

# Platform on the Potential of Cultural and Creative Industries

*This document presents the recommendations of the Cultural Industries Stakeholders' platform aiming to unlock the potential of the European cultural and creative industries in particular SMEs. Drawn up by nearly 40 European organisations representing hundreds of thousands of cultural and creative actors from different fields, these recommendations are designed to be implemented by decision makers at EU, national and local level. This will create the optimum conditions in Europe and ensure cultural and creative industries can deliver their full potential in cultural, economic and social terms.*

# Platform on the Potential of Cultural and Creative Industries

## Introduction

Culture and creativity surround Europe's citizens, both stimulating and inspiring them and driving an innovative Europe. The Lisbon Strategy recognised this, putting the cultural and creative industries at the centre of Europe becoming "the most competitive and dynamic knowledge-based economy in the world capable of sustaining economic growth with more and better jobs and greater social cohesion"<sup>1</sup>.

According to the 2006 EC study on the economy of culture in Europe, the cultural and creative sector:

- employed nearly 6 million people in 2004,
- had a turnover of €654 billion,
- contributed to 2,6% of EU GDP.

Culture is an essential asset for Europe's future and will continue to be so after the Lisbon strategy.

Of all the actors of the cultural sector, 99% are micro, small and medium sized enterprises (SMEs) - recognised by the EU as "drivers of growth, job creation and innovation"<sup>2</sup>. Cultural and creative industries, especially SMEs, are risk takers, investing in new talents and new aesthetics, fostering creativity and innovation as well as ensuring cultural diversity and choice for consumers.

These actors are laboratories for artistic, managerial and technical innovation. Moreover, they allow a wider circulation of artists and works at EU and international level and improve both intercultural dialogue and social cohesion. The image of a dynamic, creative and modern Europe depends upon the success of its cultural and creative industries, participating in the renewal of national and local economies and territories.

Today, these industries are facing revolutionary change. The evolution of production, distribution, consumption behaviour and access to culture has accelerated the mutation of the cultural industries which now have to be even more creative as driving forces of the cultural economy. The growth of the digital economy is a huge opportunity for cultural and creative industries but there are obstacles that hinder their development potential and ability to remain competitive at a global level in the online environment.

Market access for all cultural actors, financial investment, promotion of cultural goods as well as research and development remain challenging issues. Cultural and creative industries also need a clear regulatory framework concerning issues like piracy which cause uncertainties for the development of a real digital market.

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<sup>1</sup> In the European Council conclusions of December 2007 and in the Council conclusions of the 27 Ministers for Culture of May 2007.

<sup>2</sup> In the European Council conclusions of March 2007.

Cultural and creative industries cannot find a place in the classical scheme of subsidies but require support measures and incentive mechanisms adapted to their needs, in the form of an action plan for cultural industries. According to the KEA newsletter on *The Impact of Culture on Creativity*, “innovation is given a rather limited definition as it essentially relates to technological and scientific development. The EU has invested 147 billion Euros (2007-2013) to stimulate R&D and stimulate ICT. Such innovation policy largely ignores the value of culture-based creativity. We estimate that the EU will spend less than 3 billion Euros (2007-2013) on culture-based creativity. Is the EU missing something in its quest for a more inclusive and more innovative society ?”.

Looking beyond the Lisbon strategy, cultural and creative industries and in particular SMEs from all over Europe demand that these recommendations be used in a new long-term coordinated strategy. EU support is more necessary than ever as Europe continues to evolve into a knowledge-based economy depending more and more on creativity-based ventures. It is essential to invest in cultural and creative industries and in particular SMEs. Such investment would support economic growth as well as create employment at a time of extreme economic uncertainty. Securing the safety of our economic future depends heavily on making the right decisions now.

These recommendations come from Europe’s cultural and creative industries, speaking with one voice, showing how the potential of our cultural and creative industries can be unlocked as part of a new global strategy for Europe.

# Platform on the Potential of Cultural and Creative Industries

## Principles

### **I. RECOGNISE THE SPECIFICITIES OF CULTURAL INDUSTRIES AND IN PARTICULAR SMEs**

Cultural goods and services are not like other goods and services and should not be treated as such.

### **II. PROTECT INTELLECTUAL PROPERTY RIGHTS**

The best level of protection of intellectual property rights (IPR) anywhere in the world must be guaranteed. IPR play a legitimate part in the market as authors' rights (including moral rights) and neighbouring rights enable creativity.

### **III. IMPROVE MARKET ACCESS**

Market access must be ensured for all cultural and creative actors regardless of their size to guarantee pluralism and a real economy of diversity.

### **IV. FACILITATE ACCESS TO FINANCE**

Investment in culture must be encouraged and facilitated through preferential treatment in order to ensure financial viability of the cultural and creative industries, notably the financial independence of SMEs.

### **V. ENHANCE WORKING CONDITIONS**

The working conditions of authors, artists and cultural entrepreneurs must be improved as artistic practice is a key element of a larger system that creates public value in cultural, economic and social terms.

### **VI. PROMOTE THE CIRCULATION OF ARTISTS AND WORKS**

The circulation of artists, works and productions across Europe must be facilitated as it is fundamental for cultural exchange and diversity.

### **VII. DEVELOP INTERNATIONAL PROMOTION AND EXCHANGE**

The presence of artists and cultural professionals in key international markets must be maintained through the establishment of specific schemes and the facilitation of exchanges with third countries.

### **VIII. STIMULATE EDUCATION AND TRAINING**

Education and training related to the activities and management of cultural and creative industries must be fostered to adapt to the constant evolution of the sector and the new business models.

# Platform on the Potential of Cultural and Creative Industries

## Recommendations

### I. RECOGNISE THE SPECIFICITIES OF CULTURAL INDUSTRIES AND IN PARTICULAR SMEs

Cultural goods and services are not like other goods and services and should not be treated as such.

- Ensure the effective implementation of the article 151.4 of the EC Treaty including the SME dimension, through the mainstreaming of culture in all Community policies, particularly in competition, internal market, information society, social, trade and industry policies.
- Make sure that the European Commission maintains its “no commitment” position regarding cultural services and audiovisual services under GATS as well as in bilateral trade negotiations.
- Ensure the implementation of the 2005 UNESCO Convention on cultural diversity and of WIPO Treaties on authors’ and neighbouring rights at all levels.
- Shape a favourable regulatory environment for cultural SMEs in line with the Small Business Act for Europe and target a specific status for cultural SMEs.
- Generate better statistics (data and figures) on the importance of growth activities, production and performance of cultural and creative industries in Europe as well as statistics specific to the sector.

### II. PROTECT INTELLECTUAL PROPERTY RIGHTS

The best level of protection of intellectual property rights (IPR) anywhere in the world must be guaranteed. IPR play a legitimate part in the market as authors’ rights (including moral rights) and neighbouring rights enable creativity.

- Make sure that all rightholders benefit from the revenues of each exploitation of their works, including online.
- Promote the right of rightholders to a fair private copying compensation.
- Encourage fair and equitable agreements engaging ISPs’, telecom operators’ and search engines’ cooperation in resolving illegal digital uses, in order to enable the rolling-out of legal services.
- Support cultural and creative industries and in particular SMEs to adapt to the digital shift in proposing new online services promoting author’s rights and neighbouring rights.

- Ensure that respect and enforcement of IPR is a condition in signing bilateral agreements with third countries.
- Establish a regulatory framework allowing an effective collective management of rights of authors, performers, producers and publishers.

### **III. IMPROVE MARKET ACCESS**

**Market access must be ensured for all cultural and creative actors regardless of their size to guarantee pluralism and a real economy of diversity.**

- Adapt competition rules to the specificities of the cultural sector to avoid excessive market concentration in order to guarantee cultural diversity, consumer choice and diversity of entrepreneurship.
- Make sure that all cultural players have a minimum access to all distribution channels, including the opportunities of the online market in order to offer real cultural diversity and choice for consumers.
- Take regulatory measures to ensure a level playing field in the cultural sector so as to counter chronic concentration and allow cultural and creative SMEs to compete on their own merits in order to deliver their full contribution to growth, job creation and innovation.

### **IV. FACILITATE ACCESS TO FINANCE**

**Investment in culture must be encouraged and facilitated by preferential treatment to ensure financial viability of the cultural and creative industries, notably the financial independence of SMEs.**

- Create a fiscal environment to support the development of the cultural and creative industries, in particular SMEs, with tax credits and fiscal exemptions.
- Provide reduced VAT rates for cultural products and services, both online and offline.
- Develop financial tools adapted to the needs of cultural and creative industries such as public/private loan guarantee schemes, cultural and creative SME- friendly growth loan finance etc.
- Re-model the European Investment Bank operational schemes in order to better respond to the specificities of cultural and creative SMEs and to provide them with necessary finance. Establish a European Creative Industries Bank to help cultural and creative industries to invest in new talents.
- Increase EC investment for culture, including the creation of a specific programme for cultural and creative industries and in particular SMEs, for creation, production, promotion and distribution.
- Develop the use of state aids for cultural and creative SMEs amongst the member states in sectors other than cinema.

## **V. ENHANCE WORKING CONDITIONS**

**The working conditions of authors, artists and cultural entrepreneurs must be improved as artistic practice is a key element of a larger system that creates public value in cultural, economic and social terms.**

- Develop a better working environment and social protection adapted to conditions of employment for artists and authors concerning short term contracts, visa issues, social security position and work permits for third country nationals.
- Reduce the administrative burden for cultural and creative SMEs through cutting red tape related to working conditions and supplying services in Europe.
- Ensure effective cooperation between national administrations to facilitate operations which have to deal with different legal systems (mobility - export of live performances).
- Make sure that the EC takes into account the special needs of cultural SMEs in its policies through specific consultations and working groups during the legislative process that promote awareness and respect for authors and artists.
- Promote artistic creation and entrepreneurship at both a European and Member State level to reflect the added value that artists, authors and cultural entrepreneurs can bring to society as a whole.

## **VI. PROMOTE THE CIRCULATION OF ARTISTS AND WORKS**

**The circulation of artists, works and productions across Europe must be facilitated as it is fundamental for cultural exchange and diversity.**

- Support live performances by establishing mechanisms in the form of small investments to ease the risk factor taken by artists when touring, to encourage wider circulation and to trigger investment.
- Promote co-production in music, theatre, dance and between the live performance sector and other cultural and creative industry sectors and other sectors in the cultural and creative industry.
- Increase support for the translation of works with more EU funding available for lesser spoken languages, translations from and into non European languages, for different genres of publications and for the translation of short excerpts to present at European/International trade fairs.
- Promote and support co-edition programmes for book publishers.
- Increase European programming in venues and festivals by giving incentives through a bonus system.
- Improve and internationalise cross-residence schemes for performers, authors, and cultural entrepreneurs to facilitate exchanges of production, creation, diffusion and talent development within and outside of Europe.

- Facilitate structural interventions through the European Regional Development Funds to address the East-West imbalance, especially for infrastructure.
- Provide tailored information to mobile professionals, artists, and organizations in order to facilitate circulation within Europe, such as information on European and key international markets as well as on the fiscal, legal and social environment.

## **VII. DEVELOP INTERNATIONAL PROMOTION AND EXCHANGE**

**The presence of artists and cultural and creative industries, especially SMEs, in key international markets must be maintained through the establishment of specific schemes and the facilitation of import and exchange with third countries**

- Develop programmes for circulation (co-edition, co-production, cross-residence schemes, support to live performances, etc) outside of Europe.
- Set up a network of ‘European cultural industries agencies’ in key international markets outside of Europe and to represent all the cultural and creative sectors.
- Organise a joint European presence at international trade fairs to give all Member States the chance to participate in key market events.
- Facilitate artistic exchanges and share know-how with third countries and Europe to stimulate cultural diversity by importing non-European culture as well as exporting European culture.

## **VIII. STIMULATE EDUCATION AND TRAINING**

**Education and training related to the activities and management of cultural and creative industries must be fostered to adapt to the constant evolution of the sector and the new business models.**

- Bridge the gap between professional training and professional practice through training programmes linked to cultural and creative SMEs, mentoring schemes and work placements as well as through business and management courses for better entrepreneurial skills.
- Increase understanding of the work and products of cultural and creative industries and promote entrepreneurship by fostering artistic and cultural education in general (primary and secondary) education in order to develop “cultural expression and awareness” and creativity as key competences in lifelong learning.
- Develop EU support for European-level careers of recently graduated professionals through existing programmes, new mobility grants or grants to companies employing junior professionals.



- Increase employability by providing opportunities for continuing professional development and training in the workplace and increase the recognition of qualifications for professionals moving to another EU country.

➔ **The Cultural Industries Stakeholders' Platform calls upon the EC directorate of Education and Culture to take the lead in implementation these recommendations through the establishment of an action plan that aims to firmly support the cultural and creative industries in particular SMEs. The EC should particularly consider the creation of a specific programme focusing on cultural and creative SMEs to support the creation, production, distribution and promotion of cultural artists and products.**

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## References

- EC Treaty, article 151  
<http://eur-lex.europa.eu/en/treaties/index.htm>
- EC Directive on the harmonisation of certain aspects of copyright and related rights in the information society (22/05/01)  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001L0029:EN:NOT>
- EC Directive on the enforcement on the enforcement of intellectual property right (29/04/04)  
[http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0048R\(01\):EN:NOT](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0048R(01):EN:NOT)
- European Council Conclusions (8-9 March 2007)
- European Council Conclusions (14 December 2007)  
[http://europa.eu/european-council/index\\_en.htm](http://europa.eu/european-council/index_en.htm)
- Small Business Act for Europe (25/06/08)  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008DC0394:EN:NOT>
- Resolution of the European Parliament on cultural industries in Europe (10/04/08)  
<http://www.europarl.europa.eu/activities/plenary/ta/sidesSearch.do>
- Recommendation of the European Parliament and the Culture Council on key competences for lifelong learning (18/12/08) [http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l\\_394/l\\_39420061230en00100018.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_394/l_39420061230en00100018.pdf)
- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on creative content online in the Single Market (03/01/08)
- UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (entered into force on 18/03/07)  
[http://portal.unesco.org/culture/en/ev.php-URL\\_ID=33232&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/culture/en/ev.php-URL_ID=33232&URL_DO=DO_TOPIC&URL_SECTION=201.html)
- General Agreement on Trade in Services - GATS (entered into force in 01/95)  
[http://www.wto.org/english/docs\\_e/legal\\_e/legal\\_e.htm#services](http://www.wto.org/english/docs_e/legal_e/legal_e.htm#services)
- KEA study on the economy of culture in Europe (10/06)  
<http://www.keanet.eu/ecoculturepage.html>
- KEA Newsletter on the impact of culture in creativity, N° 16, April 2009  
[http://www.keanet.eu/news/independent%20voice%20march%202009\\_def.pdf](http://www.keanet.eu/news/independent%20voice%20march%202009_def.pdf)
- Declaration of the European Independence Arena (24/10/2008)  
<http://www.culture.gouv.fr/culture/actualites/communiq/albanel/artarenes.html>

- Report of the high level expert forum on mobility  
[http://ec.europa.eu/education/doc/2008/mobilityreport\\_en.pdf](http://ec.europa.eu/education/doc/2008/mobilityreport_en.pdf)

Other studies on cultural and creative industries:  
[http://www.wipo.int/ip-development/en/creative\\_industry/bibliography.html](http://www.wipo.int/ip-development/en/creative_industry/bibliography.html)

# Platform on the Potential of Cultural and Creative Industries

## Examples

### III. IMPROVE MARKET ACCESS

➔ The SODEC (Société de développement des entreprises culturelles) is an example of a national policy ensuring market access for cultural and creative industries.

The Quebec Ministry of Culture created the SODEC in 1995 to promote and support cultural enterprises. The organisation's aim is to develop the quality of cultural products and services, and ensure their competitiveness through better access to local, national and international markets. SODEC provides financial aid (loans or subsidies) to cultural enterprises for development, promotion and diffusion allowing cultural industries from different fields to have a minimum access to all distribution channels. SODEC also developed a specific scheme to adapt to the digital shift. Public funds are available to enable companies to invest in new technologies thus facilitating access to the digital market.

[http://www.sodec.gouv.qc.ca/outils\\_aidefinanciere.php](http://www.sodec.gouv.qc.ca/outils_aidefinanciere.php)

### IV. FACILITATE THE ACCESS TO FINANCE

➔ There are examples of fiscal measure that could be implemented at national level to support cultural and creative SMEs:

The French Ministry of Culture has underlined its commitment to support the national cultural industries through introducing a series of tax-credit initiatives for creative industries. The film and video game industry in France was already benefiting from tax breaks and the French Ministry of Culture approved plans to apply similar levels of financial support to the music industry at the end of 2006. The French initiative was the first of its kind in Europe. Under the latest legislation in 2008, music companies receive tax breaks of 20% on production and salary costs with a maximum limit of €700,000 (previously 500,000€) per company, per year. This amount was brought up to 1.1m€ under the condition that the number of productions eligible for the tax credit increased by 25% from one year to the next. This means that not only can the costs incurred as part of a new production be eligible, but also any costs linked to the permanent staff dedicated to discovering new talent. An exhaustive list of jobs/positions that are covered is available. The scheme of the French tax credit has been approved by the European Commission, giving hope that similar measures could be introduced across the EU.

[http://crd.irma.asso.fr/article.php3?id\\_article=114](http://crd.irma.asso.fr/article.php3?id_article=114)

A similar tax credit initiative exists in Canada. The Quebec Ministry of Culture introduced this fiscal measure to ensure the viability of the cultural and creative industries. The tax credit includes staffing costs incurred as part of the creation and production of works in the fields of music, audiovisual, cinema, live performance and books.

[http://www.sodec.gouv.qc.ca/outils\\_mesures.php](http://www.sodec.gouv.qc.ca/outils_mesures.php)

➔ There are examples of financial tools established at national level that should be disseminated amongst other member states:

- IFCIC -(Institut pour le Financement du Cinéma et des Industries Culturelles)  
IFCIC is a specialised lending institution that was charged by both the French Ministry of Culture and Communication and the French Ministry of Finance with contributing to the development of the cultural industry in France by making it easier for companies within the sector to obtain bank financing. IFCIC is a neutral and independent institution and is a limited private-sector company entrusted with a service of general interest. Its capital is owned by French banks, large public financial institutions, and the French State. The loans guaranteed by IFCIC cover most of the needs of companies, at all stages of their development. The banks that work with IFCIC are not only given financial guarantees in the event that companies should fail, but also risk analyses that are specific to the cultural industries. IFCIC also helps entrepreneurial companies to get financial backing for projects from their banks (IFCIC typically guarantees 50% of the loans obtained); and also offers its own financial expertise.

<http://www.ifcic.fr/english-version.html>

- Cultuurinvest -

Since the end of 2006, an investment fund for culture related activities and companies has provided capital for culture in Flanders. CultuurInvest's ultimate objective is to consolidate the cultural industries. CultuurInvest is an investment fund, not a subsidising fund, and therefore requires a payback and financial return on the initial investment. Cultuurinvest invites companies from a variety of cultural sectors, including the music and audio-visual sectors, to apply for investment. CultuurInvest currently has €21.5 million at its disposal which it aims to invest in the building blocks for culture, via loans and participations in company capital. Having gained approval from the European Commission who agreed that the fund was not conducive to unlawful competition, the Fund's investment committees have already approved 21 applications and invested more than €2.5million euros in cultural industries in Flanders.

Useful link (in Dutch):

<http://www.pmvlaanderen.be/pmv/view/nl/KMO/Producten/Cultuurinvest>

## VI. PROMOTE THE CIRCULATION OF ARTISTS AND WORKS

➔ Examples of support mechanisms to live performances:

- European Tour Support

The EU funded pilot project European Tour Support gave financial support representing 10% of the budget of a tour. This incited record labels, tour promoters, festival organisers and other music professionals to invest more in touring at the European level

- The Dancweb Europe scholarship programme

It enables young dancers to take a five week residency at the Impuls Dance festival. Cultural ministries from all European countries are investing in the program giving a grant which allows for young dancers to take part.

- European Talent Exchange Programme

It stimulates the circulation of European artists performing live at European festivals by giving a grant of €1.500 to festivals who program European acts.

- Europa Cinema

This programme increases European programming in film theatres by giving bonuses to venues on the number of screenings of European non-national films.

➔ **Example of support programmes for co-production :**

- Europalia

It is a multidisciplinary festival in Brussels, presenting artistic practices such as dance, music, theatre, visual arts, cinema, but also fashion, design, folklore and gastronomy.

- Cinema-Opera

It combines theatre, video and music, whereby co-producers enabled artistic creation between different forms of art and allowing for production touring across Europe

➔ **Examples of support programmes for the translation of works**

- The French National Book Center (CNL)

It provides some funds for the translation of French works into foreign languages and is granted via French publishers selling the rights.

- The Franco-German history textbook '*Histoire-Geschichte*'

Published by Editions Nathan in Paris, and Ernst Klett in Leipzig, it marks a step in the work of deepening relations between the two countries particularly in the specific construction of an everyday Europe.

- European Theatre Convention / TRAMES (translation & mettre en scène).

The goal of the project is to discover and promote a new play and its playwright by a thorough examination of a text in a residence/workshop. The text is translated into at least 3 different European languages and staged in the presence of the translators and the playwright.

➔ **Examples of cross-residence schemes**

- RE: NEW MUSIC

This project established a repertoire pool, from which ensembles have been built. Up to 352 new pieces of music are to be shared over 24 months. It aims to directly support the artistic process in terms of rehearsals, workshops and residencies for composers.

- European Theatre Convention

It offers all technical, administrative and artistic personnel from member theatres the opportunity to exchange know-how and techniques in another European country in an ETC-theatre during a one-month period residency. After approval between the two member theatres, an ETC grant is allocated to support per diems, travel and accommodation costs.

- The 'Akademie des Deutschen Buchhandels' in Germany

It is a non-profit organisation which offers training courses and seminars and organises special events linked to the book sector ([www.buchakademie.de](http://www.buchakademie.de)). They also welcome writers.

➔ **Example of information scheme for artists and culture professionals**

- Export handbooks and directories

The music and architecture sectors have compiled information on markets and main cultural actors into Export Handbooks, a useful sector specific tool for artists and professionals. Also, the performing arts sector has directories which are updated annually and focus on Europe, America and Asia

## VII. DEVELOP INTERNATIONAL PROMOTION AND EXCHANGE

### ➔ Examples of structures and mechanisms for international promotion

#### - AFEX (French Architects Overseas)

Founded in 1996 with support from the Ministry for Culture and Communications, AFEX is a private initiative, where architects, together with engineers, urban planners, landscape architects, interior designers, surveyors and industrialists, pool their experience to promote French know-how throughout the world.

AFEX: provides documentation and assistance, orienting the public towards the top specialists on the international market; organises the promotion of its members know-how by supporting their participation in various events abroad (prospecting, symposiums, international fairs, exhibits); works in collaboration with the French Centre for Foreign Trade and the 163 Economic Expansion Posts in 127 countries for the analysis of international markets and for gathering information; organises the flow of information and the sharing of experience within its own network through work groups, a monthly newsletter, a restricted access e-mail mailing list; gets its members together for the AFEX-Café, a information meeting which take place every two months; involves a network of institutional and private partners concerned by export; represents the profession in its international dimension with respect to various public and professional proceedings as well as training organisations; deals with outside communication (definition of guidelines for all communication media, publication of a directory, press relations).

[www.archi.fr/AFEX](http://www.archi.fr/AFEX)

#### - European music export office in the US

The European music export office in the US office facilitated the access to the American market for European professionals. The project started in December 2003 and has achieved promising results. The New York office produced a US Export Handbook with a list of contacts of American music professionals which is constantly updated. The US office also ran activities of assistance and consultation to European professionals, notably in terms of promotion, distribution and monitoring on the US music market. It also organised the presence of European artists and professionals to American music events. The project ran until 2006.

#### - EFP- European Film Promotion

It is a PanEuropean umbrella organization that represents national European film export institutions to promote and market European cinema and the talent behind it all over the world. Actors, producers, directors, distributors and films that have achieved national recognition are presented with EFP at major global A-film festivals and are embedded in a wide range of promotion activities (producing common promotion material for joint promotional campaign, providing common European stand in fairs, providing access to foreign markets and establishing contacts etc.) to meet the international film industry and its market key players in order to support existing and new European film productions as well as its talents. EFP was founded in 1997 and receives funding through the MEDIA programme.

#### - The BIEF Bureau International de l'Édition Française

It is an organisation devoted to the promotion of French books abroad. Via the BIEF's New York office, The French Publishers' Agency, it provides the services of a rights agency for English-speaking countries and it promotes French publishing. In 2005-2006 a project co-financed by the Culture programme, aimed at facilitating the establishment of common stands at international book fairs was coordinated by the BIEF.

## VIII. STIMULATE EDUCATION AND TRAINING

➔ The reform of study programmes in higher arts education institutions should be based on a different philosophy of training: from teacher-led approaches with a narrow understanding of the profession to student-based approaches taking into account the actual reality of the profession, in which professionals are increasingly asked to engage in different professional tasks ("portfolio career"), often in a self-employed context. The idea is for training programmes is to focus more on entrepreneurship and to create a lifelong learning mentality using mentoring schemes and work placements and keeping a constant contact with the latest developments in the profession. Such a lifelong learning mentality will also enable graduates to continue their learning after having graduated and having faced constant changes in the profession (*Study on Recent Developments in the Music Profession*, ERASMUS Network for Music 'Polifonia'/AEC 2008 - [www.polifonia-tn.org/profession](http://www.polifonia-tn.org/profession)).

➔ There is evidence that artists very rarely go back into learning situations after they have finished their professional training. In a constantly changing profession, it is essential for artists to keep their knowledge and skills up-to-date. Examples of good practice should be exchanged on existing containing professional development schemes for artists in the various European countries (Final Report European project on the professional integration in music 'Promuse', AEC 2001 - [www.aecinfo.org/promuse](http://www.aecinfo.org/promuse)).

➔ In discussions about promoting mobility in the cultural sector at a European level, the lack of recognition of qualifications is often forgotten as another obstacle for the mobility of artists. As the professional practice increasingly includes teaching as part of their diverse "port-folio" career, it is essential that the recognition of qualifications is added to the points that need further investigation and that the existing information on this issue is compiled and disseminated in a structured and accessible format (Report *The International Recognition of Qualifications in the Field of Music*, ERASMUS MUNDUS Project 'Mundus Musicalis'/AEC 2008 - [www.aecinfo.org/mundusmusicalis](http://www.aecinfo.org/mundusmusicalis)).



# **Platform on the Potential of Cultural and Creative Industries**

Working groups contributions

## Cultural Platform on the Potential of Cultural and Creative Industries Recommendations of Working Group 1 on the Regulatory Environment

The mandate of the cultural industries platform is to adopt recommendations that would help to unlock the potential of the cultural and creative industries in Europe. Within this, the mandate of Working Group 1 is to make recommendations regarding the regulatory environment.

The overall mission of this working group is to give input to improve the current European regulatory environment in order to provide cultural actors with the tools they need to deliver their full potential in cultural, economic and social terms.

1. Recognise the specificities of cultural and creative industries. Cultural goods and services are not like other goods and services and cannot be treated as such. Recognition includes:

- Effective implementation of the article 151.4 of the EC Treaty to ensure the mainstreaming of culture in all Community policies, particularly by taking account of these specific characteristics in competition, internal market, information society, social, trade and industry policies.
- Concrete implementation of the UNESCO Convention on cultural diversity and of WIPO Treaties on authors' and neighbouring rights at all levels.
- Making sure that the European Commission maintains its no commitment position regarding cultural services and audiovisual services under GATS as well as in bilateral trade negotiations<sup>i</sup>.

2. Ensure the best level of protection of intellectual property rights (IPR), including moral rights, as they play a legitimate part in the market and as authors' rights and neighbouring rights are an enabler of creativity by:

- Making sure that all rightholders benefit from the revenues of each exploitation of their works, including online, meaning a fair share for all stakeholders.
- Promoting the right of rightholders to a fair private copying compensation.
- Encouraging agreements engaging ISPs', telecom operators' and search engines' cooperation in resolving illegal digital uses, in order to enable the rolling-out of legal services.
- Ensuring that respect and enforcement of IPR is a condition in signing bilateral agreements with third countries.

- Underlining the importance of adequate rights clearance schemes for the development of new services.
  - Promoting authors' rights and neighbouring rights as a driver of the cultural and creative industries, in particular in the context of the development of new online services.
2. Improve market access for all cultural and creative industries regardless of their size by:
- Adapting competition rules, taking into account the specificities of the cultural sector, in order to guarantee cultural diversity, consumer choice, economic diversity of entrepreneurship and to avoid excessive market concentration.
  - Reminding the Commission that European cultural and creative industries have to compete with non-European players<sup>ii</sup>.
  - Taking regulatory measures, and ensure implementation thereof, adapted to the needs of the cultural industries and all cultural actors, particularly small actors so as to support their contribution to growth, job creation and innovation<sup>iii</sup>.
  - Ensuring market access for all cultural players in the online market.
4. Ensure financial viability of the cultural and creative industries by:
- Creating a fiscal environment to support the development of the cultural and creative actors with, more tax credits for all cultural sectors and tax benefits (e.g. withholding taxes, lower income tax, better social security, abolishment of double taxation and double payment of social security contributions, etc).
  - Providing reduced VAT rates for cultural products and services, both online and offline<sup>iv</sup>.
  - Developing financial tools better adapted to the needs of cultural and creative industries such as public/private loan guarantee schemes, cultural

<sup>ii</sup> Namely, as stated in the Commission staff working document "Media pluralism in the Member States of the European Union", SEC(2007) 32

<sup>iii</sup> As highlighted in the Small Business Act for Europe adopted by the Commission on the 25<sup>th</sup> of June 2008

<sup>iv</sup> And protection of all existing zero rates and super-reduced rates

- and creative SME-friendly growth loan finance, notably through the European Investment Bank.
- Ensuring the European legal framework does not hinder cultural and creative industries from having successful self-sustaining business models<sup>v</sup>.
- Providing 1.5 billion euro per annum in EC investment for culture, including the creation of new cultural programmes for cultural and creative industries, corresponding to the contribution of the culture sector to the European economy<sup>vi</sup>.

5. Recognise the importance of a regulatory framework allowing collective management organisations administering the rights of authors, performers, producers and publishers, whose role is essential for right-holders and the creative industries, to carry out their activities effectively in a favourable regulatory environment ensuring legal security for right-holders and users alike.

6. In order to create a political and economic profile of the creative sector, as well as to ensure coherence and transparency, provide better statistics on market figures and creative practices: growth activities, production and performance of cultural and creative industries.

List of participants of working group 1 (in alphabetical order):

AEPO-ARTIS - Association of European Performers' Organisations  
 AMC - Europe Alliance Mondial du Cinéma  
 EBU - European Broadcasting Union  
 EFCA - European Film Companies Alliance  
 EMC - European Music Council  
 ENPA - European Newspaper Publishers' Association  
 EWC - The European Writers' Congress  
 FAEP - European Federation of Magazine Publishers  
 FIA - International Federation of Actors  
 FEP - Federation of European Publishers  
 FERA - Federation of European Film Directors  
 GESAC - European Grouping of Societies of Authors and Composers  
 Impala - Independent Music Companies Association  
 Pearle \* - Performing Arts Employers Associations League Europe  
 UNI-MEI - UNI Media, Entertainment & Arts

<sup>v</sup> Freedom of expression and creation has to be guaranteed in an increasingly competitive environment. Ensuring all forms of financing content including commercial and marketing communication is fundamental.

<sup>vi</sup> Impala's "action plan": Culture contributes 2.6% of the EU's GDP but currently receives less than 0.05% of the EU's budget (862.3 billion euro from 2007 to 2013, of which 400 million euro for cultural programmes which do not even support the industry). This is not a balanced investment in culture. For 2008 the total EU budget is 129.1bn euro, of which 58bn will be spent on competitiveness, the knowledge based economy and social cohesion. 2.6% of that budget would be 1,5bn euro per annum.

## Recommendations of Working Group 2 on SMEs

The mandate of the cultural industries platform is to adopt recommendations that would help to unlock the potential of the European cultural and creative industries in Europe<sup>i</sup>. The overall objective of this Working Group is to make recommendations in order to create the best conditions anywhere in the world ensuring that cultural and creative SMEs<sup>ii</sup> have the support they need to deliver their full potential in cultural, economic and social terms as key contributors to the Lisbon strategy. The recommendations also take into account the key 10 points of the Declaration agreed at the European Independence Arena organised as part of the French Presidency<sup>iii</sup>:

### 1 ► Endorse what the EC has already recognised regarding SMEs

- The key contribution of cultural and creative SMEs to the achievement of the Lisbon strategy<sup>iv</sup>.
- The particular role of cultural and creative SMEs as drivers of growth, job creation and innovation in Europe<sup>v</sup>.
- The need for specific support measures to maximise the potential of cultural and creative SMEs so as to help them to deliver their full contribution to the Lisbon Agenda<sup>vi</sup>.
- The definition of cultural and creative SMEs is based on the inclusive approach of the EC study on the Economy of Culture in Europe<sup>vii</sup>, which includes a sector ranging notably from record companies and publishing houses to live performance organisations, theatre groups and symphony orchestras<sup>viii</sup>.

### 2 ► Recognise the specificities of cultural and creative SMEs through a specific status

- Legislate for SMEs first as they are the main players of the culture sector given that they represent 99% of the actors of the cultural sector, produce the vast majority of the creation (80% of new release in music for example) and create 80% of the jobs in Europe<sup>ix</sup>.
- Make preferential terms for cultural and creative SMEs a commercial and regulatory reality and create a system of positive discrimination to ensure the dissemination of works in all distribution channels and in all territories<sup>x</sup>.
- Include the SME dimension when implementing article 151.4 of the EC Treaty to ensure effective mainstreaming of culture in key EC policies such as competition, internal market, information society, industry, social and home affairs.
- Make sure that the EC implements the UNESCO Convention at all levels and maintains its no commitment position regarding cultural and audiovisual services under GATS as well as in bilateral trade negotiations.
- Generate better statistics (data and figures) on the importance of cultural and creative SMEs in Europe as well as sector specific statistics<sup>xii</sup>.

3 ► Improve the working conditions for cultural and creative SMEs in particular in the light of the Small Business Act

- Develop a work environment better adapted to the operations of cultural and creative SMEs concerning the specificities of employment (short term contracts-visa issue) and the status of artists (social security position and work permit for third country nationals)<sup>xii</sup>.
- Reduce the administrative burden for cultural and creative SMEs through cutting red tape related to working conditions and supplying services in Europe.
- Ensure effective cooperation between national administrations to facilitate the operations of cultural and creative SMEs which have to deal with different legal systems (mobility - export of live performances)<sup>xiii</sup>.
- Make sure that the EC takes into account the special needs of cultural and creative SMEs in its policies through for example, specific consultations and working groups during the legislative process.

4 ► Create the best level of intellectual property rights protection for all European creators

- Make sure that all rightholders benefit from their revenues, in particular through a balanced approach to copyright term protection and the clarification of the complex situation of rights for live performance<sup>xiv</sup>.
- Find a fair and equitable solution against piracy, involving ISP and telecom operators' cooperation to ensure proper remuneration of creators and the rightholders.
- Support cultural and creative SMEs to adapt to the digital shift in proposing legal offers and new services in the digital world.

5 ► Guarantee market access for cultural and creative SMEs to ensure pluralism and a real economy of diversity

- Adapt competition rules to the specificities of the cultural sector, prioritising cultural diversity, consumer choice and diversity of entrepreneurship.
- Ensure a level playing field on the cultural sector to allow cultural and creative SMEs to compete on their own merits and counter chronic concentration.
- Make sure that all actors, regardless of their size, have minimum access to all distribution channels, including the opportunities of the digital market in order to offer real cultural diversity and consumer choice.

6 ► Improve access to finance for viability and independence of cultural and creative SMEs

- Apply reduced VAT rates for cultural products and services in both physical and online markets.

- Create a fiscal environment that supports the activities of cultural and creative SMEs, with tax benefits and fiscal exemptions<sup>xv</sup>.
- Develop financial tools adapted to the needs of cultural and creative SMEs, such as public/private loan guarantee schemes and SME friendly growth loan finance<sup>xvi</sup>.
- Re-model the European Investment Bank operational scheme in order to better respond to the needs of cultural and creative SMEs. Establish a European Creative Industries Bank to help cultural and creative SMEs to invest on new talents and develop new genres.
- Provide 1.5 bn euros per annum in EC investment for culture corresponding to the contribution of the culture sector to the European economy<sup>xvii</sup>. Give cultural and creative industries a specific programme which supports SMEs, in particular for creation, production, promotion and distribution.
- Improve EU support funding to match the needs of cultural and creative SMEs (structural funds, the 7<sup>th</sup> framework programme, regional policy initiatives and programmes for local industries) and develop grants supporting artist mobility.
- Develop the use of state aids for cultural and creative SMEs amongst the member states in other sectors than cinema<sup>xviii</sup>.

#### 7 ► Improve education and training related to the activities and management of cultural and creative SMEs

- Bridge the gap between professional training and professional practice by supporting robust professional training programmes that have strong links with SMEs through mentoring schemes and work placements, and offer business and management courses to acquire better entrepreneurial skills<sup>xix</sup>.
- Increase understanding of and interest in the work and products of cultural and creative SMEs and promote entrepreneurship by fostering artistic and cultural education in general (primary and secondary) education, which will at the same time support the development of key competence “cultural expression and awareness”, one of the key competences for lifelong learning<sup>xx</sup>.
- Increase employability through providing opportunities for continuing professional development and training in the workplace and increase the recognition of qualifications for professionals moving to another EU country<sup>xxi</sup>.
- Develop EU support to the development of European-level careers of recently graduated professionals through existing programmes, new mobility grants or grants to companies employing junior professionals<sup>xxii</sup>.

#### 8 ► Improve the general image of the cultural and creative sector

- Promote the role of the cultural and creative sector as a driver of creativity and innovation ensuring cultural diversity and choice for consumers in Europe, as well as wider creativity in society.

- Improve the general image of copyright in Europe by promoting it as an essential tool for unlocking creativity and innovation providing fair and equitable remuneration for creators and artists.
- Promote both entrepreneurship and diversity of entrepreneurship as a public value that fosters creativity and innovation in the cultural and creative sector.

Participants of the working groups:

IMPALA (Independent Music Companies Association)  
 AEC (Association Européenne des Conservatoires)  
 PEARLE (Performing Arts Employers Association League Europe)  
 ELIA (European League of Institutes of the Arts)  
 International Yehudi Menuhin Foundation  
 GIART (International Organisation of Performing Artists)  
 ENCATC (European Network of Cultural Administration Training Centres)  
 ECA (European Council of Artists)  
 EFCA (European Film Companies Alliance)  
 IDEA (International Drama/Theatre and Education Association)

<sup>i</sup> In this regard, the Declaration of the European Independence Arena adopted on the 24<sup>th</sup> October by representatives of independents from the sectors of literature, music and cinema, is an important step in recognising the essential role of micro, small and medium sized cultural enterprises. The declaration puts forward 10 concrete recommendations that need to be implemented at EU and national level.

<http://www.impalosite.org/>

<sup>ii</sup> SME's include profit and non-profit organisations

<sup>iii</sup> See footnote 1 above and full text in annex.

<sup>iv</sup> European Council conclusions of December 2007.

<sup>v</sup> European Council conclusions of March 2007. In addition, the Small Business Act for Europe adopted by the Commission on the 25<sup>th</sup> of June 2008 also underlined that SMEs produce over 80% of Europe's jobs.

<sup>vi</sup> European Council conclusions of December 2007 and Culture Council conclusions of May 2008 on the Work Plan for the implementation of the European Agenda for Culture 2008 - 2010.

<sup>vii</sup> The EC study on the Economy of Culture in Europe published in November 2006 underlines the key role of culture to the Lisbon strategy with a contribution of the cultural sector estimated to 2.6% of the EU GDP and with a growth higher than the growth of the European economy in general.

<sup>viii</sup> The scope of the EC study on the Economy of culture includes:

The "cultural sector"

- Non-industrial sectors producing non-reproducible goods and services aimed at being "consumed" on the spot (a concert, an art fair, an exhibition). These are the arts field (visual arts including paintings, sculpture, craft, photography; the arts and antique



markets; performing arts including opera, orchestra, theatre, dance, circus; and heritage including museums, heritage sites, archaeological sites, libraries and archives).

- Industrial sectors producing cultural products aimed at mass reproduction, mass-dissemination and exports (for example, a book, a film, a sound recording). These are “cultural industries” including film and video, video games, broadcasting, music, book and press publishing.

#### The “creative sector”

In the “creative sector”, culture becomes a “creative” input in the production of non-cultural goods. It includes activities such as design (fashion design, interior design, and product design), architecture, and advertising. Creativity is understood in the study as the use of cultural resources as an intermediate consumption in the production process of non-cultural sectors, and thereby as a source of innovation.

<sup>ix</sup> The Small Business Act for Europe adopted by the Commission on the 25<sup>th</sup> of June 2008 underlined that SMEs produce over 80% of Europe’s jobs.

<sup>x</sup> More state aid for cultural and creative SMEs and better conditions at retail (currently most SMEs get worse terms than the bigger players) could be examples of preferential terms. Another example is the exception for SMEs included in the EC copyright term extension proposal.

<sup>xi</sup> This should be a specific priority for the EC’s own statistics office but the EC could also make better use of the existing data on culture provided by the Council of Europe.

<sup>xii</sup> The study on “Economy of culture in Europe” by KEA European Affairs, reveals data on the employment status in the cultural sector and describes some trends in the labour market:

- the share of independent (self-employed) workers is more than twice as high in the cultural sector as in total employment; the cultural content worker is suddenly also a (cultural) entrepreneur.
- cultural employment by job stability: permanent versus temporary workers: 17% of workers are under temporary contracts in the cultural sector compared with 13,3% in total employment:

the amount of temporary work is characteristic of the cultural workforce, but the situation is disparate amongst countries

- cultural employment by work duration: the share of part-time workers is higher in the cultural sector than in total employment i.e. one out of four (25%), compared to 17,6% in total employment
- cultural employment by side-job: the share of workers with side-jobs is much higher in the cultural sector than in total employment; i.e. 6,6% compared with 3,7% in total employment

The study identified as a main feature that “cultural employment is of an ‘atypical’ nature being a foreshadowing of tomorrow’s job market more flexible, project led requiring mobility and high qualifications”. Being set as an exemplary sector for others, it is noted that flexible labour law should go together with job protection legislation.

<sup>xiii</sup> An effective implementation of the posting of workers Directive (Dir 96/71/EC), through implementing the Recommendation of the Commission on enhanced administrative cooperation of 3<sup>rd</sup> April 2008. A fast implementation of the announced electronic exchange of information, in the Regulation on the coordination of social security schemes (883/2004), respecting the proposed calendar, i.e. 2009 to be the year of preparation of the applicability of the new Regulation, and 2010 to be the year of transition.

<sup>xiv</sup> For example, the issue of copyright term extension is currently being considered at the European level through an EC proposal which tends to match the term of copyright protection for performers and producers to the protection offered in the USA - 95 years. It is vital that Europe’s creators benefit from the best terms anywhere in the world.

There are national examples that need to be disseminated amongst other member states like the music tax credits and wealth exemptions for SMEs in France, the music tax credits for SMEs in Italy and the UK tax shelter.

<sup>1</sup> There are national initiatives that need to be disseminated amongst other member states, for example:

- IFCIC for cultural industries in France

IFCIC is a specialised lending institution that was charged by both the French Ministry of Culture and Communication and the French Ministry of Finance with contributing to the development of the culture industry in France by making it easier for sector companies to obtain bank financing. IFCIC is a neutral and independent institution and is a private-sector limited company entrusted with a service of general interest. Its capital is owned by French banks, large public financial institutions, and the French State. The loans guaranteed by IFCIC cover most of the needs of companies, at all stages of their development. The banks that work with IFCIC are given not only financial guarantees in the event that companies should fail, but also risk analyses that are specific to the cultural industries. IFCIC also helps entrepreneurial companies to get financial backing for projects from their banks (IFCIC typically guarantees 50% of the loans obtained); and also offers its own financial expertise.

<http://www.ifcic.fr/english-version.html>

- Flemish cultural investment fund in Belgium.

Since the end of 2006, an investment fund for culture related activities and companies has provided capital for culture in Flanders. CultuurInvest's ultimate objective is to consolidate the cultural industries. CultuurInvest is an investment fund, not a subsidising fund, and therefore requires a payback and financial return on the initial investment. Cultuurinvest invites companies from a variety of cultural sectors, including the music and audio-visual sectors, to apply for investment. CultuurInvest currently has €21.5 million at its disposal which it aims to invest in the building blocks for culture, via loans and participations in company capital. Having gained approval from the European Commission who agreed that the fund was not conducive to unlawful competition, the Fund's investment committees have already approved 21 applications and invested more than €2.5million euros in cultural industries in Flanders.

Useful link (in Dutch):  
<http://www.pmvlaanderen.be/pmv/view/nl/KMO/Producten/Cultuurinvest>

<sup>xvii</sup> Culture contributes 2.6% of the EU's GDP but currently receives less than 0.05% of the EU's budget (862.3 billion euros, 2007 to 2013, of which 400 million euros for cultural programmes which do not even support the industry). This is not a balanced investment in culture. In 2008 the total EU budget is 129.1bn euros, of which 58bn will be spent on competitiveness, knowledge based economy and social cohesion. 2.6% of that budget would be 1,5bn euros per annum.

<sup>xviii</sup> Commissioner Kroes has already recognised that preferential treatment for SMEs is fully justifiable "economically and politically". She acknowledged that "...we must give SMEs an extra boost to help them overcome the gaps" (speech on SMEs, November 2007).

<sup>xix</sup> The reform of study programmes in higher arts education institutions should be based on a different philosophy of training: from teacher-led approaches with a narrow understanding of the profession to student-based approaches taking into account the actual reality of the profession, in which professionals are increasingly asked to engage in different professional tasks ("portfolio career"), often in a self-employed context. The implication for training programmes is to focus more on entrepreneurship and to create a lifelong learning mentality using mentoring schemes and work placements, keeping a constant contact with the latest developments in the profession. Such a lifelong learning mentality will also enable graduates to continue their learning after having graduated, being faced with constant changes in the profession (*Study on Recent Developments in the*

*Music Profession*, ERASMUS Network for Music ‘Polifonia’/AEC 2008 - [www.polifonia-tn.org/profession](http://www.polifonia-tn.org/profession)).

<sup>xx</sup> Recommendation of the European Parliament and the Culture Council on key competences for lifelong learning, 18 December 2006 (2006/962/EC).

<sup>xxi</sup> Supporting artist that are already active in the profession:

- There is evidence that artists very rarely go back into learning situations after they have finished their professional training. In a constantly changing profession, it will be essential for artists to keep their knowledge and skills up-to-date. Examples of good practice should be exchanged on existing containing professional development scheme for artists in the various European countries (Final Report European project on the professional integration in music ‘Promuse’, AEC 2001 - [www.aecinfo.org/promuse](http://www.aecinfo.org/promuse)).

- In discussions about promoting mobility in the cultural sector at the European level, the recognition of qualifications is often forgotten as another obstacle for the mobility of artists. As the professional practice increasingly includes teaching as part of their diverse “port-folio” career, it is essential that the recognition of qualifications is added to the points the need further investigation and that the existing information on this issue is compiled and disseminated in a structured and accessible format (Report *The International Recognition of Qualifications in the Field of Music*, ERASMUS MUNDUS Project ‘Mundus Musicalis’/AEC 2008 - [www.aecinfo.org/mundusmusicalis](http://www.aecinfo.org/mundusmusicalis)).

<sup>xxii</sup> At the European level, support should be given to recently graduated professionals with the ambition to set up their international professional practice. This would include support to ensembles wanting to make tours to other European countries as part of a possible mobility scheme for artists in the future.

## Annex 1

Paris, 24<sup>th</sup> October 2008

### European Independence Arena Declaration

It is necessary and urgent to:

1. Give a specific status to independent cultural SMEs, endorsed at the European level. It is important to create an environment that fosters the creation and development of cultural SMEs. These SMEs should be granted specific support and benefit from positive discrimination measures. Existing measures such as the ‘law on one price’ on books in France must be preserved in the digital world.
2. Recognise the crucial role of the independents as discoverers of new talent and precursors in the development of new aesthetics. In the music sector the independents produce 80% of all new releases, organise 60% of concerts and create more than 50% of jobs. In the cinema sector, independents distribute 85% of films selected for competition at Cannes.

3. Ensure a high level of protection of authors' and producers' rights.
4. Regulate the digital environment by putting in place mechanisms based on the cooperation of all the actors including notably the rights holders. The implementation of the "Creation and Internet" law which guarantees a balance of everybody's rights and liberties - creators' property rights and privacy protection of internet users, in order to allow a true development of content online in the best interests of creators and consumers.
5. Ensure that, through inter-professional agreements, independent productions receive sufficient and sustainable exposure in the media, shops, cinemas and in the new media.
6. Propose new competition and concentration law rules or practices, such as defining accompanying measures for mergers and situations of vertical and horizontal concentration.
7. Create financial tools, as well as fiscal and social measures at national and European level. In the context of the current economic and financial climate, particular attention must be paid to maintaining the access of cultural SMEs and micro-enterprises to credit through organisations such as IFCIC or Kultuur Invest. There needs to be a facilitation of the dialogue and communication between financial institutions and cultural enterprises
8. To promote the legal availability of creative works on line, notably through reduced VAT rates on cultural products in both physical and online markets.
9. Invest EUR 1.5 billion of the European budget per year (corresponding to the contribution of the sector to the European GDP) into the cultural industries, with priority given to SMEs and micro-enterprises.
10. Establish a positive discrimination system for the independents, in particular in terms of the purchase of advertising space and access to new media.

**Platform of Cultural and Creative Industries**  
Working Group 3+4  
Circulation of Works and Artists  
Exchange and Export in a Globalised world.

Recommendations

Circulation and international promotion is largely thanks to the investments made by cultural and creative industries and the professionals themselves. They discover, invest in and develop new European talents and in doing so increase cultural diversity and choice for the European citizens, while promoting regional, national and European know-how abroad. The objective of this paper is to propose structural mechanisms and tools to facilitate investment which will develop and improve the circulation of works and artists.

Therefore we address the European Commission, DG Culture, DG RELEX, DG Development and DG Regio to implement these actions through a Specific Program for the Cultural and Creative industries, In addition the strategies outlined should be developed on a Member State level in co-operation with relevant ministries, such as the Ministry of Culture, the Ministry of Trade and the Ministry of Foreign Affairs for instance. The professionals themselves will also maintain their support and investment within the culture and creative sector.

**1. Provide tailored information to mobile professionals, artists, organizations, works and products.**

To better circulate within Europe and outside professionals need to have a market overview with the list of potential partners specific to their sector to enable them to establish lasting networks. In addition tools providing information on the different social and economic frameworks in every country is indispensable and should be easily available and regularly updated.

- Information on European and key international markets.
  - Lists of principal actors, festivals, venues etc.
  - Market overview.
- Information on the fiscal, juridical and social environment.
  - IP Rights framework.
  - Fiscal status of artists, works, companies.
  - Social security.
  - Visa, work and residence permits.

Example 1: The music and architecture sectors have compiled this information into **Export Handbooks**, a useful sector specific tool for artists and professionals.

⇒ This must be available in all sectors and the information must be kept up-to-date through common databases.

Example 2: **Information portals** such as On-the-move provides tailored information to professionals and gives information about current mobility programs.

⇒ Enhance their capacity.

Example 3: the performing arts sector has **directories** which are yearly updated focusing on Europe, America and Asia

- ⇒ Support is needed to develop similar types of directories for companies that work more on an ad hoc or project lead basis such as in the so-called independent sector.

## 2. Facilitate the circulation of works, artists and productions.

Implement support mechanisms to incite circulation by lessening the risk factor which will generate a significant levy effect by triggering investment. As a result you can support a greater number of projects rather than giving individual subventions.

- Support to live performances by establishing support mechanisms in the form of small investments
  - ⇒ This will ease the risk factor taken by artists when touring, encourage wider circulation and trigger investment.

Example 1: The EU funded pilot project European Tour Support gave a financial support representing not more than 10% of the budget of a tour. This incited record labels, tour promoters, festival organisers and other music professionals to invest more in touring at the European level

Example 2: the Danceweb Europe scholarship program enables young dancers to take a five week residency at the Impuls Dance festival. Cultural ministries from all European countries are investing in the program giving a grant which allows for young dancers to take part.

- Increase European programming in venues and festivals by giving incentives through a bonus system.

Example 1: European Talent Exchange Program stimulates the circulation of European artists performing live at European festivals by giving a grant of €1.500 to festivals who program European acts.

Example 2: Europa Cinema increases European programming in film theatres by giving bonuses to venues on the number of screenings of European non-national films.

Example 3: ETC - performance exchange programme. The ETC puts theatres in relation with each other and supports member theaters who wish to invite performances from other ETC-theatres. A financial contribution to travel, accommodation and per diem costs is granted.

- Promote and support co-production in music, theatre, dance and between the live performance sector and other cultural and creative industry sectors.

Example 1: ETC provides the platform for its members to collaborate and create co-productions. Two major artistic projects are currently in progress:

- Young Europe - with the support of the European cultural programme - consists of workshops, 4 new commissioned plays staged in 8 co-creations for young audiences and conferences. 11 partner theatres from 8 countries are involved in this interdisciplinary project.
- Theatre Orient Express - A “theatre train” will leave Turkey and head towards the West. 15 train stations in 7 countries will be filled with cultural activities and intercultural reflection. The Co-production partner theatres for this project have commissioned 6 new plays. Each play will be staged in the train in at least 3

countries. All plays and participants will be united during the final festival in Stuttgart, Germany.

Example 2: Europalia is a multidisciplinary festival in Brussels, presenting artistic practices such as dance, music, theatre, visual arts, cinema, but also fashion, design, folklore, gastronomy.

Example 3: cinema-opera, combining theatre, video, music, whereby co-producers enabled artistic creation between different forms of art and allowing for production touring across Europe

- Increase support for the translation of works (publications, audiovisual, live performance).
  - More funding available within European programmes \*.
    - With an emphasis on lesser spoken languages.
    - To translate from and into non European languages.
    - For different genres of publications.
    - To translate short excerpts to present at European/International trade fairs.
  - Promote and support co-edition programs for publishers.

Example 1: The French National Book Center (CNL) provides some funds for the translation of French works into foreign languages and granted via French publishers selling the rights.

Example 2: The production of a Franco-German history textbook '*Histoire-Geschichte*' published by Editions Nathan in Paris, and Ernst Klett in Leipzig marks a step in the work of deepening relations between the two countries and especially in the specific construction of an everyday Europe.

Example 3: ETC organized its 4<sup>th</sup> edition of TRAMES (translation & mettre en scene). The goal of the project is to discover and promote a new play and its playwright by a thorough examination of a text in a residence/workshop. The text is translated into at least 3 different European languages and staged in the presence of the translators and the playwright.

Example 4: The ETC is collaborating with "La Maison Antoine Vitez", a French center of theatrical translation, on the project TER. The goal of TER (traduction, édition and réalisation) is to create a European network for circulation of contemporary plays, and eventually make stage them in partner theatres and festivals all around Europe. The project is right now in the construction of the international network gathering partners organisations (theatres, festivals, universities) in ten European countries.

- Improve and internationalise cross-residence schemes for performers, authors, and cultural entrepreneurs to facilitate exchanges within Europe and outside. Initiate production, creation, diffusion and talent development.

Example 1: RE: NEW MUSIC will establish a repertoire pool, whereby ensembles will be built from this pool. Up to 352 new pieces of music are to be shared over 24 months. It aims to directly support the artistic process in terms of rehearsals, workshops and residencies for composers.

Example 2: ETC offers all technical, administrative and artistic personnel from member theatres the opportunity to exchange know-how and techniques in another European country in an ETC-theatre during a one-month period residency. After approval between the two member theatres, an ETC grant is allocated to support per diems, travel and accommodation costs.

Example 3: CITL - International college of the literary translators in Arles is aiming to welcome professional translators coming from all over Europe.

Example 4: The 'Akademie des Deutschen Buchhandels' in Germany is a non-profit organisation which offers training courses, seminars and organise special events linked to the book sector ([www.buchakademie.de](http://www.buchakademie.de)). They also welcome writers.

**Structural interventions** through the European Regional Development Funds to address the EAST-WEST imbalance.

Example: In the music sector the lack of infrastructure and fully equipped venues within Central Eastern Europe explains the **East-West imbalance** as they cannot engage in successful and sustainable cooperation. To improve access to all European regions there needs to be sustainable infrastructure by building adequate venues with the appropriate equipment i.e sound/light.

- Circulation within Europe and into Europe is hindered by internal social and economic regulations and social security schemes. **Improve administrative cooperation between Member States,** simplify procedures and reduce costs of visa and work permits.
  - Single permits applications for third country national artists, for both work and residence permits.
  - Fast track visa application procedures when artists are invited by cultural organizations.
  - Encourage the EU and its Member States to optimize and implement a social security scheme which ensures cultural workers can take advantage of social security benefits across Europe, in particular with relation to unemployment and pension.
  - Abolish double taxation for artists.
  - Facilitate the information on authors rights and neighbouring rights and related clearance processes to facilitate moving around Europe

### **3. International promotion**

Due to globalization cultural and creative industries need to have an international dimension to flourish. Hence the need for investment to establish schemes to maintain the presence of artists and cultural professionals in key international markets. To facilitate this exchange it is important to focus on import by also diversifying cooperation.

- Set up a network of 'European cultural industries agencies' in key international markets outside of Europe and representing all the cultural and creative sectors. Such a structure would be more adapted to support, coordinate means and actions and give a voice to European cultural industries abroad.

This will give professionals a European reference when abroad and assist them by:

- Organising explorative trade missions for professionals to better understand the foreign markets and to establish contacts.
  - Provide useful information on local markets.
  - Representing European professionals to local authorities.
- Joint European presence at international trade fairs to allow all Member States the chance to participate in key market events.
    - European stand - joint promotional campaign.



- Not just focus on export but also **import** by sharing know how. Facilitating artistic exchanges with third countries in Europe is also important to stimulate cultural diversity.

Example 1: EMO - New York export office- The EMO US office facilitated the access to the American market for European professionals. The project started in December 2003 and has achieved promising results. The New York office produced a US Export Handbook with a list of contacts of American music professionals which is constantly updated. The US office also ran activities of assistance and consulting to European professionals, notably in terms of promotion, distribution and monitoring on the US music market. It also organised the presence of European artists and professionals to American music events. The project ran until 2006.

Example 2: EFP- European Film Promotion: Paneuropean umbrella organization that represents national European film export institutions to promote and market European cinema and the talent behind it worldwide. Actors, producers, directors, distributors and films that have acclaimed national recognition are presented with EFP at major global A-film festivals embedded in a wide range of promotion activities (producing common promotion material for joint promotional campaign, providing common European stand in fairs, providing access to foreign markets and establishing contacts etc.) to meet the international film industry and its market key players in order to support existing and new European film productions as well as its talents. EFP has been founded in 1997 and receives funds of the MEDIA programme.

Example 3: The BIEF, the Bureau International de l’Edition Française is an organisation devoted to the promotion of French books abroad. Via the BIEF’s New York office, The French Publishers’ Agency, it provides the services of a rights agency for English-speaking countries and it promotes French publishing.

In 2005-2006 a project co-financed by the Culture programme, aiming at facilitating the establishment of common stands at international book fairs was coordinated by the BIEF.

Example 3: ETC - “Book of Plays - European Theatre Today”. For more than 15 years the ETC is producing its biannual publication which gathers a selection of the best new written plays from Europe with the aim to support and facilitate the circulation of contemporary plays together with the promotion of the development of new plays in Europe, focussing on young playwrights.

#### **4. Pan-European training courses.**

To adapt to the constant evolution of the sector and the new business models regular workshops and training need to address this. The professionals themselves can give a briefing to civil servants working within the field of cultural and creative industries on the specificities of the sector and its needs.

##### Professional training

- New business models.
- Training on the different markets in Europe
- Training workshops on legal and social regulations

##### Briefing for Civil Servants

- Sensitize local and national civil servants on the specificities of the culture and creative industries to create greater awareness and to ensure the right and proper investment into this sector.

##### Training for youth and young professionals

- Cultural industries need to be integrated into the existing EU education programmes.

- Training on European legal and social regulations in relevant university curricula (i.e Intellectual Property law degree, Culture project management degree...)

Example: The ETC is encouraging mobility of competence and sharing of best practices amongst its member theatres. In workshops organised by the ETC, different professional groups from ETC theatres all around Europe get together to discuss, present and share their working methods.

Participants in the working groups 3 and 4

Working group 3

EMO - European Music Office

PEARLE - Performing Arts Employers Associations League Europe

UNI-MEI - UNI Media, Entertainment & Arts

AMC-Europe - Alliance Mondial du Cinéma

FERA - Federation of European Film Directors

IDEA European Net International Drama

EMIRA/Roberto Cimetta Funds - Euro-Mediterranean and International Research Association

ETC - European Theatre Convention

Working Group 4:

FEP - Federation of European Publishers

PEARLE - Performing Arts Employers Associations League Europe

UNI-MEI - UNI Media, Entertainment & Arts

FIA - International Federation of Actors

AEPO-ARTIS - Association of European Performers' Organisations

FERA - Federation of European Film Directors

Menuhin-foundation - International Yehudi Menuhin Foundation

AMC-Europe - Alliance Mondial du Cinéma

ENCATC - European Network of Cultural Administration training Centres

On - the -Move

ETC - European Theatre Convention

EMIRA/Roberto Cimetta Funds - Euro-Mediterranean and International Research Association

EPC - European Publishers Council

## **Working Group 5: The interface between artists and the cultural industries**

### **Rationale**

This Working Group brought together 22 organisations representing fields of both artistic creation and practice on the one hand and cultural entrepreneurship on the other (Appendix 1). These fields are located at the heart of the cultural and creative industries and are therefore central to the European creative economy.

The entire European cultural economy is dependent on the core fields of artistic endeavour and entrepreneurship; without them, there would be no creative industries. Accordingly, cultural policy needs to recognise this symbiosis. Artistic practice should be recognised as a key element of a larger system that creates public value, culturally, economically and socially. Today's cultural economy includes both mass and niche with the boundaries between 'subsidised' and 'for-profit' becoming increasingly blurred and different cultural expressions being fused to reinvigorate traditional cultural heritage. Professional artistic creativity increasingly co-exists with amateur involvement. The digital revolution has dramatically expanded the means of producing, circulating and exchanging cultural expression in all artistic domains. In turn, the range of human, material and technical resources in each of the artistic fields is ever-increasing contributing significantly to income and employment. In spite of this an appropriate policy framework has yet to be put at the forefront of the policy agenda at European level. For example, some current competition policies and national company structures now often hinder artists in the single market, both in terms of distribution and access to retail sectors and broadcasters.

We therefore commend the European Commission for the production of the KEA report '*The Economy of Culture in Europe, 2006*' that sets out the key facts behind the cultural industries sector. The core creative fields are increasingly characterised by precarity, part-time workers, multiple jobbers, small-scale entrepreneurs (often driven by values other than the accumulation of profit alone), or freelancers who survive on niche ideas. The major industrial players need to see artists as part of their research and development process and invest in the creativity behind the content, not just in the technology.

Many issues of attitude and policy arise as a result of these challenges:

- How can arts and creativity be better recognised as a basic resource for the new economy?
- How can public policy nurture this resource?
- How can creativity flourish yet retain artistic independence and integrity?
- What is the role of public policy in these regards?
- What public policy initiatives are most likely to bolster the status of the artist and serve as catalysts for artistic creation in Europe?

These are all cultural policy challenges across Europe, from national to EU level. The specificity of the cultural/creative industries, and the potential of their creators need to be recognised and action taken. It is therefore essential that their voices be heard in the policy-making process. In addition, in order to properly support the cultural industries sector, more robust empirical knowledge, a stronger evidence base, is still sorely needed. Much of the data is 'out there', but it is scattered and has not been brought together and analysed.

Policy needs to be implemented through multiple initiatives on different levels mirroring the complexity of the field. As each artistic form has its own specific enabling conditions (those conducive to poets differ from those conducive to painters), regulatory frameworks and incentives need to reflect and respect the specific conditions under which each art form does or does not thrive. Public policy also needs to balance the dual artistic/industrial nature of the cultural and creative industries and reconcile Intellectual Property Rights (IPR) and content-driven digital technologies. The important role of collective management societies for authors and performers in the creative chain must be recognised. They play a key role in ensuring that writers and performers can make a living from their work and devote themselves to it in complete independence while ensuring the widest possible dissemination of their works in a context of transparency and legal security. While existing European IPR legislation is satisfactory in terms of recognition of rights, much more needs to be done to ensure the concrete, Europe-wide implementation of measures for the respect of these rights, especially in light of the development of the internet.

## **RECOMMENDATIONS**

The recommendations put forward below concern public policy measures that need to be taken at European level and by Member States, in order to strengthen the European Agenda for Culture. They also aim in a broader sense to promote a greater societal awareness across Europe of the place of authors, artists and cultural entrepreneurship in the cultural and creative industry landscape.

### **1. European authors, artists, cultural entrepreneurs and their organizations contribute to the European project. It is therefore recommended to both the European Union and Member states to:**

- Create a strategic coherent approach to the mainstreaming of culture across EU policy in order to promote the flourishing of artistic creation in Europe.
- Create and support appropriate consultation mechanisms for authors, artists and cultural entrepreneurs, so that they can contribute to the resolution of the political, economic or social issues affecting their cultural practice.
- Ensure that authors and performers can make a living from their artistic activities in complete independence. In this context, promote, whenever appropriate, the collective administration of their rights.

### **2. Consolidate the recognition of the status of authors, artists and cultural entrepreneurs:**

- Consolidate and improve both legislation and social awareness regarding the status of the artist. Hence the European Union and its Member States should take measures that can create better working environments and social protection as well as guarantee the respect of individual and collective rights throughout the Union.
- Develop policies and programmes that are explicitly targeted towards promoting awareness of, and respect for authors and artists across society as a whole, as well as the added value of their work, culturally, economically and socially.
- Policies to promote artistic creation and entrepreneurship at both the European Union and Member State level should be strengthened reflect the

value that artists, authors and cultural entrepreneurs can bring to society as a whole.

**3. Commit to both artistic work and industrial production:**

- Recognize the complementarities as well as the tensions between cultural value and market value, which may require a careful balancing act in terms of policy frameworks and incentives.
- Recognize all the players in the creative value chain, starting with authors, artists and cultural entrepreneurs as well as collective management societies which play a positive interactive role between authors and performers on one hand and creative entrepreneurship on the other hand.
- Ensure that policies designed to promote the growth of cultural industries take into account the synergies between the authors and artists and the culture/creative industries sector. This means designing policies that are 'fit for use' by different artistic and creative sectors in order to stimulate mutual co-operation and benefit across the spectrum of cultural production.
- Create spaces of mutual learning between artistic practice and the cultural industries as think tanks or laboratories for the cross fertilisation of artistic forms, business practice, research and other areas.
- Provide opportunities for practicing artists to develop management skills through the elaboration of short courses and other kinds of training modules.

**4. Ensure the active involvement of authors and artists in building analytical competences:**

- Integrate and systematically analyze the existing corpus of empirical knowledge and experience regarding author/artist/industry relationships so as to orient the incentives and regulatory changes that are necessary.
- Tap the potential of small and medium sized artistic enterprises for this purpose.
- Mobilize the knowledge and skills of artists who work at the interface between individual practice and the cultural industry level in order to find more imaginative solutions to obstacles and define needs in the most relevant manner possible.

**5. Implement existing Intellectual Property Rights regimes more effectively for the benefit of authors, performers, producers and publishers:**

- Opportunities offered by new technological developments and digitalisation, need to be backed up with clear policies that ensure access for all actors and offer real cultural diversity and consumer choice. Artists, authors and cultural entrepreneurs need the full respect of authors' rights, copyright and related rights in the new media environment.
- Measures should be taken to ensure access to an open, balanced and competitive market for all these actors through appropriate adaptation of competition rules that recognize the specificity of artistic and cultural production and distribution in respect of the competence of Member States. In this context, the essential role of collective management should be recognised.
- Ensuring the widest possible dissemination and making it easier for users to clear rights, collective management is essential for the knowledge economy and for cultural diversity and should be promoted.

- Where necessary, access to information for tracking usage of rightholders' works and performances conducive to the effective management of rights, should be developed in respect of fundamental rights and freedoms.

## **6. Convention on Promoting and Protecting the Diversity of Cultural Expressions.**

- Transparent and effective monitoring of the application of the convention with particular regard to: Article 6 (g) of the above-mentioned Convention, which requires Parties to take 'measures aimed at nurturing and supporting artists and others involved in the creation of cultural expressions' and of Article 7.2, which states that 'Parties shall also endeavour to recognize the important contribution of artists, others involved in the creative process, cultural communities, and organizations that support their work, and their central role in nurturing the diversity of cultural expressions.'

## **Appendix 1**

### ***Organisations participating in Working Group #5***

Alliance Mondial du Cinéma (AMC-Europe)  
 Association of European Performers' Organisations (AEPO-ARTIS)  
 Culture Action Europe (CAE)  
 European Broadcasting Union (EBU)  
 European Composer Forum (ECF)  
 European Council of Artists (ECA)  
 European Festival Association (EFA)  
 European Conference of Promoters of New Music (ECPNM)  
 European Forum for Architectural Policies (EFAP)  
 European Grouping of Societies of Authors and Composers (GESAC)  
 European Music Council (EMC)  
 European Music Office (EMO)  
***European Network of Cultural Administration Training Centers (ENCATC)***  
 European Publishers Council (EPC)  
 European Theater Convention (ETC)  
 Federation of European Film Directors (FERA)  
 Federation of European Publishers  
 IMPALA - Independent Music Companies Association  
 International Organisation of Performing Artists (GIART)  
 The European Writers' Council (EWC)  
 The International Urban Development Association (INTA)  
 UNI-MEI Global Union for Media, Entertainment & Arts  
 European Newspaper Publishers' Association (ENPA)