

CEPI's Position on the Media and Audiovisual Action Plan

As representatives of approximately 8000 independent production companies in Europe, equivalent to 95% of the entire European audiovisual production industry, CEPI welcomes the Commission's Media and Audiovisual Action Plan (MAAP) supporting the industry in its recovery from the Covid-19 pandemic while promoting the digital and sustainable transformation of the industry.

CEPI welcomes the European Commission Media and Audiovisual Action Plan, in particular in the current recovery context when European Production is in need of support. CEPI would like to contribute to the discussion on the MAAP with the below comments.

1. Representation of the industry

The MAAP is based on the European Commission's assessment that the fragmented nature of the European audiovisual sector is the greatest challenge that must be overcome through transformation¹. CEPI is highly concerned by that starting position and the direct comparison with US production, as it does not take into consideration the specificities and expectations of European audiences. While having a strong potential for export, European productions must first and foremost answer to the demand of their national markets, each with their own cultural and linguistic specificities. In CEPI's view, it is highly important that the European Commission understand this "fragmentation", not as a challenge, but as a reflection of Europe's cultural diversity and the ability of European productions to respond to the audience demand for culturally diverse content.

In CEPI's views, it is important that MAAP keep a holistic approach of the industry and considers the entire audiovisual value chain when developing measures to support the sector (e.g. supporting production without ensuring that exhibitors or producers are able to contribute to the promotion and circulation of content would eliminate any possibility of financial recovery.

- **CEPI calls on the MAAP to consider the important role of the industry in promoting the cultural diversity of content and fostering European values.**

2. Financial support for the audiovisual sector

European independent production companies currently face extremely challenging business conditions due to the cycle of disruptive lockdowns leading many productions to be interrupted, postponed or realised under difficult conditions due to the necessity to comply with high-cost safety protocols. (see [EY 2021 study](#) "*Rebuilding Europe: The cultural and creative economy before and after the COVID-19 crisis*")

The entire cultural and creative ecosystem needs immediate financial support to recover, more flexibility concerning access to grants and long-term policy that ensure the respect of our business pillars: territorial exclusivity and copyright protection. Action 2 of the MAAP proposes to promote private investment via the creation of a specific programme (MEDIA Invest). The current pandemic has

¹ Section *The Impact of COVID-19* of the Media and Audiovisual Action Plan

critically impacted cash flow capacities of all European production companies. Being mainly SMEs, production companies need immediate financial support via grants before being able to incur additional risk and risk increasing their debt. Many of the companies within our sector do not have easy access to Invest EU and due to the long application procedure for this instrument, Invest EU cannot be considered a swift instrument to support companies to recover from the pandemic.

As currently proposed, the Media Invest platform will be kickstarted using resources originally destined for the Media programme. Reallocating direct grants available under the Creative Europe Media Programme to finance credit instruments would reduce companies' cashflow that could be used for future projects development.

- **CEPI calls on the commission to make direct cashflow available via grants in addition to the creation of a guarantee for financial intermediaries.**

3. Cross-border availability of content

Action 7 of the MAAP calls for solutions to increase cross-border availability/circulation of audiovisual content within the single market. CEPI take notes of the Commission's proposal to launch a stakeholder dialogue and calls for a cautious approach on this issue. The protection of copyright and territorial exclusivity are at the heart of the functioning of the European audiovisual sector. Any dialogue on the cross-border availability of content should respect these two pillars.

Exclusive territorial licensing enables producers to undertake high creative and financial risks. In its recent [short-term review of the Geo-blocking Regulation](#), the Commission considered that beneficial effects, in particular for consumers "of an extension of the Regulation's scope are not clearly demonstrated." In addition to this, the [Oxera study](#) on the impact of including AV in the EU Geo-blocking Regulation shows that territorial exclusivity and "Justified Geoblocking" are essential to secure investment and to ensuring content circulation.

- **Mirroring the [2019 Council's conclusions](#), CEPI calls for policies that support territoriality and deliver circulation of works with market-led solutions such as co-productions and co-distribution to share risks throughout the value chain.**

4. Unleashing innovation through a European Media data space

The COVID-19 crisis has drastically increased the role of digital platforms including Video on Demand (VOD) services, which now represent an indispensable channel for the distribution of content. In addition, some SVOD platforms are also becoming producers, thus creating a vertical integration of production and distribution under one company.

Compared to other distribution channels (cinema, broadcasting) where audience data are available to the broader industry and can be used to steer production decisions, performance data for content viewed on VOD is often not made available. Among other issues, such data offers platforms a competitive advantage when producing and acquiring content, while creating a distorted playing field

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for the rest of the production sector. CEPI notes that performance transparency is also in line with the Directive on Copyright in the Digital Single Market (Article 19).

For this reason, CEPI welcomes the Commission's proposal to create a common media data space to support media and audiovisual companies in sharing data and developing innovative solutions. However, in order for such data space to be successful and provide European producers with a level playing field through access to data on audience measurement, participation of VOD platforms and other global streamers is essential.

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