



FEDERATION INTERNATIONALE DES ACTEURS
INTERNATIONAL FEDERATION OF ACTORS
INTERNATIONALER SCHAUSPIELERVERBAND
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President TOMAS BOLME

DOMINICK LUQUER General Secretary

Revision of the "Television Without Frontiers" Directive

Comments related to the Public Consultation on the Modernisation of Rules of Audiovisual Services

The European Group of the International Federation of Actors (EuroFIA) gathers the trade unions representing actors in theatre, film, television, dancers, singers, circus and variety performers in all European countries, including the European Economic Area and, as observers, several countries next to EU accession. Overall, EuroFIA speaks for several thousands of professional performers in this geographical part of the world.

In the last two years, EuroFIA actively participated to the consultation process meant to gather the view of the industry on the revision of the Television Without Frontiers Directive and on the effect of measures related to the promotion and the distribution of television programmes in the European audiovisual sector. We were also represented in the Focus groups set up by the European Commission to assess legal issues related to cinematographic and audiovisual production, some of which are closely related to the Directive mentioned above.

We trust the Commission has fully taken into consideration the views presented by the creative community throughout these focus groups and, as sole representative of the performers' organisations at European level, we would like to reiterate and reinforce our previous calls on three of the issues open to consultation.

Comments on the issue of Cultural Diversity and Promotion of European and Independent Audiovisual Production

FIA believes that the Directive has contributed to increase potential work opportunities for performers by setting a number of obligations on broadcasters, in terms of quotas for European works and support to independent production. The preservation of these provisions is fundamental and it should be safeguarded.

FIA represents performers' unions in Argentina Australia Austria Belarus Belgium Brazil Bulgaria Burkina Faso Cameroon Canada Chile Colombia Congo Congo (DR) Croatia Cuba Cyprus Czech Republic Denmark Ecuador Estonia Finland France Georgia Germany Ghana Greece Hong Kong Hungary Iceland India Ireland Israel Italy Japan Kazakhstan Kenya Korea Kyrgyzstan Latvia Luxembourg Madagascar Mexico Moldova Morocco Namibia Netherlands New Zealand Nigeria Norway Panama Paraguay Peru Poland Portugal Romania Russia Slovakia Slovenia South Africa Spain Sweden Switzerland Turkey Ukraine United Kingdom United States of America Uruguay Venezuela Zambia Zimbabwe



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We fully acknowledge that technological progress and the emergence of new possibilities in terms of content distribution call for an extension of the Directive. We would like to stress that in no way shall such a revision end in a weaker legal document than the one currently in force. On the contrary, the revised text should **reinforce** the existing provisions and include adequate new measures to ensure that the aim of the Directive is not jeopardised by the increasing use of new technologies. **Private and public broadcasters should be equally concerned.**

Related to the issue of Cultural Diversity and Promotion of European and Independent Audiovisual Production, we strongly recommend the following amendments to the current text:

- Article 4
1. Member States should only be allowed to ensure measures of distribution and production of television programmes "where practicable". We believe that enough flexibility is provided by this article by allowing quotas to be achieved "progressively, on the basis of suitable criteria". **The words "where practicable" should therefore be deleted.**
 2. The new text should make the obligation of broadcasters clearer and the words **"at least 51% of their transmission time"** should replace "majority proportion".
 3. As far as the base is concerned, we favour a **positive definition or, alternatively, a broader negative one** (e.g. explicitly excluding self-promotion or talk shows). We would also hope that the revised text of the directive actually encourages **new content** in the transmissions, so as to limit the disproportionate recourse to archive material to fill in quota obligations.
 4. Finally, the stand-still clause provided by **paragraph 2 should be updated**, to bring it closer to current transmission averages and ensure a meaningful interpretation of the Directive's aims and objectives.

- Article 5
1. Member States should not only be allowed to ensure measures of distribution and production of television programmes "where practicable". We believe that enough flexibility is provided by this article by allowing quotas to be achieved "progressively, on the basis of suitable criteria". **The words "where practicable" should therefore be deleted.**



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2. As far as the base is concerned, we favour a **positive definition or, alternatively, a broader negative one** (e.g. explicitly excluding self-promotion or talk shows).
3. We also favour an unequivocal **definition of "independent producers"** so as to identify the beneficiaries of the protection in a time where corporate integration in the sector is increasingly blurring the line between them and the broadcasters.

Furthermore, the Directive should also include measures aimed at **fostering the circulation of European non-national works**. Although this target was not a priority in the old Directive, we regard the distribution of these works as an important step to foster a stronger European sense of identity, develop an audience for European works and help overcome linguistic barriers.

As to the application of the Directive to **new technological means of exploitation**, we believe that quota obligations should also apply to digital delivery and to all the operators that are responsible for it, although with one reserve:

Despite different definitions and services (e.g. streaming, simulcasting, multicasting, webcasting, etc.) we regard pure interactive transmissions (i.e. entirely on-demand) as probably the only case where quotas would not be able to achieve the aim they are set for.

This is, provided a narrow definition of "interactivity" is agreed. In our view, a transmission can only be interactive when the user or the beneficiary **can fully choose the time, place and content he/she wants to access. All other modes of transmission are not entirely interactive** (e.g. near-on-demand) **and should therefore be subject to quotas**. Any possible personalisation of the content supply is not relevant in our view.

Digital thematic channels should also be subject to quota requirements, the Directive allowing for sufficient flexibility for them to comply with these targets in a progressive way, taking into account their often limited market share as well as the sometimes limited availability of European works.

Brussels, September 2, 2005



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