



European Commission Green Paper : Unlocking the Potential of Creative and Cultural Industries

This Green Paper is a welcome contribution to the ongoing debate about the new digital economy, and the respective roles of networks, creative content and public authorities in that economy. At the EU level, this debate is of course largely centred around the EU's Digital Agenda, and we regard this Green Paper as a welcome signal that the interests of the creative sector will remain centre stage in the Digital Agenda.

In terms of this response, the ACT is a member of the Creative & Media Business Alliance, and we fully endorse the comments made in the CMBA response to the Green Paper. This response is mainly to add a couple of points where we feel the television sector has specific experience.

As the Green Paper itself states,

“factory floors are progressively being replaced by creative communities whose raw material is their ability to imagine, create and innovate”.

Commercial broadcasters welcome in particular the inclusive nature of the definition of “creative and cultural industries” used by the Green Paper, clearly capturing the production and distribution of television programming within the definition of “CCI” (see page 5) and avoiding the trap of an over-prescriptive definition of which creative content can be regarded as “cultural”. However, our assumption is that many of the issues raised, and questions asked, in the Green Paper are ones which we are not competent to answer, going as they do either to issues of research and education policy or being aimed at local, regional or national public authorities. We will restrict ourselves to a few areas where we feel we have relevant experience to contribute.

1. The Nature of the Challenge

The role of creative content in Europe's future is aptly summed up in the quotation we have used above from the Green Paper. However, it is worth pointing out that the economic potential of the CCI sector will not be realised by imagining, creating and innovating alone : these virtues will not help European economic recovery unless they are allied to the ability to market, distribute and monetise the creative content.

We regard one of the key roles for the broadcast media (and, arguably, also for the non-broadcast media, though we are not qualified to speak for that sector) in the digital era as being purveyors of professionally-produced content. There is a fundamental difference between journalism and blogging, or between a film scripted and produced to cinematic quality and content recorded on a camcorder. Only if

creative skillsets are in harness with business disciplines will the economic potential rightly referred to in the Green Paper be fully realised.

2. Experience from the Television/Audiovisual Media Sector

(a) Innovation

The Green Paper correctly points out that

“parts of the content industries [...] have been severely hit by piracy and losses in sales of physical supports which have damaged their development, shrunk their revenue basis and consequently limited their potential to generate jobs and investment. This is why the industry also needs to develop new and innovative business models.

The challenge in many sectors is that CCIs have to cover the costs of "going digital" (digitisation of content, skills development and update of staff qualifications and complex issues concerning adequate digital rights management etc.) while also investing in and testing new business models which generate a "pay back" only after some time”

This analysis applies also to the television and audiovisual sector. But the Commission should not assume that the situation is bleak – in fact, media companies around Europe have responded enthusiastically to the challenge of “developing new and innovative business models”. In the past three years, 720 new on-demand and catch-up audiovisual services have been launched across Europe. European broadcasters are also investing in High Definition and, increasingly, in 3D quality broadcasts while constantly striving to update the broadcast schedules in tune with viewers’ ever-evolving preferences. Hybrid devices, providing the consumer with a seamless broadcast and broadband entertainment experience, will shortly be launched.

While we cannot speak for other sectors, in television and audiovisual content at least, the digital content market is thriving and is responding to the strategic challenge identified in the Commission paper.

(b) Mobility and the Circulation of Content

If we have one substantive point of disagreement with the Green Paper, it appears at pp 14-15 to confuse two distinct issues.

Mobility of artists and professionals is, we assume, non-controversial and, in as far as it is relevant for television, we would support initiatives along these lines as identified in the Green Paper.

By contrast, issues of circulation of creative content are mentioned in this Green Paper exclusively from a rather abstract consumer perspective:

“the circulation of works benefits European audiences, offering them new perspectives, challenging the individual and collective mind to understand and live in complexity (a set of skills – including intercultural communication – which is of crucial importance in today's world), and

offering them access to a more diverse cultural landscape [...] helps European citizens to better know and understand each other's cultures, to appreciate the richness of cultural diversity and to see for themselves what they have in common.”

In practice, the decision on whether, when and on which platforms content will be distributed outside its country of production is a commercial decision underpinned by a number of different licensing models. The issues raised here go to the ability of market players to make a return on our investment in creative content, and hence are fundamental to the success of the different parts of the content sector – and here we must stress that different players in the content industry have very sector-specific models of refinancing of investment, as well as different patterns of consumption and, not least, a very uneven regulatory framework.

Additionally, our experience is that where an identifiable audience exists for non-national content, market players have been quick to meet that demand. To date, this has typically been for distribution into neighbouring countries with a common language, for targeted distribution at expatriate markets or for re-langued versions of content. ACT member companies are increasingly active in all three methods of transfrontier distribution – when the target market and a reasonable prospect of return on investment can be identified. We would hope that the increased emphasis on the role of CCIs would help the EU appreciate the benefits of this bottom-up, demand-led approach to distributing content.

3. The Role of the EU

Again, the Green Paper is admirably frank in identifying the challenge early on :

“if Europe wants to remain competitive in this changing global environment, it needs to put in place the right conditions for creativity and innovation to flourish in a new entrepreneurial culture.”

We agree with this aspiration.

In terms of its detailed implementation, we would like to make two main points. First, that the commercial television sector does not call for significant new financial support for the creative industries. While targeted, time-specific programmes such as the MEDIA Programme can play a useful role – and indeed should be made more open to all sectors, including producer-broadcasters – in general, we would caution that systematic, long-term state funding of creative industries is not the optimum way for regulators to intervene to support the CCI sector.

With one important exception, we would see the role of the European public authorities in “putting in place the right conditions for creativity and innovation to flourish in a new entrepreneurial culture” as being as much about regulatory forbearance as about proactive intervention. The historical tendency for broadcast regulation to be over-prescriptive and inappropriately detailed – sometimes based on a subjective notion of what is “cultural” content – is increasingly a barrier to media companies’ ability to compete with new entrants in the digital world.

The exception is the need for CCIs to be able to protect their content in a digital world which, for all the benefits it brings, also increases the possibilities of piracy and unauthorised distribution. The challenge is identified at page 6 of the Green Paper, and of course rightly highlighted in the Digital Agenda. We hope to count on the support on DG EAC in ensuring that rightsholders have the necessary tools to enforce intellectual property rights. Without adequate protection of its assets, the CCI sector will find it very difficult to deliver its full contribution to economic growth and innovation. At the global level, the Green Paper acknowledges that international competitors, notably the USA and Canada “already largely tap into the multifaceted resources of CCIs”. In this context, it is perhaps instructive to mention the initiative taken by the Obama Administration last month to launch a Joint Strategic Plan on Intellectual Property Enforcement, in which eight government departments commit to measurable steps to improve intellectual property enforcement. Specifically, the plan calls for “improved communication between law enforcement and rights holders, industry, and international partners and the general public; enhanced international and domestic IPR cooperation; close collaboration with the importing community to find effective, cooperative solutions; dedicating resources to building and improving data collection for enforcement of IPR laws”.

While it is of course impossible to make a direct comparison between US and EU administrations, there appear to be some useful elements in the US Strategic Plan which could be worthy of further study by the relevant EU Directorates-General.

We are of course available to expand further on this response, should that be of interest to the European Commission.

**Association of Commercial Television
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