



## **EUROPEAN COMMISSION GREEN PAPER: UNLOCKING THE POTENTIAL OF CULTURAL AND CREATIVE INDUSTRIES (COM(2010) 183)**

### **COMMENTS FROM THE BRITISH SCREEN ADVISORY COUNCIL**

#### **Overview**

The British Screen Advisory Council (BSAC) has contributed to many of the debates in Europe on the creative industries, digital content online and copyright. BSAC brings together business leaders representing all the aspects of the audiovisual value chain in the UK, including sectors that are crucial to the success of the industry in new media and the online economy<sup>1</sup>. BSAC therefore has the ability to provide comments and make proposals which take into account a wide variety of perspectives.

We welcome the publication of the ‘Green Paper: Unlocking the Potential of Cultural and Creative Industries (CCIs)’. As the Green Paper acknowledges, some of the important issues for the CCIs are already being considered under other work streams, such as the intellectual property issues identified in the Digital Agenda for Europe and contained in DG Market and Services Management Plan for 2010. It is, therefore, very important that the different DGs of the European Commission collaborate closely as various work streams are taken forward to ensure that views expressed on one policy issue that are also relevant to others are shared across the DGs. Earlier this year we provided a detailed response to the reflection paper on ‘Creative Content in a European Digital Single Market: Challenges for the Future’ and much of what we explained in that response about the audiovisual industry would also be relevant to this Green Paper<sup>2</sup>.

New business models are the key to the success of the audiovisual industry in the future, but identifying the winners and losers is hard. Experimentation with new business models is, therefore, necessary. The audiovisual sector in the UK is aware of the importance of continually evaluating all the relevant factors and collaborating as necessary on the development of new business models. Much of the investment needed for this does, though, still derive from old business models. We therefore welcome the clear recognition in section 2 of the Green Paper

---

<sup>1</sup> See BSAC’s membership list at <http://www.bsac.uk.com/membership-list.html>

<sup>2</sup> See BSAC’s response to the Commission’s reflection paper at [http://www.bsac.uk.com/files/BSAC\\_RESPONSE\\_TO\\_CREATIVE\\_CONTENT\\_IN\\_A\\_EUROPEAN\\_DIGITAL\\_MARKET.pdf](http://www.bsac.uk.com/files/BSAC_RESPONSE_TO_CREATIVE_CONTENT_IN_A_EUROPEAN_DIGITAL_MARKET.pdf)

that keeping business going under a traditional business model while managing the transition to new business models still under development could be difficult for many creative enterprises. It is right that all stakeholders continually reassess the costs and benefits in the digital transition and the ways in which Government, the public, and commercial sectors, contribute, making any appropriate adjustments to the regulatory environment or non-legislative measures, so that creative enterprises are better able to deal with the transition.

Although there is a passing reference in the Green Paper to the problems of piracy and the effect this continues to have on revenues, the importance of this issue to the objectives identified in the Green Paper has perhaps not been fully recognised. We agree that one of the most effective solutions to piracy is the development of new and innovative business models. Efforts by government at national and EU levels to bring about active cooperation between all stakeholders, including ISPs, with a view to enabling legitimate peer-to-peer file exchanges on the internet, is therefore very helpful. But educational initiatives to present copyright as a positive tool that can benefit everyone and the evolution of the enforcement framework are also part of the package that is needed to address piracy.

Government should also support industry-led initiatives to deliver more flexible copyright licensing, which is important to new business models, including those that deliver access to archive content. Legislative solutions may, though, be the best way forward for some licensing issues, such as the problem of orphan works. We are aware that DG Internal Market and Services will be bringing forward a proposal this year, but this seems to be limited to digitisation by libraries and archives, and so will not address the concerns and needs of public service broadcasters and commercial service providers who wish to license, use and make available material which is orphan or where some of a number of rights in the material are orphan. A more general legislative solution on orphan works would be one of the important steps towards supporting the development of more flexible licensing by industry. Development of a solution should include working as appropriate with collecting societies and other stakeholders. However, it should not be unduly bureaucratic for those wishing to use orphan works. Orphan works legislation is, though, not the only tool to ensure copyright licensing benefits CCIs in the digital age. BSAC particularly welcomes the Commission's proposals to encourage extended collective licensing. This could be especially useful in helping rights' clearance for the BBC's Archive for example, which, without reform, the BBC has calculated would cost approximately £72m for staff alone and take three years.

Copyright issues such as those indicated above come within one of the policy areas we identified in our paper 'Creativity, Competitiveness and Enterprise in UK Audiovisual: New Vision, New Policies'<sup>3</sup> produced at the end of last year. The paper identified the key policy issues which require regulatory intervention and/or direct support as a matter of urgency. It identified issues in three policy areas in addition to copyright, namely the competition framework, enterprise and

---

<sup>3</sup> The report was published by BSAC in December 2009 – see [http://www.bsac.uk.com/files/creativity\\_competitiveness\\_and\\_enterprise\\_report\\_dec\\_2009.pdf](http://www.bsac.uk.com/files/creativity_competitiveness_and_enterprise_report_dec_2009.pdf)

skills, and public service content. Although the conclusions were specifically directed at the UK, the issues raised in general would apply in similar ways at the EU level and so are relevant to matters covered by the Green Paper. We are currently in the process of framing further recommendations on the issue of enterprise and the audiovisual sector. We will publish a report in the autumn and will provide the Commission with a copy in due course.

### **Green Paper questions**

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

Some of the ideas discussed in the Green Paper are certainly relevant to this question. For example, the role of cultural and creative industry clusters and how to better target government support are likely to be issues that will be covered in our report on the audiovisual sector and enterprise. In order to better understand the role of creative clusters and how they could best be facilitated in the EU, as well as looking at successful examples, the Commission might want to explore how creative clusters outside Europe have worked to benefit the CCIs. However, the definition of CCIs in the Green Paper may be unduly restrictive when considering these issues as it appears to exclude the new technologies sector. The CCIs that are identified in the Green Paper are not necessarily any longer distinct from such a sector. Those who create and distribute creative content may also have a role in developing and delivering new technology, and vice versa. Clusters, test beds and so on may therefore need to encompass more business sectors than the Green Paper CCI definition.

#### **3.2 How to foster art and design schools/business partnerships as a way to promote incubation, start-ups and entrepreneurship, as well as e-skills development? How could peer-coaching in the CCIs be encouraged at the level of the European Union?**

We agree with the Green Paper's recognition that it is necessary to better understand and map the new skills that will be needed if the CCIs are to remain successful into the future. This would seem to be a prerequisite to any new partnerships as indicated by this question. The skills that are needed to develop successful creative content and imaginative new business models to deliver that content must be incorporated into the further and higher education courses being offered. Art and design schools are by no means the only places where education relevant to those who might be successful in the CCIs is delivered. In our recent paper 'Creativity, Competitiveness and Enterprise' we identified a need for "creative technologists" to ensure the future competitiveness of the audiovisual industries. The relevant skill set for later employment in the audiovisual industries may therefore not be delivered by more traditional courses. Without mapping what new skills are needed, the necessary changes may be slower to develop, and this is likely to hamper any improvement to the partnerships between education and business.

#### **3.3 How to stimulate private investment and improve CCIs access to finance? Is there added value for financial instruments at the EU level to support and complement efforts**

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

We welcome the Commission's exploration of a Production Guarantee Fund for the audiovisual sector. One of the keys to improving access to finance for the CCIs has been recognised in the Green Paper, namely the difficulty of valuing intangible assets such as copyright. We would therefore welcome any measures that might progress a greater understanding about copyright and how to value it amongst both the CCIs and those in the financial sector. This work could be undertaken either at the level of Member States and/or by the Commission.

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

This is an issue where the conclusions resulting from our current work on enterprise are likely to be particularly pertinent. Our paper 'Creativity, Competitiveness and Enterprise' has already highlighted the danger of spreading resources too thinly. The Green Paper also recognises the problems which occur when decisions about support for the CCIs are taken on too local a basis. In our paper we concluded that for the audiovisual sector a public/private partnership must identify policies for growth on a UK-wide basis, with resources focused where the chances of generating a small number of nodes of economic success are greater. This may be the right conclusion on an EU-wide level too, although we also recognise the need to maintain and support cultural diversity in all Member States. An EU level strategic approach to supporting the CCIs in order to fully realise their economic potential could also be coupled with more money being allocated from the EU regional funds to the CCIs, in particular to support CCIs which are SMEs. Given the importance, as recognised in the Green Paper, of CCIs to Europe's competitiveness in the global environment, this could ultimately lead to significant additional growth and job creation.

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

Mobility is already an important part of the audiovisual sector with practitioners often collaborating across borders on co-productions and audiovisual content often made available in many Member States. The Green Paper seems to explore the issues raised by these questions in the context of promoting cultural diversity. We support the need to encourage and maintain cultural diversity in the audiovisual sector. In this respect, we have previously raised concerns that taking action to require online business models which are the same across all Member States, rather than allowing territorial or regional exclusivity, could have the effect of decreasing rather than increasing cultural diversity<sup>4</sup>. Making the mobility of cultural and creative works,

---

<sup>4</sup> See for example BSAC's submission about content online identified in footnote 2.

artists and cultural practitioners easier to achieve where those involved wish to do this may therefore be desirable, but this should not lead to any measures that force such mobility to take place.

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

We would welcome the further development of specific national and EU tools to facilitate exports and exchanges, but, as we have indicated in answer to the related questions above, there should be no compulsion to engage in such activities as this could in some cases reduce rather than increase cultural diversity.

#### **5. Towards a creative economy: the spillovers of the CCIs**

We have no specific answers to the questions asked under this section, but would refer the Commission again to our earlier publications, particularly the paper ‘Creativity, Competitiveness and Enterprise’, which was drawn up by a group that represents more stakeholders than may fall within the Green Paper’s definition of CCIs. This same breadth of stakeholders are participating in BSAC’s current work on enterprise and, as already indicated, we will provide the Commission with a copy of the report resulting from that work in due course.