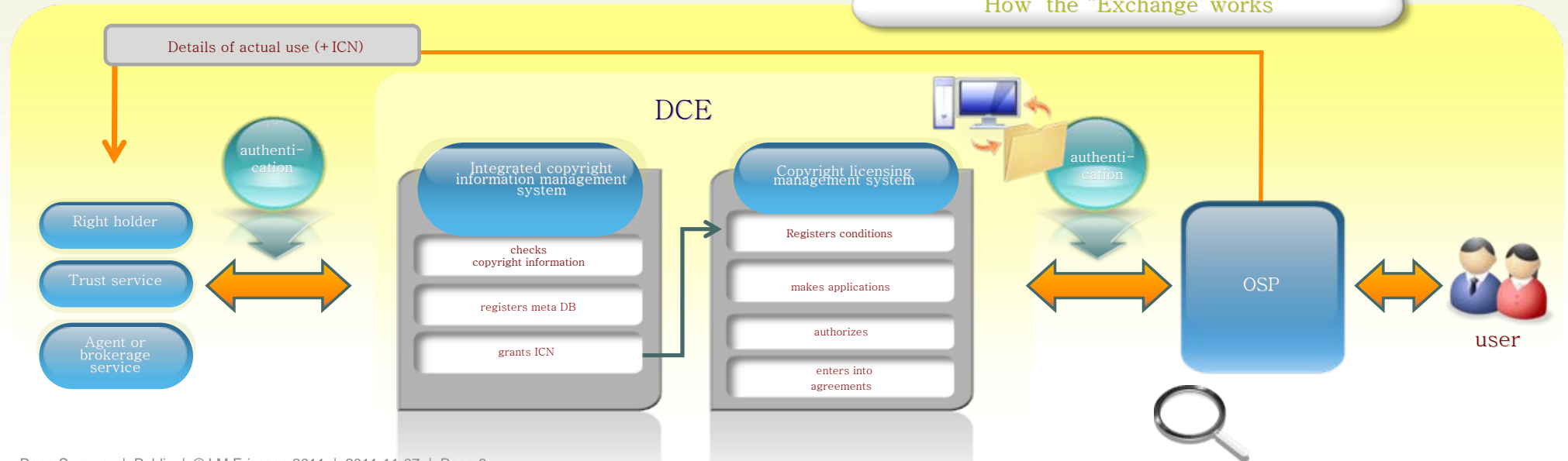
UNTOLD COPYRIGHT REFORMS IN KOREA INCREASING AVAILABILITY OF DIGITAL LAWFUL CONTENT

□ Expansion of the “Digital Copyright Exchange” status 1,5 year after 3-strikes regime introduction

Promotion of the “Digital Copyright Exchange”

- * Information already secured for the Exchange (as of December 2010)
 - music : 960 thousand
 - literary : 850 thousand

How the “Exchange” works



CONTENT ACCESS BARRIERS –

“FREE-LUNCH” IS FAR FROM THE ONLY MOTIVE- REFORMS NECESSARY TO REMOVE BARRIERS

Access barriers are barriers to the unhindered consumption of content, the presence of which often results in the personal consumption needs of viewers being unmet.

- › Consumer and industry barriers
- › Content exclusivity and competition
- › Policy and regulatory barriers
- › Non-availability of content
- › Content regulation



World Intellectual Property Organization, Twentieth Session, Geneva June 21 to 24 2011, or
access: http://www.wipo.int/edocs/mdocs/copyright/en/sccr_20/sccr_20_2_rev.pdf

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THERE ARE ALREADY 537* LAWFUL AUDIOVISUAL SERVICES AVAILABLE IN EUROPE (2009)

In 2009

Of these 537 > 435 are unique (not duplicated over multiple platforms)

Of these 435 > approx. one quarter of these are Catch-up services

Of these 292 VOD > approx. one quarter is IPTV and 3 quarters is OTT

In 2009 > these services generated 0,8% of the total 600 B Euro TV market

In 2009

- › **Catch-up services contained a very limited subset of linear content**
- › **Catch-up services in almost all cases had no preview functions**
- › **No-micro payment service were available for catch-up**
- › **VOD libraries were still quite limited but in expansion mode**
- › **VOD releases + 6 months after cinema but moving to 4**
- › **Non-existing premium VOD market**

SHEER COUNT OF LAWFUL SERVICES

We need to **move away** from a **sheer count of lawful services** and **look more closely at factors determining** the successful adoption and growth of lawful digital services.

Factors that define the level of success are:

timely availability

the **range** and **depth** of titles available,

business model (subscription, download to own, advertising)

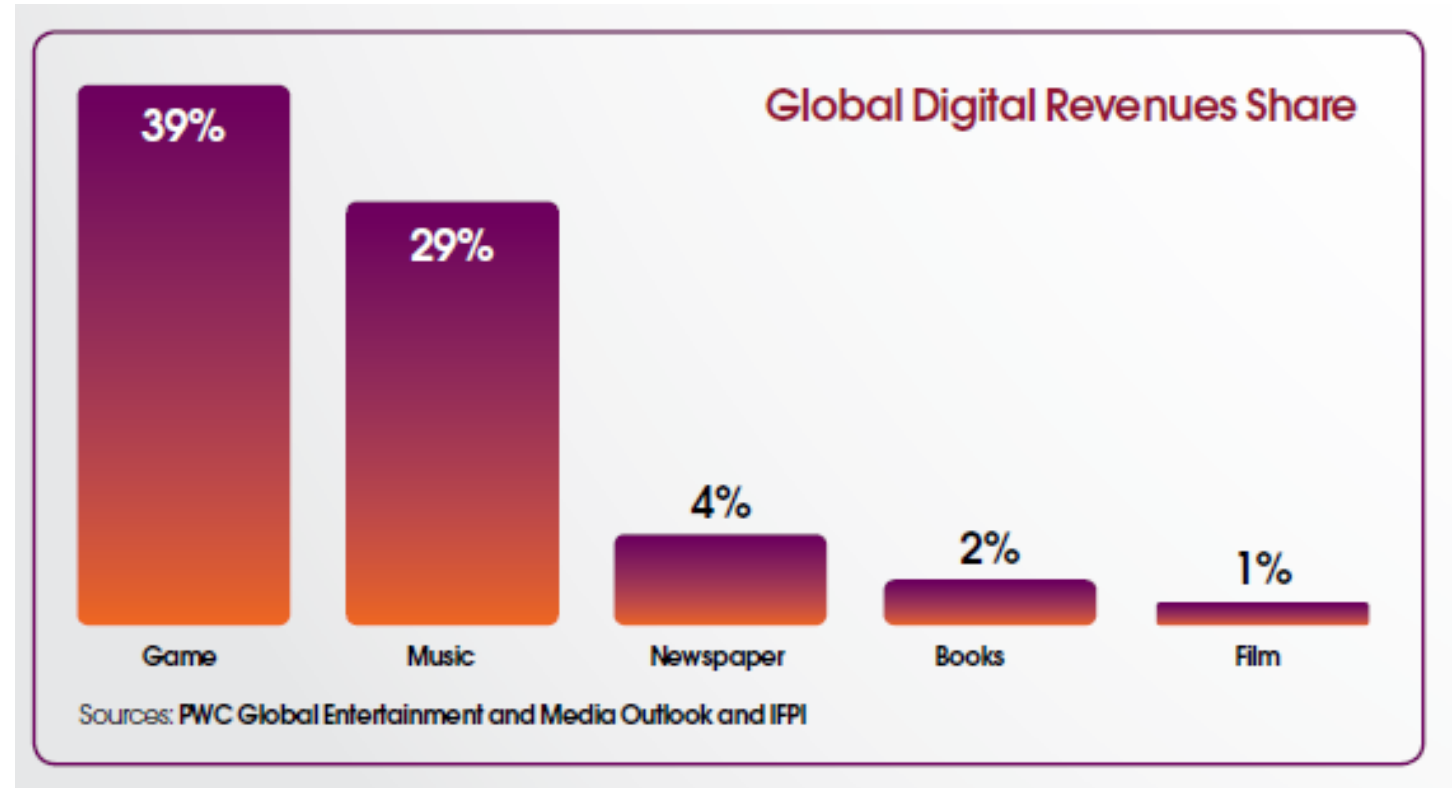
ability to time/format/device shift content,

payment methods (credit card, pre-paid),

easy of use and

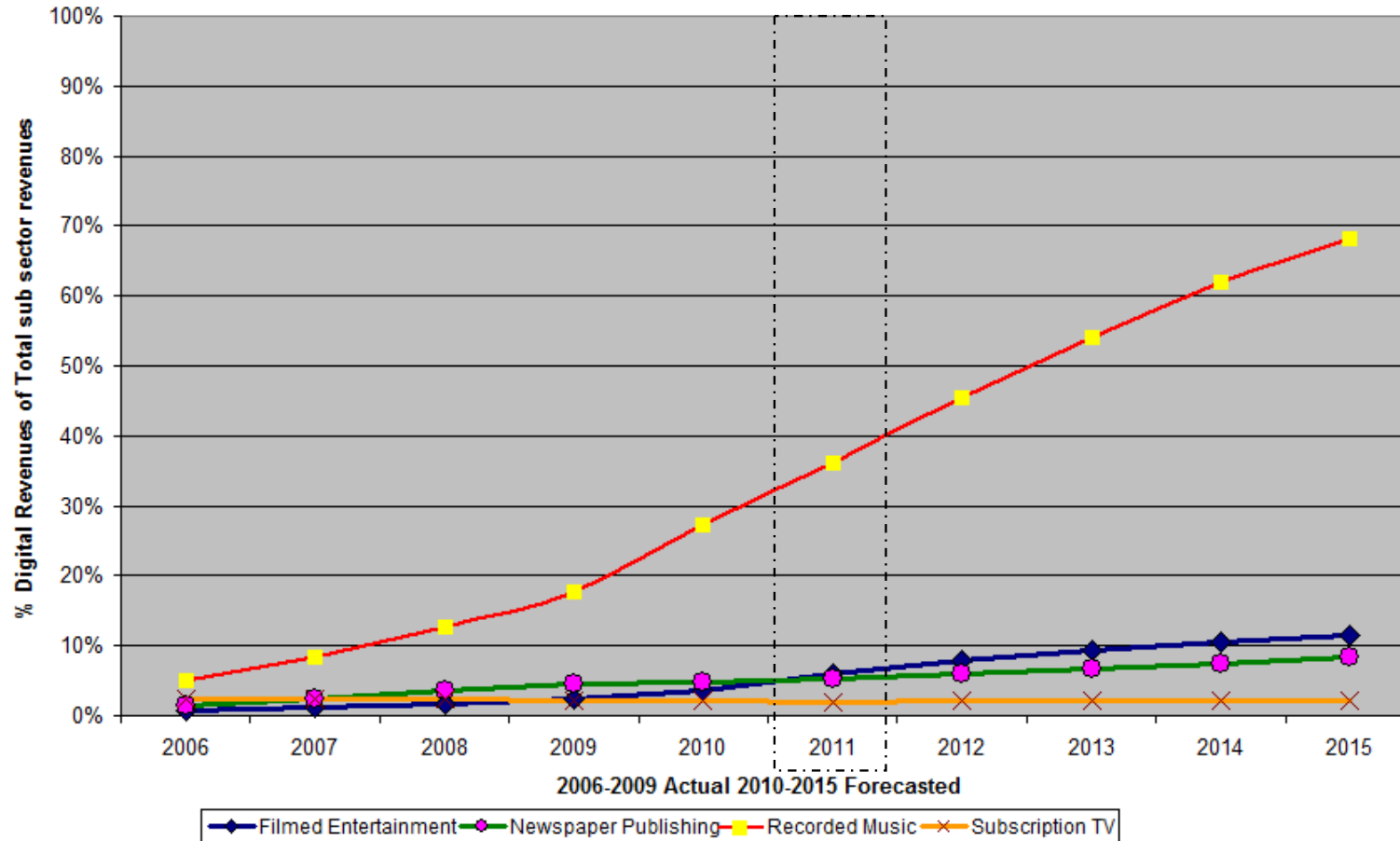
affordable price points.

THE GLOBAL DIGITAL MARKET SUPPLY FAILURE IN FIGURES 2010



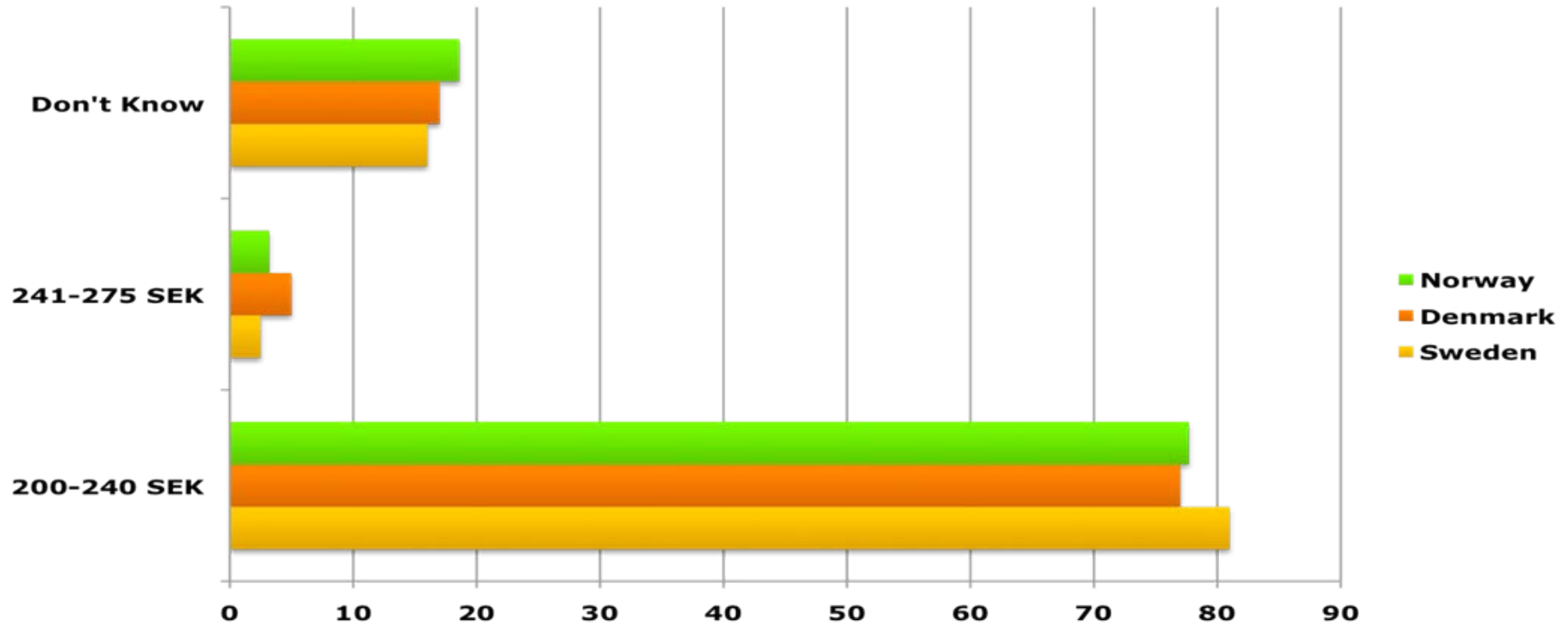
THE AUSTRALIAN DIGITAL MARKET SUPPLY FAILURE IN FIGURES 2010

PWC Entertainment Outlook, Australia



END USER WILLINGNESS TO PAY FOR PREMIUM VOD

EQUIVALENT OF TWO CINEMA TICKETS FOR SIMULTANEOUS VOD

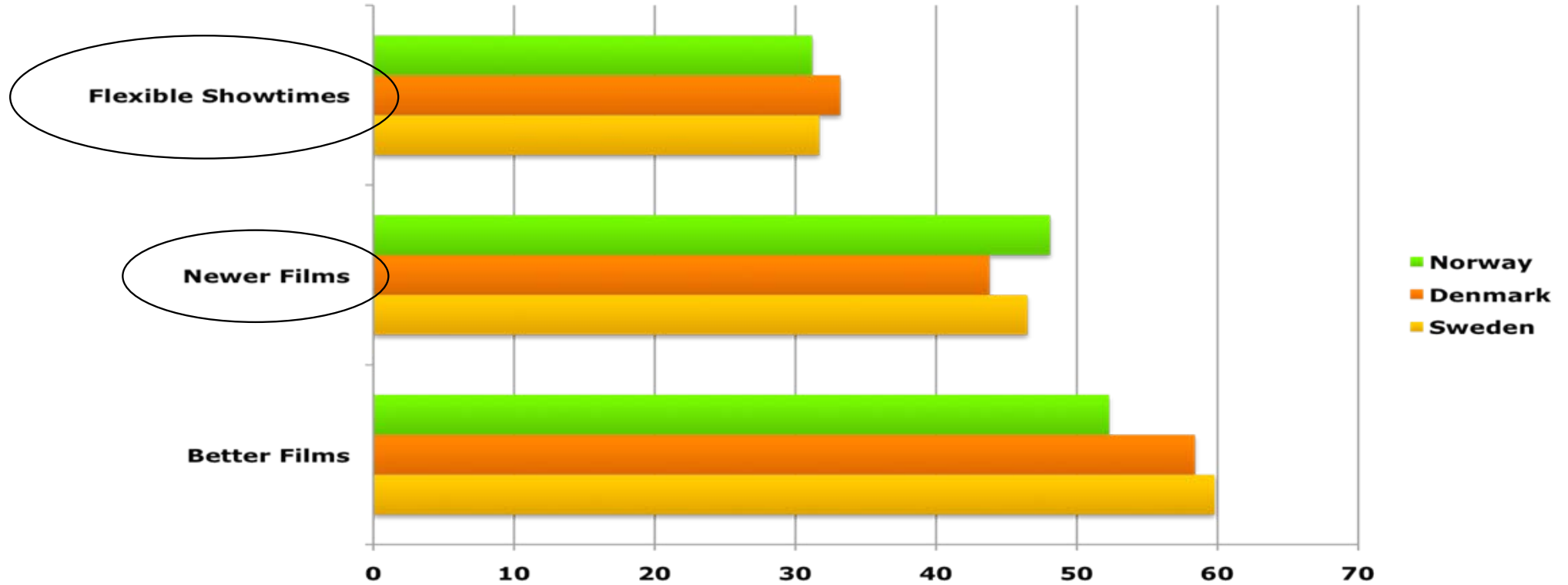


Base: All 3 counties, n ~ 2000 per country, age 15 – 65, men/women 50,2/49,8

Source: <http://www.filmthinktank.org/>

~ 70% WOULD CONSUME MORE FILM IF....
AT THE LEVEL OF 2X WILLINGNESS TO PAY

WHAT COULD MAKE YOU WATCH MORE MOVIES ON TV?



Base: All 3 counties, n ~ 2000 per country, age 15 – 65, men/women 50,2/49,8

Source: <http://www.filmthinktank.org/>

SAMPLE REPRESENTATIVE FOR MORE THAN 430 M CONSUMERS



	China urban	Germany	Spain	Taiwan	Sweden	UK	US
Population aged 16-59:	330 M	50 M	26 M	16 M	5 M	36 M	175 M
Representativity of sample (16-59) in %:	42%	65%	57%*	79%*	76%	70%	67%
Representativity of sample (16-59) in size:	139 M	33 M	15 M	13 M	4 M	25 M	117 M

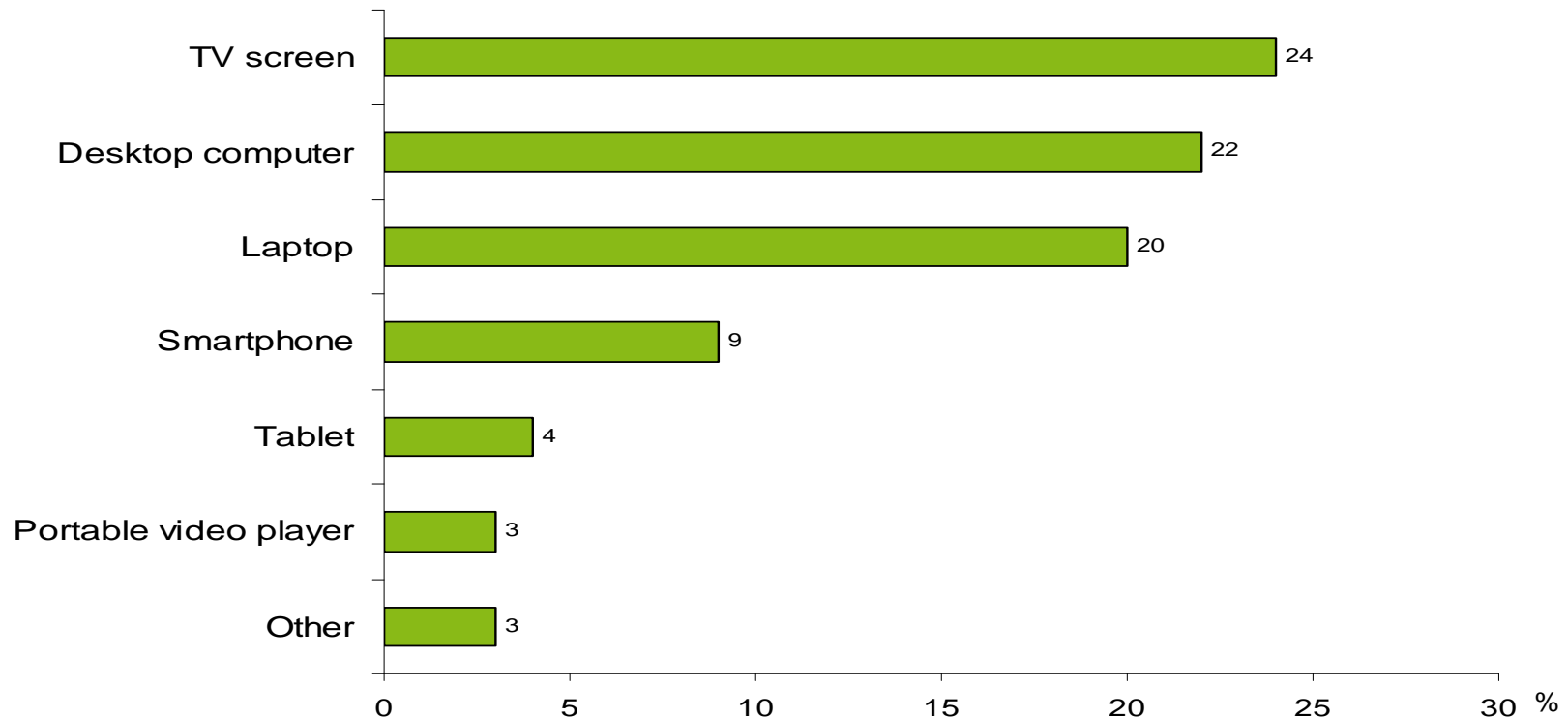
	Brazil urban	Korea	Australia	Russia urban	Netherlands	Austria	Total 2011
Population aged 16-59:	87 M	33 M	13 M	71 M	10 M	5 M	858 M
Representativity of sample (16-59) in %:	25%	80%	66%	35%	73%	58%	51%
Representativity of sample (16-59) in size:	22 M	27 M	9 M	25 M	7 M	3 M	>430 M
							13 Markets

*) estimations using knowledge from similar markets

Source: Ericsson ConsumerLab TV Video Consumer Trends 2011, Urban sample in China, Brazil & Russia, National sample all other markets

PAYING FOR ON-DEMAND CONTENT

People pay for content on both TV and the computer. People are getting used to pay for content



Question: On which of these screen(s) do you pay for downloaded/streamed videos?

Source: Ericsson ConsumerLab TV Video Consumer Trends 2011, BASE: Users of each device, 13 Markets
Rene Summer | Public | © LM Ericsson 2011 | 2011-11-07 | Page 18

FILE SHARING STORY - ITS ALL ABOUT OFFERING THE BEST SERVICE

CONSUMERS DON'T WANT TO BE PIRATES, BUT...

Illegal alternatives



Triggers

- › Lack of attractive legal alternatives
 - Access to "all" content
 - Timely access to new releases
 - Price (free)
 - Flexibility to play on all devices
 - Considered victimless crime

Barriers

- › Cumbersome
- › Time consuming



Legal alternatives



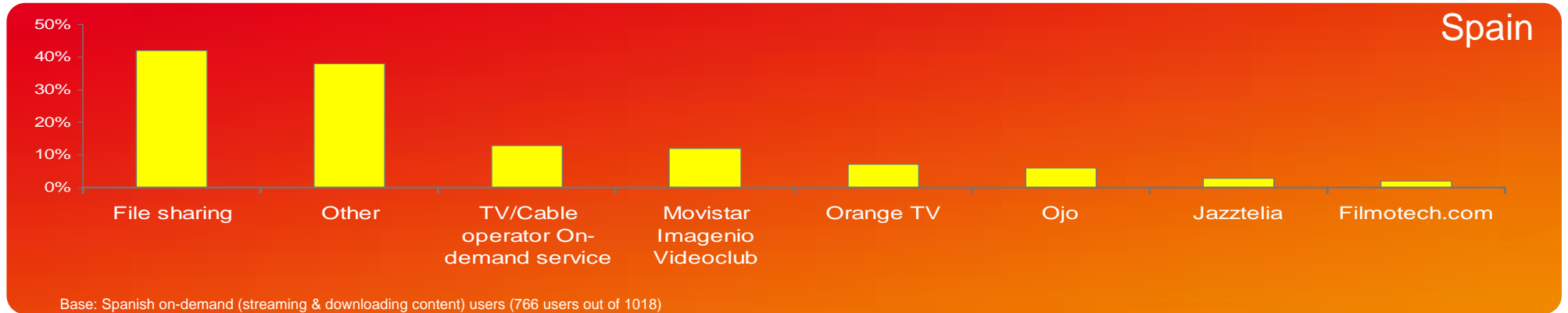
Triggers

- › Easy to use
- › High quality
- › Instant access

Barriers

- › Price
- › Limited amount of content
- › Delayed access to new releases (windowing)
- › Pay per device / DRM

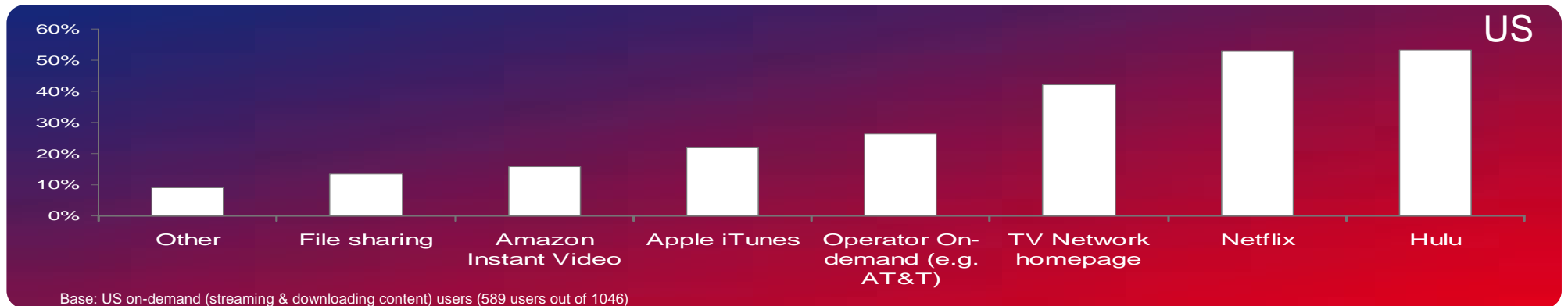
FILE SHARING CAN BE REDUCED!



New & old content

Attractive pricing

User friendly & simple



Question: When you watch downloaded/streamed video, which services do you use?

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WE THINK – GUIDING PRINCIPLES

- › Continued educational efforts are necessary
- › The reasonable expectations need to be accommodated
- › Governments must stimulate growth of lawful digital content services
- › Enforcement is just a part of the solution
 - Direct enforcement by rights holders is undisputed and available option to act on infringements
 - Indirect Enforcement

WE THINK – INDIRECT ENFORCEMENT

- › There is a serious and important difference between requiring intermediaries to pass allegations of infringement on to end users and requiring intermediaries to take action to impose sanctions on their users for alleged infringement
 - Intermediaries must respect the right to privacy, freedom of communication and presumption of innocence
- › **No to outsourcing of law enforcement to intermediaries**
 - Any sanctions should remain the prerogative of the courts. Only due legal processes can ensure that allegations are properly evaluated, defences adequately considered, and proportional punishments imposed .

WE THINK – INDIRECT ENFORCEMENT

- › The rights holder is the primary and often the sole beneficiary of preventive infringement actions
 - Accordingly, it is appropriate for the rights holder to cover the costs of the action (including ISPs) and also bare any associated risks

- › To the extent that enforcement action of rights takes place, relying on the evidence provided by a rights holder, the rights holder should take responsibility for the consequences of the action
 - There is great variance in the accuracy and trustworthiness of automated systems that are employed (quality of alleged infringements)

WE THINK- REASONABLE EXPECTATIONS & GROWING LAWFUL DIGITAL MARKET – ESSENTIAL PART OF THE SOLUTION



Stimulate the digital lawful market

Stimulate **innovation** > **technology neutral**
copyright licensing

Do away with **unreasonable** transaction costs



WE THINK - DIGITAL COPYRIGHT REFORM IS NECESSARY

› Increasing availability:

- Windowing
- Territoriality
- One-Stop-Shop : Fragmentation of rights (AV works) and rights owners

› Technology specificity of licensing

- Fair Use/ format/time/place shifting & private consumption
- NPVR, Content in Cloud, Multi-screen, Follow me services
 - › Reproduction right /communication to the public
 - › Private copying and communication to the public

› Transaction Costs:

- Multi-territorial licensing
- Copyright exchange / one-stop shop or other efficiency oriented solutions

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CONCLUSIONS

- › Digitization is our **destiny**
- › Digitization is **not a zero-sum** game
- › We need a **Digital Copyright Reform**:
 - increasing the availability of lawful digital services
 - technology neutral licensing
 - decrease transaction costs
- › **Stimulate** the lawful digital market
- › **Enforcement** is just a part of a solution
- › **Fact based** policy approach necessary





ERICSSON