CONTRIBUTION TO THE GREEN PAPER

UNLOCKING THE POTENTIAL OF CULTURAL AND CREATIVE INDUSTRIES

Putting in place the right enablers

New spaces for experimentation, innovation and entrepreneurship in the cultural and creative sector

1. How to create more spaces and better support for experimentation, innovation and entrepreneurship in the CCIs? More particularly, how to increase access to ICT services in/for cultural and creative activities and improve the use of their cultural content? How could ICTs become a driver of new business models for some CCIs?

Established in Venice in 1980, FERA, The Federation of European Film Directors, an international, non-profit federation of 37 national associations of film and television directors, across 30 European countries, has adapted to the many changes in the audiovisual industry across the last thirty years always with the focus of how to maximize the creative, social and commercial potential of the growing audiovisual industry, art and culture.

In our answers to the Green Paper FERA has chosen to address the most acute needs that are specific, though not unique, to the audiovisual sector in order to make our proposals as concrete as possible. We therefore refer to the contribution of the stakeholder Platform on the CCIs, which FERA is a member of, for our position on the topics not covered in this submission.

If the European Union is serious about putting creativity and innovation at the centre of the agenda for the coming decade, there must be political courage to take targeted action that actually stimulates and promotes creation and sustains its authors and SMEs – at all levels.

FERA has identified 4 key fields of action that we believe are crucial to achieve this and which will be described under the relevant questions:

1. Nurture individual talent
2. Improve living and working conditions
3. Increase funding opportunities
4. Coordinate and expand existing EU programmes
NURTURE INDIVIDUAL TALENT

The Green Paper recognizes that “CCI businesses… largely depend on individual talent and risk taking.” and that “the research and development aspect of creativity and creation needs to become stronger”.

The challenge to overcome current outdated business models in the audiovisual sector should include developing film projects in the most flexible way possible. This may mean not necessarily starting with a screenwriter and producer developing a script. Many of the most successful artistic collaborations in the history of cinema involved the director’s original idea being developed with a variety of collaborators.

In order to support experimentation by individual talents, the MEDIA programme should be reinforced by introducing development funding in the form of individual grants (possibly administered by the national MEDIA desks). Seed development funding could also be given to creative collaborations across borders, as a mobility incentive, such as a director-screenwriter team, or a director-cinematographer team etc.

As an example the Jean-Luc Lagardère Foundation awards individual grants ranging from 15-50.000 € for project completion to young professionals under age 30 in 10 categories: Documentary writer, Digital creator Writer, Animated Filmmaker, Print journalist, Bookseller, Musician, Film producer, TV screenwriter, and Photographer.

For a cultural or creative industry to exist, there must first be talented individuals who create. These talents must be identified and nurtured from an early age, and given the opportunity to challenge themselves and develop. But the challenge is to then keep that talent working, developing a career and fulfilling potential. In some countries getting to make the first film is hard, but to get a second film is even harder (even when the first was a success). The one-time or once-every-5-year director syndrome is exacerbated by the limited funding available.

European cinema has a long and proud tradition of great masters who throughout a lifetime of continuous production made the films that we today consider to be our common audiovisual heritage. One could run through the entire alphabet reciting names of director giants: Antonioni. Bergman. Cocteau. Dreyer. Eisenstein. Fellini. Godard. To mention but a few.

Better matching the skills needs of CCIs

2. How to foster art and design schools/business partnerships as a way to promote incubation, start-ups and entrepreneurship, as well as e-skills development?

It is important to remember that the skills of the future are built on the experiences of the past. Any fostering of e-skills should incorporate the basics crafts of the already existing industry and foster exchanges and mentoring between the old and the new, experience and innovation.

3. How could peer-coaching in the CCIs be encouraged at the level of the European Union?

From time immemorial artists have needed more than creative skills to get work made and out to the public. It is important to remember that even in the e world it is people working in teams that make work happen and get it to the public.
The greatest skill in the audiovisual industry is the ability to communicate with other people. Peer coaching can help create new networks, teams, collaborations; it can give encouragement and confidence and share the skills necessary to help the artist bring the work out of the head and into the public domain.

Also the use of assistant directors seems to be threatened by budget cuts in some countries, which is alarming considering the invaluable experience it constitutes for the assistant, and the help it provides for the director. Formalized mentoring has not been used very often in the audiovisual sector, but there have been successful pilot programmes over the past few years.

Peer coaching could be encouraged in the form of mentoring and assistant director (AD) exchanges supported by the MEDIA programme.

**Access to funding**

4. How to stimulate private investment and improve CCIs access to finance? Is there added value for financial instruments at the EU level to support and complement efforts made at national and regional levels? If yes, how?

**INCREASE FUNDING OPPORTUNITIES**

The Green Paper immediately recognizes that “access to finance is a core barrier to growth for many businesses within the sector.”

**How the digital shift affects financing of production**

Market value in the current audiovisual industry business model is based on specific territories and a chronology of release windows. The current funding of audiovisual productions is dependent on the presale of screening rights plus state funding, product placement and advertising potential.

It is important that new media find the right balance of these state and commercial forces to maintain a creative and economically and culturally relevant and vibrant audiovisual industry into the future.

The Green Paper claims that “technology and the availability of broadband infrastructure in urban and rural areas opens up new opportunities for creators to produce and distribute their works to a wider public at a lower cost, independently of physical and geographical constraints”.

It is important to understand that the budgets of European film relate primarily to the cost of production and not the cost of distribution. New technology has had limited effects on the overall budget of films where it is talent and time, rather than technology where most of the costs lay. What saving are made by new technology are generally eaten up by a need for improved production standards due to increased audience expectations. For example the most significant new development in 3D technology, is proving to be most expensive.

At the moment the digital shift has far greater consequences for the audiovisual sector compared to other related sectors, as it seems to require a fundamental restructuring of the industry’s financial mechanisms.
European directors naturally want the largest possible audience for our films and welcome the possibilities that the digital shift offer in making our works available to new audiences across the globe, thereby increasing their “shelf life” and – potentially – their earnings.

But just as the audiovisual industry finds itself in a state of transition from old business models to new ones, the global financial crisis has caused member states to cut state aid to production of new films, broadcasters to pay less for screening rights due to competition with internet for advertising revenue, corporate sponsorship to sharply decrease, and private investors to invest more conservatively - if at all.

On top of all this the EC expects the creation of a single digital market for creative content and calls for Europe-wide multi-territory licensing without analyzing to what extent the industry may need alternative funding sources to compensate for a decrease in licensing revenue.

The role of public funding

The backbone of financing for the audiovisual industry in Europe is – and must continue to be - public funding.

In order to ensure a culturally diverse output of works there is a need for a variety of funding sources. Yet when each financier is only willing or able to contribute a fraction of the budget, it has become excessively time consuming to raise funding, and the end result may often be that projects fall apart because they cannot find enough financiers to come on board at the same time.

It is also important to bear in mind that many films, and documentaries in particular, must rely almost exclusively on public funding so as not to compromise their editorial content and integrity.

FERA welcomes the Commission’s initiative to set up a Production Guarantee Fund.

FERA furthermore proposes to use tax breaks as an incentive to attract more private investment and sponsorships in CCIs.

The consequences of rampant online copyright infringement

Authors’ rights are the foundation upon which cultural and creative industries are built.

FERA is content that the Green Paper acknowledges that “particularly the recorded content industries, have been severely hit by piracy and losses in sales of physical supports (e.g. CD, DVD), which have damaged their development, shrunk their revenue basis and consequently limited their potential to generate jobs and investment”.

Studies show that 70% say they would not download if they knew it was illegal, and a majority of people also express a willingness to pay for the works they want to watch if there was an accessible legal offer.

Yet the European Parliament suddenly seems reluctant to deal with the negative impact online copyright infringements have on the cultural and creative industries.
Bargaining power

The Green Paper correctly observes that “economic value is being displaced towards the end of the chain, which in certain sectors affects the effective reward for creation”.

European wide legislation to protect the unwaivable right to remuneration for the online exploitation of audiovisual authors’ works as a financial basis for further creation, is vital to the sustainability and growth of Europe’s creative industries.

There are in Europe today insufficient protective rules for directors, who, as audiovisual authors in a hugely unfair economic arrangement, commonly assign rights for a flat fee and are therefore deprived of a share in revenue generated by the commercial exploitation of their work.

There is a strong need to strengthen the contractual position of directors in order for us to actually receive fair remuneration – for all forms of exploitation of our works.

New gatekeepers should also be new investors

The Green Paper further remarks that “the global digital shift reinforces the position of important stakeholders such as telecom companies or consumer electronics manufacturers, and coincides with the emergence of new strong global players such as search engines and web based social platforms which while making significant contributions to the development of the market place – can potentially act as new gatekeepers.”

FERA fully agrees that “creating and maintaining the level playing field which ensures that there are no unjustified barriers to entry will require combined efforts in different policy fields, especially competition policy.”

It would also be reasonable to require any audiovisual media services that profits from European audiovisual works to invest a fair share of their turnover in the production of new works by for instance contributing to national film and audiovisual production funds, in line with Article 13 of the Audiovisual Media Services Directive.

5. How to improve the investment readiness of CCI companies? Which specific measures could be taken and at which level (regional, national, European)?

Private investment in film projects could possibly be increased by increasing development funding dedicated to the making of high quality project presentation materials such as pilots. For potential investors who are not versed in reading scripts and directors’ visual concept statements, the pilot could be an attractive calling card.

A pilot is a standard tool in pre-selling documentary films (usually 5-15 minutes) and for television series (a full episode in the USA).

There is a general need for flexibility in development funding to include project initiated by directors or directors and other creative collaborators and allow for project to be produced with innovative creative scheduling and budgets, rather than every production fitting into the strict low budget 5-7 week schedule.
Local and regional development as a launch pad for global success

Local and regional dimension

6. How to strengthen the integration of CCIs into strategic regional/local development? Which tools and which partnerships are needed for an integrated approach?

FERA believes that there needs to be a consolidation of regional audiovisual initiatives and that a Europe-wide survey and analysis could identify best and worst practices, and how these initiatives should evolve to the mutual benefit of the regions and the audiovisual industry.

Many regions across Europe have embraced the audiovisual sector as a valuable asset for local growth. A myriad of tax shelter schemes have been created and private investors have pooled together with public authorities to create regional investment funds. Substantial public funding has also gone into infrastructure, such as converting old factories or military camps into film studio facilities.

The audiovisual industry has welcomed this development, especially when new funding sources for development and production have emerged as a result. It is important that the regional efforts are well suited to meet the needs of the audiovisual industry, and that their investments are sustainable in the longer term. However we need new ideas because the comparative advantages that the early adapters gained may by now have been neutralized by a saturation of the market.

Mobility and the circulation of cultural and creative works

7. What new instruments should be mobilised to promote cultural diversity through the mobility of cultural and creative works, artists and cultural practitioners within the European Union and beyond? To which extent could virtual mobility and online access contribute to these objectives?

IMPROVE THE LIVING AND WORKING CONDITIONS OF CREATORS AND WORKERS IN THE CCIs

An increasing number of creative professionals, including directors, are self-employed, multi-national and nomadic. It is crucial to improve their socio-economic status and social protection.

Moreover, unrealistic, or plain irresponsible, production planning often compromise the health and safety of cast and crew, and we need stronger enforcement of working time regulations to operate on a sustainable level. This is also an important factor in improving the extreme gender imbalance that the audiovisual industry is chronically plagued by.

There is also a need to clarify and adapt competition rules to the specificities of the cultural sector to ensure the right to collective bargaining for self-employed cultural creative workers.

The EU should encourage member states to implement social security, insurance, pensions, taxation, VAT schemes tailored to the needs of creators and SMEs, such as the German “Law on artists' social security” and the Dutch “Artists’ Work and Income Act”. There are currently 16 countries in Europe that have a social security law for artists, and 21 countries have some

To promote the mobility of creative works the priority is for the existing instruments to be optimized:

The distribution and promotion support of the MEDIA programme, including support for online video-on-demand platforms.


FERA is disappointed that the majority of Member States did not transpose the Directive by the deadline set by the Commission, and regrets that the vague language of the Directive has resulted in few concrete obligations on audiovisual media services.

Cultural exchanges and international trade

8. Which tools should be foreseen or reinforced at EU level to promote cooperation, exchanges and trade between the EU CCIs and third countries?

FERA welcomes the new MEDIA Mundus programme and supports its aims, which are to increase the competitiveness of the European audiovisual industry, enable Europe to play its cultural and political role in the world more effectively, and to increase consumer choice and cultural diversity.

On the question of trade, FERA is concerned about the lack of information on the European Commission’s current strategy of negotiating cultural cooperation protocols in bilateral or regional trade agreements, and calls for greater transparency in these matters. A public consultation on this issue should be launched in the immediate future.

Towards a creative economy: the spillovers of CCIs

9. How to accelerate the spill-over effects of CCIs on other industries and society at large? How can effective mechanisms for such knowledge diffusion be developed and implemented?

CONVERTING POLITICAL AMBITION INTO ACTION: Preconditions for unlocking the potential of Europe’s CCIs

FERA warmly endorses President Barroso’s statement on Europe’s need to “put in place the right conditions for creativity and innovation to flourish” and the Green Paper’s recognition that “the EU still has to develop a strategic approach to make its strong and attractive cultural assets the basis of a powerful creative economy and a cohesive society.”

Moreover, we are pleased to note that the OMC Expert Working Group on maximizing the potential of Cultural and Creative Industries in their final report June 3 2010 acknowledges that this will “require a high level of understanding and cooperation from political representatives and institutions at all levels” and that barriers such as lack of capital, infrastructural weaknesses and bad working conditions,” lead to an urgent call for action in order to face the most negative constraints of those obstacles”.

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The study conducted by TERA Consultants in March 2010 for the International Chamber of Commerce shows that the core creative industries in the EU27 were estimated to generate almost €560 billion in value added in 2008, 4.5% of the total EU GDP and accounted for 8.5 million jobs, 3.8% of the total workforce. If one adds the non-core creative industries, such as the manufacture and sale of hardware and non-dedicated industries such as transport, the value added is approximately €860 billion, or 6.9% of GDP.

But culture currently receives less than 0.05% of the EU budget. Surely the European Commission cannot expect the ambition to unlock the potential of the CCIs to be fulfilled without a significant budget increase. If Europe’s competitiveness is to improve vis-a-vis countries such as the USA, where the audiovisual industry alone is only second to their weapons trade in generating export revenues, our CCIs must be equipped with enough economic muscle to actually be able to compete.

Not only is there a need to mainstream culture into all policy areas, cultural policy itself can no longer be relegated to the fringes of political prestige and consequence.

10. How can "creative partnerships" be promoted between CCIs and education institutions / businesses / administrations?

In today’s world media literacy is vital to become active citizens and discerning consumers. Children need to acquire basic skills to decipher and recognize how media can manipulate and distort, but also how they can use media as a tool to express themselves.

FERA, along with many other rights holders’ organisations, also calls for education on intellectual property rights in schools, universities, businesses and administrations.

11. How to support the better use of existing intermediaries and the development of a variety of intermediaries acting as an interface between artistic and creative communities and CCIs on the one hand, and education institutions / businesses and administrations, on the other hand?

COORDINATE AND EXPAND EXISTING EU PROGRAMMES

The audiovisual sector is served by a handful of European programmes and institutions: MEDIA, Eurimages, The European Audiovisual Observatory, the European Film Academy, European Film Promotion all contribute to strengthening the audiovisual industry in Europe.

FERA is keen to see these institutions maximize their potential through coordination and possible expansion. We would prefer to build on existing structures so as not to create additional bureaucracy, and the national MEDIA desks in particular, constitutes a unique network that could be well suited to take on a more active and complementary role to the national funding bodies.

On the political level FERA would like to propose an annual gathering of these institutions, civil society organizations, OMC working groups and representatives from the European Commission and the European Parliament in order to identify trends and needs, discuss strategy, and set goals and priorities.
In preparation for such a gathering, FERA suggests that the Commission appoint an Audiovisual Industry Task Force to evaluate existing EU/European programmes, activities and institutions, collect information, statistical data, and compare national practices and make recommendations on ways to coordinate and potentially expand the field of operation to maximize the effect of these programmes.

IN OUR CONTRIBUTION FERA HAS PROPOSED THESE ACTIONS:

1. **Increase** – significantly - the EU budget allocation for culture to give the CCIs enough economic muscle to become competitive.

2. **Implement** measures to effectively curb the negative impact online copyright infringements have on the cultural and creative industries.

3. **Adopt** legal provisions that strengthen the contractual bargaining position of creators.

4. **Create** at the European level an unwaivable right to remuneration for the online exploitation of audiovisual works.

5. **Combine efforts** in different policy fields, especially competition policy, to create an even playing field in accessing the market.

6. **Require** any audiovisual media services that profits from European audiovisual works to invest a fair share of their turnover in the production of new works, in line with Article 13 of the Audiovisual Media Services Directive.

7. **Introduce** a scheme for individual grants within the structure of the MEDIA programme (possibly administered by the national MEDIA desks) in order to directly support individual talents, also as a mobility incentive.

8. **Support** peer coaching in the form of mentoring and assistant director (AD) exchanges within the MEDIA programme.

9. **Allow** greater flexibility in development funding by incorporating seed funding for projects initiated by directors or directors and other creative collaborators.

10. **Encourage** member states to implement social security, tax and VAT schemes tailored to the needs of creators and SMEs.

11. **Set up** the proposed Production Guarantee Fund.

12. **Give** tax breaks as an incentive to attract more private investment and sponsorships in CCIs.

13. **Appoint** an Audiovisual Industry Task Force to evaluate existing EU/European programmes, activities and institutions, collect information, statistical data, and compare national practices and make recommendations on ways to coordinate and expand the field of operation to maximize the effect of these programmes.
14. **Organize** an annual gathering of European audiovisual institutions, civil society organizations, OMC working groups and representatives from the European Commission and the European Parliament in order to identify trends and needs, discuss strategy, and set goals and priorities.

For more information please contact

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