



Belgique: Association des Scénaristes de l'Audiovisuel
Deutschland: Verband Deutscher Drehbuchautoren e.V. Ελλάδα: Ένωση Σεναριογράφων Ελλάδος
España: Asociación Galega de Guionistas; Autores Literarios de Medios Audiovisuales; Escritors Valencians de l'Audiovisual; Euskal Herriko Gidoigile Profesionalek Elkarteak; Guionistes Associats de Catalunya
France: Union-Gilde des Scénaristes Island: Leikskáldafélag Íslands Ireland: Irish Playwrights and Screenwriters Guild Italia: Scrittori Associati Cinema e Televisione Nederland: Netwerk Scenarioschrijvers
Norvege: Norske Dramatikeres Forbund Portugal: Associação Portuguesa de Argumentistas e Dramaturgos
Serbia & Montenegro: Nezavisnost Suisse: Scénario United Kingdom: Writers' Guild of Great Britain

Attention: Neelie Kroes,
Commissioner for Competition, European Commission
Rue de la LOI 200
Brussels 1049

Date 2005-09-14

Dear Ms Neelie Kroes,

**Subject State Aid Action Plan
Less and better targeted state aid: a roadmap for state aid reform 2005-2009
(Consultation document)**

Our organisations represent creators, performers and workers in the audio-visual industry and cultural sector would like to present to you our views regarding the consultation document on State aid issued on the 7th June. We would like to thank you and all the Commission for allowing us to submit comments and make suggestions regarding the ideas and statements issued in this consultation paper.

It is vital to remember that the audio-visual industry in Europe is a dynamic industry employing hundreds of thousands of people and generating billions of Euros as indicated in your Communication of 15 December 2003¹ which gives a simple but clear description of the state of Europe's audio-visual industry. The 1.2 billion EURO spent on State aid on cinema in Europe is a very modest sum when compared to the 27 billion EURO² spent by public service broadcasters. Furthermore according to a recent study³, the audio-visual industry in the former EU15, excluding filmmaking generated a turnover in 2002 in excess of EUR 60 billion. This huge turnover is an indication of a healthy and dynamic industry. Regardless of its size, this industry is also the medium in which culture is transmitted to the citizens.

Our concerns focus rather on the state aid schemes to culture, specifically to the audiovisual and filmmaking industry which is the quintessential cultural industry. When considering state aid you must not separate the artistic from the production side of the filmmaking process. The making of films and TV programmes is far too complex and any attempt to separate the two concepts (artistic and technical) would result in problems of definition of what is artistic and what is technical between Member States. State aid is based on territorialisation which has not been harmful to competition. In fact State aid to the European audiovisual sector needs territorialisation to maintain the European cultural identity and territorialisation has not been a hindrance to cross-border co-productions and there is no evidence that territorialisation has had any detrimental effect to culture or to co-productions. If such evidence existed it would have been presented long ago.

¹ COM(2003) 784 final Brussels, 15.12.2003

² COM(2003) 784 final Brussels, 15.12.2003; page 3

³ Study by David Graham Associated, et al; commissioned by DG Information Society and Media to examine the implementation of the TV without Frontiers Directive.

Fédération des Scénaristes d'Europe • Federation of Scriptwriters in Europe
c/o UNI-Europa Box 9 • 31 rue de l'Hopital • B-1000 Bruxelles • Belgique
tel +32.2.234 5654 • fax +32.2.235 0861
www.scenaristes.org • manager@scenaristes.org

Elizabeth Verry (President); Arne Sommer (Vice President); David Lambert (Treasurer); Bernie Corbett; Paulo Filipe Monteiro;
Pyrrhus Mercouris (Manager).

We note in your consultation document (paragraph 62) that you are very conscious of the importance of culture and the audiovisual industry and its associated filmmaking sector and we are pleased that the Commission will take article 151.4 and the Amsterdam Protocol into account in developing its approach to state aid to culture and audiovisual services.. Within this legal context, we would also like you to bear in mind when you develop the action plan for state aid that you acknowledge certain specific aspects unique to culture and audiovisual services:

Consequently we are a bit surprised that in the light of last year's meeting with audio-visual experts (January 2004) the Commission wishes to "...revisit its Communication on the application of state aid rules to public service broadcasting. Notably with the development of new digital technologies and of Internet-based services, new issues have arisen regarding the scope of public service broadcasting activities. It will also consider reviewing the Communication on certain legal aspects relating to cinematographic and other audio-visual works (cinema communication)." The meeting was unanimous with not a single dissenting voice all advising the Commission to continue with the current rules. This position, in our opinion is still the best.

Specifically regarding internet-based services and the scope of public sector service broadcasting activities, the arts community has no problem and in fact welcomes the state broadcasters in developing Internet on-line audio-visual services. In fact we consider that the public broadcasters should be obliged to use this new technological medium. Many of our members have and are still working with the public broadcasters and would be happy that their work made with the state broadcaster is repeated and transmitted on-line, as long as their intellectual property rights are respected. We are aware that certain private TV channels are lobbying the Commission and Member States governments in reducing the scope of the public channels, however, this has nothing to do with increasing competition, but rather getting rid of competition of public broadcasters who have the lion's share of the audio-visual archive.

Furthermore, the European Commission has succeeded in transposing Article 151.4 of the Treaty to the latest version of the UNESCO Convention (article 20) which will hopefully become an international law in the Autumn 2005. This positive outcome was thanks to alliances made by the European Commission with other countries like the ACP states and India. The clear majority of UNESCO member state countries are more or less agreed with this current draft and there is every reason to hope that the current text will be adopted in October. The significance of the convention is that it will result in an international treaty safeguarding and promoting cultural diversity. The Commission did an excellent job in representing the EU, and has enhanced its international status. Article 20 of the convention calls on countries to take cultural diversity into account when dealing with other issues that fall within the remit of other treaties and international obligations, like for example at the World Trade Organisation (WTO), where pressures have been exerted to reduce the scope of the cultural exemption.

We hope that you respect our views when developing the action plan and we hope that you keep us informed and include us to your mailing list on any developments and further consultations that may arise.

Yours sincerely,



Elizabeth Verry
FSE President

Pyrrhus Mercouris
FSE Manager