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European Union

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| From: | Permanent Representatives Committee (Part 1) |
| To: | Council |
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| Subject: | Draft Council conclusions on European Audiovisual Policy in the digital era - <i>Adoption</i> |

At its meeting on 12 November 2014, the Permanent Representatives Committee noted that there was now unanimous agreement on the abovementioned draft Council conclusions.

The Council is therefore invited to adopt the conclusions on the basis of the text annexed to this note and to forward them for publication in the Official Journal.

Council conclusions on European Audiovisual Policy in the Digital Era

THE COUNCIL OF THE EUROPEAN UNION,

RECOGNISING THAT

1. the audiovisual industry is crucial both in creating sustainable growth and jobs and in fostering cultural and linguistic diversity and therefore represents a key area for the economic, cultural and social agenda of the EU and particularly for reaching the goals of the Europe 2020 strategy;
2. in times of rapid technological changes and unpredictable market developments, it is crucial to foster cultural and linguistic diversity and competitiveness in all policy measures affecting the European audiovisual industry on European and Member State levels;

NOTING THAT

3. the digital revolution has had a profound effect on the audiovisual landscape which is now characterised by the co-existence of cinema, linear audiovisual media services, such as television, and new, non-linear media services, such as Video-on-Demand (VoD). The blurring of lines between linear and non-linear audiovisual media services raises the question as to whether existing EU legislative provisions remain appropriate;
4. media convergence also offers new possibilities for distributing audiovisual content which in turn requires the business and regulatory environment to adapt;

5. audiovisual markets are still television and cinema orientated; nonetheless, major changes in audience behaviour regarding audiovisual content are evident especially among younger people who increasingly use on-line services. Audiences in general demand and expect immediate access to new content anytime, anywhere and across all devices. In Europe, however, where markets are fragmented, the legal supply of content does not always meet this cross-border demand;
6. in response to these developments, it is the responsibility of policy-makers to examine how to help create a dynamic single market for audiovisual content that meets the demand of citizens, content providers and rightholders, while ensuring cultural and linguistic diversity;

AGREEING THAT

7. in the context of the digital era, copyright should continue to play the role of protecting and stimulating creation and ensuring appropriate remuneration for rightholders, while allowing for the development of new innovative services and cross-border access for the citizens;
8. the main goals of the European audiovisual policy in the digital era are to:
 - a) facilitate the supply of broad, culturally and linguistically diverse and high quality content;
 - b) meet audience demand by ensuring easy, timely, cross-border and legal access to content, full cross-border circulation of European audiovisual works and visibility and presence of European works across all distribution platforms;
 - c) ensure equal conditions for competitiveness for audiovisual media service providers within the single market.

9. In order to achieve these goals it is important to ensure media pluralism; promote a technologically neutral audiovisual single market; safeguard public interests, including Member States' existing responsibility for national security, audience protection, in particular the protection of minors, and access for the elderly and people with disabilities; support media literacy, in particular among children and young people; and promote access to European film heritage and film literacy;

WELCOMES

10. - the Commission Communication on European film in the Digital Era - Bridging Cultural Diversity and Competitiveness¹;
- the Commission Communication on State Aid for Films and Other Audiovisual Works²;
- the Green Paper on Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values³;

INVITES THE COMMISSION TO

11. urgently complete the exercise of the review⁴ of the Audiovisual Media Service (AVMS) Directive⁵ in the light of the rapid technological and market changes resulting from the digital shift, and on the basis of the outcome of this review submit an appropriate proposal for the revision of this Directive as soon as possible, in respect of the principle of subsidiarity⁶;

¹ doc. 10024/14

² OJ C 332, 15.11.2013, p. 1.

³ doc. 8934/13

⁴ The REFIT evaluation.

⁵ Directive 2010/13/EU, OJ L 95, 15.4.2010, p.1

⁶ UK: scrutiny reservation.

12. implement the process of a structured dialogue about film policy in Europe through the European Film Forum⁷ and use the results of the Forum also for the purpose of the mid-term evaluation of the Creative Europe Programme (MEDIA Sub-programme) aiming at reshaping the action lines, increasing the complementarity with national support schemes and adapting them to the changing needs of the market;
13. promote the use of the Erasmus+, the Horizon 2020 and COSME programmes to finance education, training and research and innovation activities underpinning the audiovisual sector;

A. BUSINESS ENVIRONMENT

INVITES THE COMMISSION AND MEMBER STATES, WITHIN THEIR RESPECTIVE SPHERES OF COMPETENCIES AND IN ACCORDANCE WITH THE PRINCIPLE OF SUBSIDIARITY, TO

14. test the impact of new ways of releasing films in the framework of the Creative Europe Programme (MEDIA Sub-programme) and explore the possibilities of testing these approaches as part of the objectives of the national film policies;
15. encourage practices which make the licensing for multi-territory on-line audiovisual media services easier;
16. encourage exchanges and international cooperation between players operating in the audiovisual chain, also with the aim of improving the aggregation of information and statistical data, and enhance in this regard cooperation with the European Audiovisual Observatory;

⁷ Launched by the Commission Communication on European film in the Digital Era.

INVITES MEMBER STATES TO

17. ensure that legislation and public funding schemes allow for innovation and experimentation with release windows such as simultaneous release on different platforms;

B. PUBLIC FUNDING AND ACCESS TO FINANCE

INVITES THE COMMISSION TO

18. intensify preparations for the Cultural and Creative Sectors Guarantee Facility, as foreseen in the Creative Europe Programme⁸, in view of its establishment in 2016;

INVITES THE COMMISSION AND MEMBER STATES WITHIN THEIR RESPECTIVE SPHERES OF COMPETENCIES AND IN ACCORDANCE WITH THE PRINCIPLE OF SUBSIDIARITY, TO

19. encourage rebalancing of the public funding of audiovisual works towards development, distribution and promotion;
20. promote complementarities between EU support measures, notably the Creative Europe Programme (MEDIA Sub-programme) and national and regional supports;
21. encourage funding for the digitisation and preservation of film heritage and related material;

⁸ Regulation (EU) No 1295/2013, OJ L 347, 20.12.2013, p. 221.

INVITES MEMBER STATES TO

22. promote the creation, whenever appropriate, of guarantee funds and investment funds co-financed by public and private investors;
23. promote capacity building to support banks and financial intermediaries in financing audiovisual companies, in accordance with the capacity building scheme of the Creative Europe Programme.

C. MEDIA AND FILM LITERACY AND FILM HERITAGE

INVITES THE COMMISSION TO

24. assess and disseminate the outcome of the film literacy activities financed in the framework of the Creative Europe Programme (MEDIA Sub-programme);
25. support and coordinate efforts to assess media literacy levels of European citizens at EU, national and local levels in the framework of the activity of its Media Literacy Expert Group;

INVITES THE COMMISSION AND MEMBER STATES, WITHIN THEIR RESPECTIVE SPHERES OF COMPETENCE AND IN ACCORDANCE WITH THE PRINCIPLE OF SUBSIDIARITY, TO

26. promote good practices and research on the inclusion of media literacy in formal education and training, as well as in non-formal and informal learning;
27. use film heritage as a tool for promoting European cultures and values outside Europe;

INVITES MEMBER STATES TO

28. promote the use of cinematographic and audiovisual works at all levels of education and training, including in non-formal and informal learning, in particular focusing on literacy skills, critical analysis and selection of content, and exchange of best practices and teaching material;
29. encourage national film festivals to work as a platform for film literacy promotion;
30. make better use of the possibilities offered by the EU Structural Funds to support actions in favour of the protection, digitisation and circulation of audiovisual heritage (both film and television heritage), while also encourage experimentation with new release strategies and channels;
31. foster the innovative reuse of audiovisual heritage (both film and television heritage);

D. REGULATORY FRAMEWORK

INVITES THE COMMISSION TO

32. pay particular attention to the following elements when carrying out the review of the AVMS Directive⁹:
 - a) assess whether the current regulatory distinction between non-linear and linear audiovisual media services is still appropriate in the context of the digital era;

⁹ The REFIT evaluation of the AVMS Directive is foreseen for 2015 (doc. 10648/14).

- b) assess the functioning of the “country of origin” principle in the audiovisual landscape;
 - c) assess the most effective way to create a level playing field between all actors of the value chain;
 - d) evaluate the effectiveness of the measures for the promotion of European works, as foreseen in the AVMS Directive, considering alternative measures ensuring the efficient promotion of European works in the digital environment;
 - e) assess the functioning of current advertising rules;
 - f) ensure a high level of protection of minors across all audiovisual media services.
33. to bring forward the necessary proposals to continue modernising the EU copyright framework in the light of the digital shift to the benefit of both European economy and cultural diversity, inter alia to facilitate on-line, legal and cross-border access to audiovisual works, foster on-line transnational circulation of audiovisual works, protect and reward authors and other rightholders, provide for a balanced framework of rights, duties and responsibilities across the value chain and improve the level of digitisation and online availability of film heritage.
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