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SCREENWRITERS UNITE!

AN FSE LEAFLET ON EFFECTIVE STATE AID FOR SCREENWRITING AND DEVELOPMENT

"Stories are at the heart of humanity and are the repository of our diverse cultural heritage. They are told, retold and reinterpreted for new times by storytellers. Screenwriters are the storytellers of our time."

(European Screenwriters Manifesto - 2006)

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Fédération des Scénaristes d'Europe // Federation of Scriptwriters in Europe

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1 - STATE AID FOR FILM AND TV PRODUCTION FROM THE WRITERS' PERSPECTIVE

1.1. Everything starts with the writer, except the funding

From the perspective of writers the impact of many of the existing approaches to the support of the film and television production is negative. In general we feel that the lack of evident success of European film and television production support schemes is the result of excessive reliance in the design of those schemes on industrial rather than creative models.

A widespread rationale at national, regional and EU level has been to privilege the role of the independent producer, with the idea that state investment would bring producers to the point where they could become profitable and state aid could be reduced or removed. However this policy has now been in operation to varying degrees for fifteen to twenty years and cannot be said to have produced the results, which its proponents promised.

A relatively common occurrence resulting from this emphasis on producers is the so-called deal-driven production, where films are produced based on the timing and availability of tax-based investment or state aid, regardless of the state of development of the script.

The emphasis on the producer has also meant, in many countries or regions, which offer financial support for the development process as well as on the European level (Media programme), that funds are provided through the producer, who uses them to commission the writer. This severely disadvantages the writer in the negotiation of contracts, the retention of rights and remuneration, which ultimately leads to one-sided support of one profession against the interests of another and subsequently against the interests of the whole. The results of providing development funds through producers, is not just to disadvantage writers but also undermines the prospect of the best script being written.

"European writing talent should be trusted, encouraged and supported. The European film industries need to find ways to attract and keep its screenwriters in the cinema and in their craft."

(European Screenwriters Manifesto - 2006)

The relegation of the writer to the development phase of production also excludes the writer from the production process itself. Acknowledging, of course, the role of the director, the writer nonetheless often has a capacity to make significant contributions in casting, with rewriting during production and in the post production phase of editing picture and sound. This all too rarely happens, with subsequent damage to the quality of the transition of the script to the screen.

The difficulties for producers to fund the development phase of production makes the negotiation of rates of payment for writing problematic. In some European countries writers have little opportunity to participate in the economic life of the film – reducing their interest in the success or otherwise of the project. Indeed the logic of low pay for writing is to encourage professional writers to write as much as possible as quickly as possible, again with negative implications for quality.

A comparison with the United States shows that the average annual income of writers working there is four to five times what we estimate it to be for European writers; that the respect accorded writers and the script is substantially higher in the US than it is in Europe; that American television in particular is entirely writer driven; and it is hard to avoid the conclusion that the economic success of American production is in significant part the achievement of writers, i.e. based on the different treatment of writers.

1.2. Is there a necessity for state aid and if so, why ?

From the perspective of writers the goal of state subsidy should be the support for the development of creativity. Due to the fragmented nature of the European market this is the only route to true cultural diversity. From this perspective state aid will always be needed to sustain and maintain the essential human activity that is storytelling.

Our perspective is not limited to the idea that the state has a responsibility to support film and television production. Film and television are among the popular arts. They have every capacity to appeal to wide audiences and in consequence to generate considerable economic activity. This activity is the result of, and is dependent on, great stories that audiences want to participate in. Economic viability will come from audiences – audiences come for great stories – told by great scripts. But these scripts need to be written and the independent producers cannot finance them.

"We call on National governments and funding agencies to support screenwriters by focusing more energy and resources, whether in form of subsidy, tax breaks or investment schemes, on the development stage of film and television production and by funding writers directly."

(European Screenwriters Manifesto – 2006)

There is an urgent need for state funding agencies and related government policies to put in place structures – legal and administrative as much as financial – which will support the development and expression of creative talent, which will promote writing and writers as the best, indeed the only, way to ensure that the films and television programmes that we make will attract and keep European audiences thereby encouraging cultural diversity, better communications between cultures and an economically healthy industry.

Some level of funding for the development of scripts is now usual in most, though not all, European countries and on the European level through the Media programme. Funding is usually provided to producers. The logic

of such funding is that producers are unlikely to be able to generate the significant funds for the development of new projects from profits on past projects. Investment of public funds at this point is meant to facilitate producers to develop better scripts, capable of attracting larger audiences and thereby generating profit. Key to the success of such a scheme is the acknowledgement that development does not guarantee the feasibility of a project, indeed that the purpose of the development process is to see whether a project should go into production or not. In contradiction to this approach producers are often under pressure to push developed projects into production in pursuit of production fees, to recover development costs or because production funds are available, rather than because the project is ready.

The FSE believes that state aid should also be offered for the development of original writing for television and the new media, as is the case in some European countries, at least on a small scale.

1.3. What needs to change? > More development funding and direct funding to writers, both for individual projects and slates

In most cases, the approach to subsidised development outlined above provides the funding to producers who in turn contract writers as part of the development process. This has not proved successful in particular because it often fails to emphasise the quality of scripts to the extent that it should. An important corrective to this tendency is the scheme adopted by an increasing number of funding agencies which provide funding directly to writers, also for the very early stages of the development process.

2. A ROADMAP FOR CHANGE – A SUCCESS STORY FROM GERMANY

Germany is a country with many funds. Each state has its own fund, some of them have development funding, which always goes to the so-called independent producers (independent from the market, dependent on the funds). The most important fund in terms of volume is the Federal Film Board FFA. The funds are administered through a complicated system of commissions, in which the writers are also represented, the result of many years of efforts from the German writers guild. The funds are administered according to the Film Funding Law (Filmfoerderungsgesetz), a law which is reviewed every five years.

Based on argumentation set forth in the FSE policy paper the German guild has been able to use the last round of reviews to:

- (1) almost triple the total amount allotted to screenplay development;**
- (2) make it possible for writers to apply directly without a contract or an option from a producer;**
- (3) achieve the implementation of new forms of development funding which are closer to the creative practice of the writers.**

How it happened:

- (1) The German writers guild had previously been using the argument that 10% of funding should go to development. That sounded like an awful lot to most people and led to a compromise, which was closer to 2%. As a matter of fact most local film funds only spend 1 or 1,5% of their funding budget towards development so this was a step in the right direction.

Now, the German guild used the argumentation of the *FSE policy paper*, saying that if the Federal Film Board funds 40 films a year, then it should fund at least 120 screenplays a year, if the intended ratio is 1:3 (in America the development ratio is at least 1:10). At the moment the Federal Film Board funds 45 screenplays a year (a ratio of 1:1).

The guild also argued that while the usual sum for the funding of a screenplay is 25.000 euros, the usual sum for the funding of production is 250.000 euros. So a tripling of the funding for screenplay development would have a major effect through minor investment.

Till now the producers could also apply for development funds with projects which needed a re-write. Such applications were called further development applications, but in fact they were pre-production funding requests as they included some casting, pre-production etc. The guild now succeeded in shifting the funding of these applications from the development fund to the production fund.

- (2) Previously the writers could apply directly (an achievement which cost many years of guild efforts) but a major condition was a contract or a letter of intent from a producer. This led to writers signing away rights at a very early stage and committing to a producer who might be in a different financial situation or even not there at all by the time the project was supposed to go into production. The guild argued again on the basis of the *FSE policy paper* and citing examples of a shift of paradigm in other national funds, like for instance at the Irish Film Board where writers are funded without such preconditions.

The aim was to allow writers to be able to apply for funding without the precondition of having a producer attached. The guild did not achieve that in this round. But it did achieve that "professional writers" can apply without a producer. There was a big discussion on the definition of a "professional writer". The guild argued that professional writers are mostly found in television, so television credits should be included in the definition. It also argued that a writer is someone who has accomplished the writing of a screenplay successfully, which can be demonstrated through an option or a final acceptance and/or payment. The guild lost both arguments in this round. The immediate result is that professional writers are currently defined as writers who have at least two produced screenplays on their track record and these must have been shown in European cinemas.

Other writers can still apply directly but with a producer attached.

- (3) Previously, writers could apply for the development of their screenplay on the basis of a 15 page treatment and a sample scene. Again, the guild used the *FSE policy paper* and examples from other national funds from all over Europe (specifically the "25 words or less" fund - in England), in order to implement an

additional form of funding, which can be considered as seed funding. Writers can now apply for the development of a treatment or, if they should prefer, directly for a first draft screenplay with a simple, less than one page, description of an idea. Writers can get funding of 10.000 € for that whereas the usual screenplay application funding was raised to 30.000 €.

The goal for the next round of negotiations should be to introduce slate funding for writers, automatic funding for writers (without a project, just on the basis of the success of a previous film) as well as a further augmentation of development funds.

3. CONCLUSION

The present leaflet is meant to encourage the FSE member guilds to urge their national funding agencies to introduce systems of direct funding to writers and to augment the funds used for script development as well as to introduce new forms of funding. . The example included here is meant to show how the FSE argumentation and cross-national experience can help in that endeavour. For further arguments and additional detail and background please consult the *FSE policy paper*.

Bearing in mind the need for each society to develop its cultural policies in relation to its own particular situation the FSE nonetheless recommends in respect of screenplay and project development for film and television production the following standards:

- 1) Each country or region which provides financial support for film or television production should also have an active and appropriately funded policy of support for script and project development.
- 2) Where such a policy is being introduced, reviewed or amended writers should be consulted and their views taken into account through their representative organisations.
- 3) Taking account of the particular situation of individual countries or regions it is the view of the FSE that funding agencies should be prepared to provide support to the writer at a minimum of € 15,000 per draft of a feature film screenplay.
- 4) Taking account of the particular situation of individual countries the size of the support system in each funding agency should be calculated on the basis that at least three to ten times the number of projects should be in development relative to the number of films which it is anticipated will go in to production.
- 5) Where development support is provided as a loan it should only be repayable from the production budget of any resulting film. Where not, it should be seen as a subsidy to the writer and not deducted from the writer's fee.
- 6) Funding development exclusively through producers has not produced the beneficial results hoped for. FSE is strongly of the view that development funding should as a general rule be channelled directly to writers.

- 7) Where development funding is provided through production companies the companies should only have to provide evidence that they own or can acquire (option agreement or letter of intent) sufficient rights from the author to produce the film or television programme. Buyouts of all rights or concluded contracts are inappropriate and should not be a requirement for application for support.
- 8) The application system should be transparent and writers should be entitled to receive copies of readers reports or other written assessments of their work as well as financial and budget information even when the application is made by a producer.
- 9) Writers should be entitled to apply for support on the basis of a treatment for a film rather than necessarily a full first draft as well as on the basis of a short description for a treatment.
- 10) Where standard contracts are not in force funding agencies should not provide producers with financial support to cover legal costs of negotiating writers' contracts without providing countervailing financial support for legal costs to writers.

Where development support schemes are being introduced, reviewed or amended the FSE will be available to provide advice and support to member organisations or indeed also directly to funding agencies, especially on the international level, on the experience of other countries as well as on the best practice of effective state aid for screenwriting and development.

Success in one country creates the possibility of success in another. Let us use our combined experience and efforts to better the environment for writers across Europe.

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