



United Nations
Educational, Scientific and
Cultural Organization



Diversity of
Cultural Expressions

**OPERATIONAL GUIDELINES
ON THE IMPLEMENTATION OF THE CONVENTION
IN THE DIGITAL ENVIRONMENT**

*Approved by the Conference of Parties
to the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions
at its sixth session
(Paris, 12-15 June 2017)*

Operational guidelines on the implementation of the Convention in the digital environment

General considerations

1. These guidelines provide a strategic framework for understanding, interpreting and implementing the Convention on the Protection and Promotion of the Diversity of Cultural Expressions in a digital environment where cultural goods and services are created, produced, distributed, disseminated, consumed and/or stored electronically. These goods and services transmit cultural expressions through, for example, a computer program, a network, a text, a video, an image or an audio recording and are distributed through constantly evolving digitally-encoded platforms.
2. The distinctive nature of cultural activities, goods and services as vehicles of identity, values and meaning does not change in the digital environment. Consequently, the recognition of the dual nature of cultural goods and services (cultural and economic) is also applicable to cultural expressions in the digital environment or those produced with digital tools.
3. Protecting and promoting human rights and the freedom of creation, expression, information and communication in the digital environment means supporting the principles of Internet universality that promote a Human Rights-based open Internet, which is accessible to all and characterized by multi-stakeholder participation.
4. There are significant differences in the rate at which digital technologies are adopted and accessed around the world. The resulting digital divide exists between and within countries and between women and men as well as urban and rural areas, in both developed and developing countries. This has an impact on the way in which cultural goods and services are created, produced, distributed and accessed in the digital environment.
5. The accelerated expansion of social networks and user generated content (UGC), the explosion of data, the complexity of distribution models, and the proliferation of connected multimedia devices in the hands of the users have had a huge impact on the creative sector in all parts of the world. Technological changes have also led to the emergence of new players and new logics, and will continue to provide new challenges and opportunities to promote the diversity of cultural expressions and, in particular, to design relevant public policies.
6. Recalling that technological neutrality is affirmed as a principle in the Convention, these guidelines shall be interpreted and applied in relation to the Convention as a whole, thus promoting a transversal approach to the diversity of cultural expressions in the digital environment. They complement all relevant provisions of the Convention and existing guidelines that refer to digital issues and new information and communication technologies.
7. All stakeholders are encouraged to respect and promote the Convention and these guidelines, which are interlinked with the United Nations Sustainable Development Goals (Agenda 2030) and the United Nations Guiding Principles on businesses and human rights, as well as international human rights instruments and principles. These guidelines primarily address public authorities. Non-governmental organizations, cultural and creative industries from the public and private sectors, including global digital platforms, Internet service providers (ISP) and other actors in the digital environment, are also encouraged to follow them.

Guiding Principles

8. Complementing the goals and principles set out in Articles 1 and 2 of the Convention, these guidelines aim to:
 - 8.1 reaffirm the Convention's principle of technological neutrality;
 - 8.2 reaffirm the recognition of the dual nature (cultural and economic) of cultural goods and services, whatever the means and technologies used;
 - 8.3 encourage the use of digital tools and provide for digital competencies through education programmes;
 - 8.4 reaffirm the Parties' sovereign right to formulate, to adopt and to implement policies and measures for the protection and promotion of the diversity of cultural expressions in the digital environment;
 - 8.5 safeguard, following the principle of Internet neutrality, equal and non-discriminatory treatment of data traffic in the provision of Internet access services and related end-users' rights (in order to prevent data traffic management practices which block or slow down specific applications that could affect the circulation of local cultural goods and services);
 - 8.6 promote equitable access and balance in the flow of cultural goods and services in the digital environment, in particular through the application of preferential treatment provisions for works created or produced by artists and cultural professionals, enterprises and independent organizations from developing countries;
 - 8.7 recognize the complementarity of economic, educational, and cultural aspects of sustainable development in national digital strategies as well as within international assistance programmes that support digital programmes and projects;
 - 8.8 promote international cooperation for development to enable greater and more affordable access to digital technologies, to develop related skills and competencies and to support mechanisms that are required for the emergence of dynamic cultural and creative industries in the digital environment;
 - 8.9 promote respect for fundamental freedoms of expression, information and communication and for privacy and other human rights as pre-requisites for the creation, distribution and access to diverse cultural expressions. This includes promoting artistic freedom as a corollary to freedom of expression, the social and economic rights of authors and artists working in the digital environment and the connectivity of all partners with partners of their choice;
 - 8.10 promote respect for human rights in the digital environment, including gender equality and the empowerment of women and girls through support for their participation in the cultural and creative industries as creators, producers and consumers of cultural expressions in the digital environment;
 - 8.11 affirm that the same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one's choice, in accordance with Article 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Parties strengthen systems of governance for culture in the digital environment

9. Pursuant to Articles 5, 6, and 7 of the Convention and to these guidelines, Parties shall aim to adopt or update existing policies and measures to protect and promote the diversity of cultural expressions in the digital environment paying due attention to the special circumstances and needs of women as well as various social groups.
10. These policies and measures shall aim to address all areas - creation, production, distribution, dissemination, access and enjoyment - taking into account the profound changes to the value chain and the arrival of new actors.
11. Parties are invited to update their legislative and regulatory frameworks for public service, private and community media as well as independent media organizations to promote the diversity of cultural expressions and the diversity of media in the digital environment, taking into account the increasing convergence of operations across the value chain.
12. Parties are encouraged to strengthen the level of digital competencies of the cultural sector and the general public, and to promote know-how and skills needed to fully participate in the ongoing changes to the creation, production, distribution, dissemination and access to diverse cultural expressions in the digital environment.
13. Parties are encouraged to establish interministerial groups on digital issues that would bring together representatives of relevant ministries and institutions (including those responsible for culture, research, trade, industry, telecommunications and education), and involve the Convention's contact point and civil society representatives in their work.
14. At the stage of **creation**, Parties shall aim to support new forms of creativity in the digital environment, including artistic practices that are interactive and occur in real-time. This may include national, regional or local policies and programmes and funding schemes that:
 - 14.1 provide direct support to artists and other cultural professionals working with digital tools;
 - 14.2 contribute to creation and to the fair remuneration of creators and performers;
 - 14.3 establish new training programmes and education curricula for artists and other cultural professionals in the use of digital technologies to deepen their knowledge and skills for improved participation in a digital environment;
 - 14.4 provide spaces dedicated to digital creativity and innovation that enable artistic experimentation and collaboration such as incubators and laboratories, artist residences and centres that promote international cooperation through networking activities;
 - 14.5 promote cooperation among artists, educational and cultural professionals working in the cultural and creative industries, with actors in the digital environment, including designers, programmers, engineers and scientists;
 - 14.6 recognize and value the work of creators in the digital environment, by promoting:
 - fair and equitable remuneration for artists and cultural professionals;
 - transparency in the distribution of income between digital distributors, Internet service providers (ISP) and rights holders as well as among rights holders;
 - access to necessary bandwidth;
 - respect for and protection of intellectual property rights, allowing for collective management, if applicable, and for collective bargaining of digital rights; and
 - electronic legal deposit systems to document and archive their works.

15. At the stage of **production**, Parties shall aim to support the modernization of the cultural and creative industries. Measures relating to the production of cultural expressions in the digital environment should aim to:
 - 15.1 promote digitization and the incorporation of technological tools into the cultural and creative industries' production processes, in particular among micro, small and medium-sized enterprises and civil society organizations;
 - 15.2 provide support to cultural entrepreneurs, civil society organizations, local production companies or incubators wishing to expand their activities in the digital environment;
 - 15.3 promote new forms of financing for cultural and creative industries in the digital environment and encourage new types of partnerships between the public and private sectors in the digital environment;
 - 15.4 recognize the role played by artists using digital technologies in research and development, which is a benefit to society and produces new and different communication tools.
16. At the stage of **distribution/dissemination**, Parties shall aim to support and provide opportunities for works to be distributed in the digital environment as well as promote and consolidate the development of emerging and local digital markets. Measures at this stage of the value chain should aim to:
 - 16.1 encourage the diversity of digital media, including the multiplicity of digital distributors of cultural goods and services and digital actors (online platforms, Internet service providers (ISP), search engines, social networks), while also ensuring visibility and discoverability of national and local cultural content;
 - 16.2 promote dialogue between private operators and public authorities in order to encourage greater transparency in the collection and use of data that generates algorithms, and encourage the creation of algorithms that ensure a greater diversity of cultural expressions in the digital environment and promote the presence and availability of local cultural works;
 - 16.3 work toward the standardization and interoperability of electronic communications networks and services, of formats, protocols, software, interfaces and metadata in order to achieve diverse digital environments for the distribution of cultural goods and services;
 - 16.4 adapt and modernize online transaction mechanisms and processes in order to facilitate and secure e-commerce;
 - 16.5 encourage fair, transparent, sustainable and ethical trade in the exchange of cultural goods and services in the digital environment, in particular with developing countries;
 - 16.6 develop the legal framework for online distribution of cultural goods and services such as ratification of relevant international copyright and related rights treaties, contractual arrangements and measures to protect against piracy and the illicit trafficking of cultural goods online;
 - 16.7 promote cooperation between online platforms (video, audio and other aggregators) and the rights holders of these goods and services (including licensing agreements and deployment of technical tools) in order to improve the online distribution of cultural goods and services and to better find the content being disseminated.

17. At the stage of **access**, Parties shall aim to ensure the free and permanent access to diverse cultural expressions as well as to increase participation in cultural life in the digital environment. This includes measures which aim to ensure continuous access to digital technologies, know-how and diverse cultural goods and services and should aim to:
 - 17.1 introduce greater transparency and readability of indexing and content referencing modes in order to ensure that the digital mechanisms (recommendation algorithms) determining the content available to the users provide a wide range of diverse cultural expressions in the digital environment;
 - 17.2 invest in, develop and strengthen telecommunications infrastructures to improve access to diverse cultural expressions in the digital environment;
 - 17.3 encourage the implementation of digital preservation measures and the development of infrastructure to ensure universal and continuous access to cultural content, despite the constant and rapid evolution of the digital environment;
 - 17.4 support linguistic diversity and translation interfaces in the digital environment;
 - 17.5 encourage public cultural institutions to provide online access to diverse cultural expressions;
 - 17.6 supply the necessary digital equipment to public institutions such as schools, libraries and cultural centres;
 - 17.7 set up programmes for digital literacy, public education and awareness on using the Internet and on mastering digital tools;
 - 17.8 encourage legislative measures that allow for the fair remuneration of rights holders.

Rebalancing the flow of cultural goods and services

18. In the context of international solidarity and cooperation, Parties shall aim to introduce preferential treatment provisions to facilitate more balanced flows of cultural goods and services from developing countries in the digital environment, pursuant to Article 16 of the Convention. Parties may:
 - 18.1 improve the distribution of cultural goods and services in the digital environment produced by artists and cultural professionals, enterprises and independent organizations from developing countries, including through artistic and cultural collaboration, co-production and co-distribution agreements;
 - 18.2 take into account the provisions of international trade agreements they have concluded and will conclude, and their respective mechanisms with a view to offering preferential treatment in favour of cultural goods and services from developing countries in the digital environment.
19. Consistent with their obligations in Article 21 of the Convention to promote the objectives and principles of the Convention in other international fora, and in order to foster an integrated approach in the areas of culture, trade and investment in the digital environment, Parties are encouraged to promote:
 - 19.1 complementarity and coherency among the various legal instruments addressing the diversity of cultural expressions in the digital environment;
 - 19.2 transparency in bilateral, regional or multilateral negotiations having an impact on cultural goods and services in the digital environment;

- 19.3 close coordination between national authorities responsible for culture and trade, as well as other relevant public authorities and bodies and civil society representatives;
- 19.4 the consideration of introducing cultural clauses in international bilateral, regional or multilateral agreements, namely provisions that take into account the dual nature of cultural goods and services, including preferential treatment clauses, with particular attention to the status of e-commerce that shall recognize the specificity of cultural goods and services;
- 19.5 the incorporation of explicit references to the Convention and these guidelines on the digital environment in trade and investment agreements, as well as provisions that enable their implementation, including the preservation of the capacity to design new public policies when necessary.

Integration of culture in sustainable development frameworks

- 20. In the context of the United Nations 2030 Agenda for Sustainable Development and its Sustainable Development Goals (SDGs) and pursuant to Articles 13 and 14 of the Convention, Parties may elaborate national development policies and international assistance programmes that recognize the importance of cultural aspects and the complementarity of the economic, social and environmental dimensions of sustainable development in the digital environment.
- 21. Parties shall integrate culture into their information and communication technologies (ICTs) plans and digital strategies, by including references to the Convention and to its aims and principles.
- 22. Parties shall support, at the national and international levels, capacity-building activities, the transfer of know-how and sustainable technologies (hardware and software), as well as the development of infrastructure.
- 23. At the *national* level, measures should aim to:
 - 23.1 raise awareness and promote the consumption of local cultural content and, as a result, foster the development of viable cultural and creative industries in the digital environment at the local, regional and national levels;
 - 23.2 assess specific technological needs in order to promote geographical equity in the distribution of cultural resources as well as equitable access to those resources for various individual and social groups, as foreseen in Article 7 of the Convention;
 - 23.3 encourage inter-ministerial collaboration to integrate culture into the programmes of other ministries working on digital matters;
 - 23.4 reinforce and improve development policies in the digital environment in other sectors such as education, public health, security, research and urban planning.
- 24. At the *international* level, measures should aim to support developing countries by:
 - 24.1 updating cultural cooperation agreements so that they take into account the impact of digital technologies, particularly in the implementation of co-production and co-distribution agreements;
 - 24.2 developing new forms of cooperation that facilitate the co-production and co-distribution of networked artistic works, regardless of distances between creators;
 - 24.3 prioritizing bottom-up cultural cooperation initiatives involving local actors, over top-down initiatives which, for example, are restricted to simple donations in kind (of equipment, software, content and connectivity);

- 24.4 ensuring equitable access to resources and cultural content in the digital environment through educational and public awareness activities on the uses of the Internet and digital tools;
- 24.5 supporting projects linked to the implementation of the Convention in the digital environment, particularly through regular voluntary contributions to the International Fund for Cultural Diversity (IFCD).

Role of civil society

- 25. Pursuant to Article 11 of the Convention and its Guidelines, partnering with civil society organizations is essential in the digital environment by contributing to monitoring the evolution of the digital world, and may take the form of:
 - 25.1 initiatives to raise awareness of the potential of the digital environment through the use of digital technologies (such as social networks, mobile applications, online discussion platforms), the organization of events and the creation of communication tools (such as shared-work platforms, real-time interactive exchange platforms, blogs, electronic information bulletins);
 - 25.2 efforts to consult actors in the cultural sector on digital matters, and to share the results with the Convention's governing bodies through the submission of written documents (information documents) and oral contributions to the Conference of Parties and the Intergovernmental Committee;
 - 25.3 active contribution to the preparation of the Parties' quadrennial periodic reports, by providing relevant information on the opportunities and challenges for artists and other cultural professionals and practitioners arising from digital technologies;
 - 25.4 collaboration between civil society representatives, including artists and cultural professionals, academics, researchers and experts, to provide input for reflection within other international organizations and to directly or indirectly focus on issues relating to the diversity of cultural expressions in a digital environment.

Gathering and sharing of information and good practices

- 26. When implementing Articles 9 and 19 of the Convention, Parties shall:
 - 26.1 systematically include information in their quadrennial periodic reports on policies to address the opportunities and challenges linked to the protection and promotion of the diversity of cultural expressions within a digital environment;
 - 26.2 encourage the collection of comparative statistics on the uses, practices and markets for cultural goods and services in the digital environment;
 - 26.3 support discussions and share good practices in developing countries on the opportunities and challenges for the diversity of cultural expressions in the digital environment.

Role of the UNESCO Secretariat

27. Pursuant to Article 19 of the Convention, the Secretariat shall, in an intersectorial manner and in collaboration with the Parties, civil society and relevant international organizations:
 - 27.1 gather, analyze and disseminate information and statistics on the protection and promotion of the diversity of cultural expressions in the digital environment, including on related technological developments;
 - 27.2 set up and maintain, through its Knowledge Management System, a list of good practices;
 - 27.3 establish a dialogue with the Parties and civil society in order to strengthen cooperation with other international actors concerned by digital technologies, particularly those responsible for trade, intellectual property and telecommunications, to raise their awareness of the Convention and to share information with all Convention stakeholders;
 - 27.4 encourage discussions among Parties and report to the governing bodies on the opportunities and challenges for the promotion of the diversity of cultural expressions in the digital environment.
