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## FSE Newsletter // February 2009

### The European Commission prolongs film support rules until December 2012

The European Commission has adopted a Communication extending the state aid assessment criteria for the production of films and audiovisual works until 31 December 2012. These criteria are used to assess the validity of proposals made by member states for support to the film and television industries.

The Communication points out that some of the trends in member state support of the film and television industries may require a re-examination of the state aid criteria in the future. Among the trends identified as possibly needing attention in the future are the increasing likelihood that state aid is being used to attract large budget US production to particular countries or regions of Europe; support for digital projection and support for the development of regional, rather than national support.

#### For more information :

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/138&format=HTML&aged=0&language=EN&guiLanguage=fr>

### Commission launches study on multi territory licensing for online distribution

The Commissions Communication on Creative Content Online of 2008 identifies multi-territory licensing as a particular problem in the online environment. The Commission has decided to launch a study of the issue and has appointed KEA (Kern European Affairs) and Armines to conduct the study.

Creative Content Online suggested that there may be a contradiction between having to establish separate licenses territory by territory when online services have the technical potential to operate freely across borders.

The study is intended to examine how a multi-territory distribution business model might be established, and to suggest policy options, which could foster such development. The report should be completed early in 2010. A draft will be presented to stakeholders during a one day workshop towards the end of 2009.

#### For more information :

[http://ec.europa.eu/avpolicy/info\\_centre/library/studies/index\\_en.htm#eurworks](http://ec.europa.eu/avpolicy/info_centre/library/studies/index_en.htm#eurworks)

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

**Board** Christina Kallas, President / Sven Baldvinnson, Vice President / Bernard Besserglik, Treasurer / Stanislav Semerdjiev, Board Member / David Kavanagh, Board Member  
**Manager** Amélie Clément • **Contact** c/o UNI-Europa Box 9, rue de l'Hôpital 31, B-1000 Brussels, Belgium / T. 0032(0)2 234 56 54 / [info@scenaristes.org](mailto:info@scenaristes.org) / [www.scenaristes.org](http://www.scenaristes.org)

### Monitoring the Audiovisual Media Services Directive's rules on advertising

The European Commission has appointed Gfk Mediametrie to monitor implementation of the rules on audiovisual commercial communications provided for in the Audiovisual Media Services Directive including compliance with the new rules on product placement, sponsoring, and so on.

#### For more information :

Check the European Commission Announcement :[http://ec.europa.eu/avpolicy/info\\_centre/tenders/archives/index\\_en.htm](http://ec.europa.eu/avpolicy/info_centre/tenders/archives/index_en.htm)

### Draft Communication on Public Service Broadcasting rules

The European Commission issued a draft communication on the revision of public service broadcasting rules on November 4th of last year. The new proposed rules would limit the capacity of public service broadcasters to engage in so-called commercial activities.

According to European Broadcasting Union spokesman Jacques Bricmont "The commission gives too much power to the market, which makes little sense when you see the failures of the markets in the last few weeks.»

A key area of contention will be, of course, the internet. Public Service Broadcasters who want to provide services in the new media may find themselves challenged to prove that the services will not undermine competitiveness – and the process of proving that may slow them down to the point where they are prevented from providing the service.

Ross Biggam of the Association of Commercial Television is quoted in EuroObserver as saying "We all grew up in an era where there was a public broadcaster and next to that there were private broadcasters, but the landscape has changed and

now public broadcasters are venturing into areas well beyond where they were historically engaged.»

«The European Treaty is quite clear that state aid and competition rules need to be respected in all sectors and that includes broadcasting,» he added.

Member states and sector stakeholders, including both public and private broadcasters were invited by the Commission to comment on the draft communication up to 15 January 2009.

#### For more information :

Check also the minutes of the FSE GA 2009 where Ms. Wiedemann of ARD presented the FSE members with the main issues of the discussion.

### Draft report on the application of the 2001 Directive on the Harmonisation of certain aspects of copyright and related rights in the information society

A report prepared by Manuel Medina Ortega for the Parliaments Committee on Legal Affairs on the application of the 2001 Directive makes a strong defense of the importance of authors' rights.

Medina argues that there is no need for any review of the directive which he suggests is achieving what it set out to do; that there is no need for any further exceptions to the directive to be considered.

In article 17 of the proposed resolution with which the Report is primarily concerned the author makes a strong statement against buyout contracts which force surrender of royalties and damage respect for work.

The proposed resolution also argues strongly for action against piracy and action to ensure that copyright is respected on the internet.

The proposed resolution will be brought to the plenary session of the Parliament in early 2009.

### European Parliament Cultural Diversity Days

On December 2 of 2008 the European Parliament held its second Cultural Diversity Day in the presence of a small group of MEPs from the Culture Committee (Christa Prets, Marie-Hélène Descamp, Ruth Hieronymi, Pal Schmitt, Helga Trüpel, Doris Pack). The event was chaired by Karerina Batzeli, Chairwoman of the Committee on Culture and Education. It was opened by her and Jean-Marc Séré-Charlet, advisor to Mrs Christine Albanel, French Minister for Culture and Communication.

The meeting was addressed by the Permanent Representative of the USA to UNESCO Louise V. Oliver, who discussed the US position on the UNESCO Convention on Cultural Diversity. It is the first time since the UNESCO convention negotiations that Ms Oliver accepted to talk in public about the convention that the USA opposed in 2005 (the convention was adopted by 148 States, 2 countries voted against, i.e. USA and Israel and 4 countries abstained). Ms Oliver regretted that US concerns had not been taken into account at the time of the negotiation, which prevented US to accept the convention whose language was too unclear. Louise V. Oliver stressed that the USA does not have national cultural policies, but that this doesn't mean that there is no support to culture. USA has chosen a different way to approach culture with federal government agencies, which promote culture and NGOs, philanthropies, universities etc. The USA are a diverse and dynamic country. Freedom of expression and cultural diversity are fundamental values. The USA are firmly committed to cultural diversity, but the lack of clarity of the convention didn't allow accepting it. EU believes in cultural policies. The USA believe that cultural diversity will flow out of creativity. Ms. Oliver continued to say that today it becomes increasingly difficult to see what the nationality of a film is. It is a globalized industry. We need clarity for

a legally binding instrument.

It is characteristic that, instead of inviting a representative of DG Culture who participated also in the UNESCO negotiation in order to have an interesting exchange of views, the EP invited Gregory Paulger from the DG Information Society and Media, who focused on the old debate and fight between the US and EU on the audiovisual sector, and who stressed that 80% of European market is still occupied by US films and US market only allows 2% of foreign films.

Yvon Thiec of Eurocinema and a Representative of INCD explained that INCD just wrote to the President elected, Barrack Obama to ask him to consider becoming a party to the convention. He stressed that Hollywood is not an opponent to the convention. We have a common threat, which is piracy.

A very interesting contribution was that of Luciana Castellina, a former member of the European Parliament, who stressed that it is the same dispute for many years between the EU and the US: we disagree on what is culture. Liberalization doesn't mean freedom for Europeans. The UNESCO Convention states that culture is not a good like the other ones.

She also insisted that US Cinema is not depending on the market only. All MPA executives come from the limited circle of the advisors of the White House. Hollywood is called « the little State Department ». US Cinema is at the heart of the international policy of the US since the Marshall plan. US is not supporting its cinema financially, but politically by incorporating US cinema's interests at the highest level in the US policy, in US and abroad. According to Castellina, it is more efficient than what we do in Europe with small subsidies but no political attention to the cinema needs. Internet is an opportunity for the circulation of all cultures. But the fragmentation of rights prevents the distribution of films on the Internet. We have to find a solution at the international level in cooperation with the US.

### **FSE Call of Action to the Support of French Screenwriters**

Most member guilds responded to the FSE call of action in November 2008 to urge French deputies to reconsider the current plans regarding the funding of public service broadcasting and to reject the proposal to allow executive oversight of public broadcasting. The FSE supported the position of our French member UGS that the decision to remove advertising from the public service channels without setting in place a guaranteed source of public funding could undermine the very concept of public service broadcasting and expressed its deepest concern at the threat to the well-being of French screenwriters arising from the proposed reform to the structures and funding of the French state broadcaster, France Télévisions.

The FSE members supported their French colleagues who will be greatly disadvantaged by the proposed reform which is certain to reduce the volume of program-making and further depress the general level of payments made to writers, by sending letters from all over Europe to Mme Christine Albanel, the French minister of culture and communication.

### **FSE helps German Guild achieve Better Funding for Screenwriters**

Based on the FSE policy paper the German guild has been able to use the last round of reviews of the Film Funding Law (Filmfoerderungsgesetz), which regulates the administration of the German Film Federal Board funds and which is reviewed every five years, to triple the monies that will be given from now on to screenplay development, to make it possible for writers to apply directly without a contract or an option from a producer and to achieve the implementation of new forms of development funding which are closer to the creative practice of the writers. The goal for the next round of negotiations should be to introduce slate funding for writers, automatic funding for writers

(without a project, on the basis of the success of a previous film) as well as a further augmentation of development funds.

The FSE board is now preparing a leaflet on state aid for screenwriting with the aim 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 screenwriting as well as to introduce new forms of funding more in tune with the actual practice of writing. The German example will be included as a case study in order to show how the FSE argumentation and cross-national experience can help in that endeavor. 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.

### **Czech Presidency Conference on Audiovisual policy on 19th and 20th March in Prague**

The Czech presidency of the Council of Ministers has organized a conference entitled Media Literacy. The agenda includes sessions on Piracy, product placement and media literacy.

For more information :

<http://www.media-conference.cz/programme/>

### **EU XXL Forum, 3 to 8 March 2009**

EU XXL Film forum takes place for the third year in Krems in Austria. The 2009 special focus of the forum is on Screenwriters in Europe and is organized in collaboration with FSE member Drehbuchverband Austria. Sveinbjorn Baldvinsson, Vice President of the FSE, will represent the FSE and speak at the main debates and discussions.

For more information and the programme :

<http://www.eu-xxl.at>

### Online movies: the cost of market domination

According to a new study from Screen Digest consumers in Western Europe will spend 396 million euros buying and renting movies online in 2012, up from 45 million euros in 2008. This dramatic increase is nonetheless only 5% of total movie spending at home.

The market is dominated in the US by Apple iTunes and Microsoft's Xbox which control 80% of online buying and renting of movies - 30% in Europe. The expected growth of the market for the Xbox in particular in Europe will contribute significantly to the expansion of the online movie market. Playstation is expected to offer movie download services in the not too distant future.

Screen Digest considers that the analysis of the distribution of income from this market to the various participants demonstrates that the software, the movies, make little or no profit but are intended largely to drive hardware sales. The closure of many movie download companies which are not hardware based, at the same time as the volume of the business is increasing so rapidly, demonstrates this.

[For more information :](#)

[www.screendigest.com](http://www.screendigest.com)

### Reality writers in Los Angeles court

Two lawsuits in the Los Angeles Superior Court, which alleged that Fox Broadcasting and Rocket Science Laboratories, the producers of reality TV shows, had not paid overtime to story producers and others have been settled in the writers/story producers favour for more than \$4 million. Apparently about four hundred other writers/story producers can now file claims on the basis of this settlement.

The lawsuits were filed in 2005 with the backing of the Writers Guild of America, West.

Fox Broadcasting and Rocket Science Laboratories have agreed to pay \$2.6 million to the writers/story producers; ABC and CBS will pay \$1.545 million.