

## COVID 19's impact on the audiovisual sector: short term and medium-term analysis.

### Suggestions

#### **I – Assessment**

Since the outbreak of the COVID crisis, the whole working program of the Commission is disrupted. Eurocinema has been constantly involved into the various subjects discussed last year i.e the Sat Cab Directive, the AVMS and the copyright Directive and this year i.e the stakeholder dialogue on article 17, the AVMS guidelines and the DSA. To this list, we must add the geo-blocking regulation evaluation.

We are carrying on following them through the different initiative reports of the Parliament (Artificial Intelligence and DSA) and we are contributing to their drafting and amendments through the position papers we communicate to the MPs.

Nonetheless, the COVID 19 crisis hardly hits our members and our efforts currently mainly concentrates into their survival. For most of them, time is of the essence, and the remaining time before their bankruptcy is a matter of months.

To illustrate our concern, you will find in exhibit the note we have communicated to the DG Connect during the stakeholder's meeting organized on March 31<sup>st</sup>2020. This note details the situation of the audiovisual producers since the beginning of the COVID crisis and suggests some action that could be undertaken at the European level.

So far, no peculiar emergency measures have been announced by the UE as far as the cultural sector is concerned despite the repeated requests of the sector and the European Parliament<sup>1</sup>.

However, the coordinated action of the Commission along with the Council and the Parliament, has refunded back the unused structural funds to the Member States with the possibility to use them for the liquidity shortfalls of the SMEs and with the entitlement to use the credit of one fund for the purpose of another fund. In light of the above, we have tried to advocate for special guidelines in favor of the cultural sector so that they can apply to the ERDF funds (Eurocinema's note is attached herewith in Exhibit 2).

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<sup>1</sup> There have been numerous serious recent calls to urge the EU to grant financing to cultural sector:

- [EP Open Letter | Petition - support for the cultural and creative sector 30.03.2020](#)
- [CULT | Opinion on the Guidelines for the 2021 Budget, Section III \(30.03.2020\)](#)
- [Joint Declaration Film and TV production sector - Fighting COVID-19 Crisis. 02.04.2020: \[https://d9e14560-9968-444c-84ba-0d9f0777935f.usrfiles.com/ugd/d9e145\\\_7cb674f6fe1d4396a1c835e3234522ad.pdf\]\(https://d9e14560-9968-444c-84ba-0d9f0777935f.usrfiles.com/ugd/d9e145\_7cb674f6fe1d4396a1c835e3234522ad.pdf\)](#)
- [Resolution of the parliament \(article 33 and 43\) : \[https://www.europarl.europa.eu/doceo/document/TA-9-2020-0054\\\_EN.pdf\]\(https://www.europarl.europa.eu/doceo/document/TA-9-2020-0054\_EN.pdf\)](#) :
- [Press communicate of the Cult Commission on April 21<sup>st</sup>, 2020: <https://www.europarl.europa.eu/news/en/press-room/20200420IPR77419/eu-funds-must-reach-media-and-creative-sector-say-meps>](#)

This call has been heard and taken into account into Mariya Gabriel's speech after the meeting of the Culture Ministers<sup>2</sup> and into the April 27<sup>th</sup>2020 Cult Commission's press communicate<sup>3</sup>.

The effects of this unprecedented event are immediate and will last for many years.

**On an immediate perspective**, the shutdown effects are numerous and can be observed on the whole chain of value of this interdependent sector:

- The authors, the crew (freelancers) and the artists must be paid: the lack of liquidity of the producers is impoverishing the whole upstream chain.
- The producers are smothered by the banks that are facing the shutdown of the shootings and the post-production. In addition, they must find some financing for their overheads (premises, permanent employees, loans to be refunded). The insurances do not cover the damages.
- The producers of recording performances are heavily hit since all the live performance festivals are cancelled, and the performance halls are closed. There is no visibility of when they will be able to come back to work.
- The deconfinement timetable is different from one country to another. A lot of co-production projects are stopped on a long-term basis.
- Their theatrical distributors and the international agents are not buying new films and cannot release the films they have purchased since all the markets and all the festivals have been cancelled and the theatres shut. Their liquidity difficulties are extremely important particularly for the one that had invested into marketing expenses just before the outbreak of the crisis. These sums will never be recouped and are forever lost. They cannot recover the receipts generated before the crisis because the theatres have cash difficulties as well.
- The theatres are simply closed and have to pay the overheads, and for some countries, their employees.
- The Tv broadcasters are struggling to have their films purchased delivered whereas their audiences have never been so high since the beginning of the lockdown. In the same time their commercial incomes are decreasing due to the decrease of the companies' marketing budgets.
- The VOD streamers are the big winners of this new situation and the influence on a captive audience has never been so high.

**On a long-term basis**, the difficulties met by the sector will last. Our industry is organized on a project basis and therefore the problems identified at the beginning will generate new ones:

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<sup>2</sup> Intervention of Mariya Gabriel in the following video stream whereby she quotes the cohesion funds as a tool to back the cultural sector:

<https://video.consilium.europa.eu/en/webcast/f8d36201-be4b-46df-9163-4992b6f10ceb>. This proposal has been re-quoted the French ministry of culture the same day

<sup>3</sup> <https://www.europarl.europa.eu/news/en/headlines/society/20200423STO77704/supporting-the-eu-s-cultural-sector-through-covid-19>

- the authors and the crews are un-employed and are already starting to look for new jobs. They won't be available for the sector in the near future and it is a whole generation of artists and a knowhow of professions that will disappear (this remark can be duplicated to the producers, the distributors and more generally the whole value chain since they all work on a tailor-made mode way for a prototype industry). The students of schools' sector that have will have just mastered in June won't find anyone to hire them (same probably in 2021).
- The producers have massively used their cash reserves to pay their overheads (and sometimes to complete the production of the films halted). These reserves are normally used to re-invest into the development of new projects. This will generate, within one year approximatively, a dry up of the future projects.
- The cancellation of the festivals has prevented the producers to complete their financing plans with international coproducers that they would have met there.
- The insurances do not want to cover the risks of the shootings: without this COVID damage insurance, no major actor or director is ready to sign.
- Some producers have had access to bridge loans (when their 2019's balance sheet were available and if they have collateral guarantees). They are now heavily indebted with no additional revenues to refund them since all their activities have stopped during the lockdown.
- In some countries, the banks have been demanded by the governments to grant low rates loans. It does jeopardize their activities and the rates will raise after the lockdown when the activity will resume.
- The national film agencies will be diluted by the crisis and might lose part of their funds.
- The distributors, when they will be able to return back to business will hesitate to take risks on films or audiovisual programs since:
  - o They won't know what the taste of the public will be following this unknown crisis. Will they want to go back to watch films into the cinemas? What will be their tastes? Dramas, genre films, social films?
  - o In addition, their liquidities will have vanished and their financial health will be diluted.
- The theatres will be authorized to re-open but the health obligations that they will have to abide by could lead them to forget the idea or to decide to schedule only market films, jeopardizing arthouse films.
- The sales agent having lost the opportunity to make their turnover in the various festivals cancelled, will have to sell the films they had purchased at lower prices and the "festival bumpers" will have vanished. In addition, like the distributors, they will be hesitant to bet on a story without a better knowledge of how the world has changed and what will be the public taste in the world.

- Finally, the Tv broadcasters, fragilized by their loss of incomes, will tend to broadcast patrimonial or market films to make sure the public is satisfied. The diversity will be hit here as well<sup>4</sup>

As we said previously, it is the streamers that will play their cards and the concentration of the offer will be accelerated. The competition of the European well-structured and old audiovisual sector will slip away leaving a leeway to their businesses.

Why?:

- Because the traditional economy won't be able to finance the same volume of productions and the same diversity of programs. The streamers will offer their services. They were a player amongst the others, and they will become the key and unescapable interlocutors.
- Because in some countries the US giants' films produced by local producers are using public funds: the costs of these productions are very high since there is no deferred sales incomes expected. Nonetheless these shootings hire a lot of local crews and the governments must make a choice between the economic benefits and the diversity issue.
- Because, during the lockdown, the consumption of the streaming platforms has considerably raised and the public will get used to their programs.
- Because the algorithms offer to the users what they want: the social differences will quickly deepen
- Because the consumers' practices to see films on streaming platforms compelled before the crisis the broadcasters to invest into expensive VOD platforms that often appear to be non-profitable. These investments could have been thought differently. The COVID's crisis accelerates the phenomenon.

**Culture is a matter of democracy. This is what is at stake today.**

**II – Suggestions:**

- Evaluate the economic and social consequences of the crisis on the sector. The European Observatory of the Audiovisual Sector seems to be the right place.
- Immediate emergency liquidity measures: Issue cultural guidelines to the Member States so that they consider this sector as economically and socially strategic. The SMEs of the sector must benefit from the structural funds during the crisis.
- Long term measures:
  - o Create a fund for the audiovisual sector that would go beyond the scope of the current Media program which would have a huge cultural ambition: the story of this incredible crisis we are crossing must be told by the European artists to the

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<sup>4</sup> See the Tribune of French distributors on this subject : [https://www.lemonde.fr/idees/article/2020/04/26/retour-massif-du-cinema-sur-france-televisions-souhaitons-que-cette-envie-frenetique-perdure-apres-le-confinement\\_6037795\\_3232.html](https://www.lemonde.fr/idees/article/2020/04/26/retour-massif-du-cinema-sur-france-televisions-souhaitons-que-cette-envie-frenetique-perdure-apres-le-confinement_6037795_3232.html)

citizens<sup>5</sup>. This fund could be managed in cooperation with the National film agencies in Europe, the Media desks and the Audiovisual regional funds. In order to shape this new tool, a mediator should be designated by the Commission who would work with the sectorial organizations, academics, sociologists, philosophers, economists, Member States and members of the Cult Committee of the Parliament.

- Create a European re-insurance fund for the COVID risk failing which no local insurance broker will be able to cover the activities of the sector.
- The Europe creative Financial guarantee facility must be seized by more Member States, be more flexible and address more companies. An evaluation of this instrument must be done previously.
- The implementation by all Member States of the AVMS directive is of the essence. Furthermore, the AVMS directive provides that the streamers must dedicate at least 30% of their programs to European Works<sup>6</sup>. In addition, the Directive provides for a possibility to impose production obligations to the platforms<sup>7</sup>. The guidelines of the Commission currently being submitted to the Member States should be released very quickly and the September's deadline for the implementation kept.
- The Commission should monitor the implementation of the SURE program for freelancers of the cultural sector in each Member States. It is essential that they remain capable to resume working when the industry will start again its activities.
- European guidelines for shooting, post-production, festival and cinema COVID measures should be drafted in order to have harmonized practices in case of co-productions.

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<sup>5</sup> Franklin D. Roosevelt, during the 1929 crisis and the New Deal had created a special program for artists ([https://en.wikipedia.org/wiki/Federal\\_Art\\_Project](https://en.wikipedia.org/wiki/Federal_Art_Project)). Great internationally known directors were launched by this program Even though our period is different, we must remember how the cultural matters had been taken into account by the US government. Same has been done by le Général de Gaulle after the Second World War (<https://www.cairn.info/revue-histoire-economie-et-societe-2009-4-page-97.htm>) with a program aimed to spread the French culture internationally.

<sup>6</sup> Article 13.1 of the AVMS directive 2018: *“Member States shall ensure that media service providers of on-demand audiovisual media services under their jurisdiction secure at least a 30 % share of European works in their catalogues and ensure prominence of those works.”*

<sup>7</sup> Article 13.2 of the AVMS directive 2018: *“Where Member States require media service providers under their jurisdiction to contribute financially to the production of European works, including via direct investment in content and contribution to national funds, they may also require media service providers targeting audiences in their territories, but established in other Member States to make such financial contributions, which shall be proportionate and non-discriminatory.”*

Exhibit 1  
COVID-19 | Impact on audiovisual producers

Document submitted by Eurocinema in view of the Stakeholder's meeting organized by the European Commission (Dg CNECT - Lucia Recalde)

Stakeholder's meeting – European Commission  
March 31<sup>st</sup> 2020

The following statement does not undermine the full understanding that I have of the difficulties met by the other fields of activities of the sector and more generally of the economic operators and individuals crossing this crisis.

The audiovisual producers are hardly affected by this unprecedented situation.

EUROKINEMA has interviewed many of them and gathered information of its exchanges. EUROKINEMA wants to draw your attention on the following:

- For the time being, the crisis causes strong cash problems and I wish to emphasize on that particular point:
  - As for the films in production, the banks generally only discount as per agreed terms (end of preparation, first week of shooting etc...). All the payments are stuck. Nonetheless, the salaries of the crew and the artists must be paid at the end of the month.
  - As for the permanent crews, most of them are working from home when they are occupied. Some had to be temporarily dismissed when it is legally possible (it has been put in place in France but not in all countries of Europe).
  - The banks will charge high rates because they are in risk, more particularly with SMEs.
  - Some Member States have put in place some counter-guarantees of bank loans. This is fine but it still means that the loans granted to SMEs will have to be refunded in 2021. This extra-burden will mortgage the future of the companies.
  - All the measures taken by the governments to alleviate the cash problems of the companies take time and often, when they are decided, there are computing problems that arise (overloaded platforms).
  - The production companies massively draw on their cash reserves for the time being and this strongly jeopardizes their capacity to invest into the development of new projects.
  - All the producers I have spoken to said that they have a solution for the next two or four weeks. After that, they might be obliged to apply for bankruptcy.
- The costs of this new situation cannot be evaluated at the moment since:
  - The crisis has not ended
  - All the consequences of the crisis are unpredictable. For instance:
    - in the future it will be hard to sell a project since we have no idea of how the public will react and what will be the market tomorrow.
    - The advertising incomes of the broadcasters are drastically shrinking: they will invest less into the future projects.
    - The audiovisual license fee financing public broadcasters is calculated in a different way in each country but in the near future, the consent/capacity of the citizens to pay it will decrease.
- The cancellation of the festivals means to the films and the producers:
  - A loss of prestige
  - A sale strategy that is knocked down since the festival's markets are essential to the sector.

- A coproduction market for the projects in financing process that has vanished since the festivals are important places to find financing and to close the co-production deals.
- The shutdown of the theatres means:
  - A loss of income for the financiers
  - A congestion of the releases when the confinement is over with a fierce competition jeopardizing the films that are not immediately expected by the market (often arthouse films but not only).

Considering all the aforementioned points, the main message to which EUROKINEMA wishes to draw your attention to is:

- The first thing Media program can do is to anticipate the outstanding payments without documentary proofs (to be delivered at a later stage)
- The use of the Observatory to monitor the evolution of the situation and the regulation in each Member State is necessary
- The Commission should work on a guide of recommendations addressed to the Member States specific to the sector which has its peculiarities. I remain at your disposal to participate to the drafting of such a document.
- In coordination with the European Investment Bank it is necessary to set an emergency program to guarantee bridge loans with no interest rates in coordination with the Member States.
- Workers, self-employed and free-lance are at the core of our activity. Many Member States begun to put in place emergency measures aimed to guarantee their payments and rights during the crisis. It is of the utmost importance that these efforts be encouraged by the Commission and monitored by the European Audiovisual Observatory



Exhibit 2  
COVID 19 CRISIS – A CRISIS OF THE REAL ECONOMY

SUGGESTIONS

Unlike the 2008 crisis, the COVID 19 economic shock is not speculative but linked to the shutdown of the real economy.

The small and medium enterprises are facing an unprecedented situation: an immediate lack of liquidity and a total absence of visibility of what will be their future in the next two years.

The audiovisual sector is not spared and the whole chain of value is affected (the shootings are stopped, the festivals cancelled, the theatres closed, the broadcasters diluted).

In order to face this crisis, the reaction of the Commission has been fast and strong and a Communication has been issued<sup>8</sup> whereby 37 billions were made available<sup>9</sup> to territorial and cohesion funds in addition to the 1000 billions of the ECB<sup>10</sup>.

Addendums to Regulations<sup>11</sup> have been voted by the Parliament on March 26 2020 and approved by the Council. These addendums authorize, within the framework of the public health crisis, the financing by structural and regional Funds of working capitals of SME's on a temporary basis.

The ERDF funds<sup>12</sup> in each country are either managed by the States or by the Regions.

This fund is a tool for the implementation of the cohesion policy of the EU. Its budget for the 2014-2020 period is 9,5 billion euros. The aforementioned Addendums to Regulations include a modification of the ERDF Regulation and allows the ERDF in article 1.1 to "support the financing of working capital in SMEs<sup>13</sup> where necessary as a temporary measure to provide and effective

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<sup>8</sup> Communication – COM (2020) 112 – Coordinated response to the COVID-19 Outbreak. [https://ec.europa.eu/info/sites/info/files/communication-coordinated-economic-response-covid19-march-2020\\_en.pdf](https://ec.europa.eu/info/sites/info/files/communication-coordinated-economic-response-covid19-march-2020_en.pdf)

<sup>9</sup> These 37 billion correspond to the structural funds not yet allocated in 2020 and a waiver of the unspent amounts.

<sup>10</sup> First, the ECB announced an extra 120 billion euro to be added to its Asset Purchase Programme (APP) and launched an additional new Pandemic Emergency Purchase Programme (PEPP) with an envelope of 750 billion euro until the end of the year - <https://www.cepweb.org/the-ecb-response-to-covid-19/>.

<sup>11</sup> Procedure file

[https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2020/0043\(COD\)&l=fr](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2020/0043(COD)&l=fr) and published text : <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2020:099:FULL&from=FR>

<sup>12</sup> ERDF regulation 1301/2013 - <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1301&from=FR>

<sup>13</sup> Commission Recommendation of May 6<sup>th</sup> 2003 concerning the definition of micro, small, and medium sized enterprises: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003H0361&from=EN>: article 2 provides :

*"Staff headcount and financial ceilings determining enterprise categories:*

1. *The category of micro, small and medium-sized enterprises (SMEs) is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.*

2. *Within the SME category, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.*

3. *Within the SME category, a microenterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million."*



response to a public health crisis". Besides, article 5.3 d of the 1301/2013 Regulation specifically provides that the ERDF will support "the capacity of SMEs to grow in regional, national and international markets, and to engage in innovation processes".

The audiovisual sector is a fairly well-organized sector set up in the EU territory. Many EU, national and territorial institutions, establishments, agencies relay its activities (Media desks, national film agencies, regional audiovisual funds), regulate its supports and subsidize it. Evaluation of the helps granted are performed ex-post. The hire conditions are checked along with the author's contracts.

Taking into account the above and:

- having in mind the audiovisual industry's emergency situation<sup>14</sup>,
- the impact this unprecedented crisis has on its companies, cast, free lancers' crews and authors,
- the importance of the sector for the diversity, for the international influence of the EU and for its economic development.
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We trust that the FEDER funds should address this specific strategical field of activity<sup>15</sup>. Our sector is, with no doubt of the utmost importance for Europe on a short, medium and long-term basis.

A large-scale economic program needs to be thought and set up urgently before a 60 year's policy is turned out.

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<sup>14</sup> Even though the crisis has not ended and the evaluation of the consequences of the crisis cannot be estimated, we already know that all the preparation of shootings, the shootings and the post-productions have been stopped in Europe. All the festivals have been cancelled and all the theatres closed. This situation strongly jeopardizes not only the present situation of the workers, the authors and the companies (payment of salaries, authors rights, actors, costs) but also the future : we are a prototype industry and the end of the crisis will not mean that the sector will start up again when it has ended.

<sup>15</sup> There have been numerous serious recent calls to urge the UE to grant financing to cultural sector:

- [EP Open Letter | Petition - support for the cultural and creative sector 30.03.2020](#)
- [CULT | Opinion on the Guidelines for the 2021 Budget, Section III \(30.03.2020\)](#)
- [Joint Declaration Film and TV production sector - Fighting COVID-19 Crisis. 02.04.2020: https://d9e14560-9968-444c-84ba-0d9f0777935f.usrfiles.com/ugd/d9e145\\_7cb674f6fe1d4396a1c835e3234522ad.pdf](https://d9e14560-9968-444c-84ba-0d9f0777935f.usrfiles.com/ugd/d9e145_7cb674f6fe1d4396a1c835e3234522ad.pdf)