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Delegations will find in the annex the Council conclusions on increasing the availability and competitiveness of European audiovisual and media content, as approved by the Council (Education, Youth, Culture and Sport) at its meeting on 29-30 November 2021.

**Council conclusions on increasing the availability and competitiveness of European
audiovisual and media content**

THE COUNCIL OF THE EUROPEAN UNION

RECOGNISES THAT:

1. The availability and effective accessibility of European audiovisual and media content is increasingly crucial for the sustainable development of the European media sector and intrinsically linked to the promotion of cultural and linguistic diversity as a main asset of its competitiveness.
2. In order to achieve this goal, targeted sectorial and horizontal policy measures should ensure adequate prominence of European audiovisual works and media content and stimulate new sources of financing and models of distribution in view of growing presence of global audiovisual and media content service providers and platforms.
3. Such measures are all the more important as the COVID-19 pandemic has had a major impact on the level and structure of financing of European audiovisual content. It has accelerated market trends of increased supply and demand for the content from online providers regarding the share of cinematographic and other audiovisual works originating in different national markets, the relations between successful theatrical and video on demand (VOD) releases, and the uneven visibility of such works across the different markets.¹

¹ Yearbook 2020/2021 Key Trends, European Audiovisual Observatory (Council of Europe), Strasbourg 2021, p. 20-21.

4. With the increased demand for online available content, evolved business models of financing investments by VOD providers and licensing are emerging, whereas the majority of European audiovisual and media content is still being produced by traditional players such as public and private media companies and independent producers that hold the capacity for the development of new projects and new talents. While public financing is more important for some sectors compared to others, at the same time differences remain between the systems and capacities of different countries.
5. In addition, the COVID-19 pandemic has widened the gap between the revenues from internet advertising and traditional advertising. Although television advertising held its competitive place against the use of internet advertising until the COVID-19 crisis relatively well, the share of online advertising increased in 2021.²
6. The distribution of audiovisual and media content is increasingly taking place online, in particular through online platforms, and plays an important role in the revenue stream of media companies. As creative and cultural content has high economic potential for Europe both online and offline, it is important to ensure fair access to it in order to safeguard the democratic debate, media pluralism and cultural and linguistic diversity.
7. In order to increase the availability and competitiveness of European audiovisual and media content, further action should be taken on the following priorities:
 - a) Cultural diversity
 - b) Promotion and prominence of European content
 - c) Sustainability

² Yearbook 2020/2021 Key Trends, European Audiovisual Observatory (Council of Europe), Strasbourg 2021, p. 46.

A. CULTURAL DIVERSITY

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ACKNOWLEDGES THAT:

8. As cultural diversity and creativity are at the core of the European audiovisual and media sectors in competition with other widely available content on the international market, it is important to boost the capacities of those sectors in order to reach larger audiences, increase the circulation of the content, and promote its various expressions, innovation and talents, while at the same time preserve our strategic cultural assets.
9. Digital solutions can facilitate larger accessibility, while co-productions, support for cross-border distribution, a vibrant independent theatrical and distribution sector, promotion of linguistic diversity and freedom of creation can have a major impact on achieving greater availability of the content and improved competitiveness for the audiovisual sector.

UNDERLINES THAT:

10. Co-productions, as well as international collaboration among professionals at all levels of the value chain (creation, training, development, production, promotion, distribution), facilitate cross-border distribution of audiovisual works, contribute to increase the development of the sector in partner countries, and help to improve cultural and economic exchanges.
11. In accordance with the principle of subsidiarity, international co-productions are subject to different funding systems and audiovisual capacities in the Member States, with different shares of diverse European content within European and international markets.

12. For European audiovisual works to succeed in both European and international markets, it is of utmost importance that content meets high standards in terms of high quality and innovation, reflect the cultural and thematic diversity of European society, and where relevant has international appeal.
13. The historical and cultural value of audiovisual archives constitutes an important asset for the sector and must be safeguarded to facilitate the dissemination and possible re-use of the content in the public interest.
14. In terms of freedom of creation, it is important to safeguard freedom of expression, media pluralism and diversity of opinions and ideas, which are among the fundamental values of the European Union.
15. Special attention should be given to the accessibility of content for people with disabilities and for older people.
16. Public service media in Europe play a significant role in safeguarding the public interest, encouraging diversity of opinions, creation of new and innovative content and ideas and combating disinformation and misinformation.
17. Fair remuneration of authors, producers and other right-holders is essential for their freedom of creation and economic independence, as well as for the sustainability, originality and competitiveness of the media sector.
18. A gender balanced and socially inclusive participation contributes to improving the quality and broadening the horizons of European audiovisual and media content.

INVITES THE MEMBER STATES AND THE EUROPEAN COMMISSION, WITHIN THEIR RESPECTIVE COMPETENCES, TO:

19. Facilitate co-productions, notably by promoting a European model of co-production, and promote their circulation in the countries involved and beyond, while taking into account the evolving context of investments by VOD providers³.
20. Encourage the exchange of know-how on co-productions, and foster collaboration from an early stage in the development of co-productions and among professionals across the entire value chain.
21. Develop improved policies to boost the competitiveness of the European audiovisual sector by fostering the creation of high-quality European content that can appeal to a wider audience, while giving support to authors as the key content creators and to co-productions as well as distribution of original content.
22. Encourage greater availability of original content in different language versions and support the development of digital solutions enabling linguistic diversity and ensuring the possibility of watching the content in the original language.
23. Promote the development of efficient marketing tools and film audience strategies and strengthening media and film literacy, while considering audience analysis and expectations.
24. Promote gender balance and social diversity in content creation by introducing incentives for encouraging stakeholders in the audiovisual sector to strive for equality, diversity and inclusivity, while respecting the freedom of creation.
25. Strive to ensure that the content of national archives and heritage film institutes' is being safeguarded and promoted, and is available on a larger scale, while ensuring respect for the intellectual property rights concerned.

³ The report by the OMC working group on co-productions will in this context be of significant importance.

INVITES THE EUROPEAN COMMISSION TO:

26. Continue to support through Creative Europe MEDIA networks of European independent VOD services having a high share of European content and making it visible through prominence activities.
27. Maintain the consultation process through the European Film Forum with the Member States and all relevant stakeholders on how to boost the long-term circulation of European content deriving from co-productions and other forms of cross-border collaboration, while taking into account the result of the dialogue with the audiovisual industry announced in the Media Action Plan on how to improve cross border access to and availability of audiovisual content.

B. PROMOTION AND PROMINENCE OF EUROPEAN CONTENT

THE COUNCIL OF THE EUROPEAN UNION

ACKNOWLEDGES THAT:

28. Access to diverse audiovisual content and information in all the EU languages, as well as to reliable and trustworthy content, is of high importance.
29. Public service media in Europe play a significant role in safeguarding democratic values, encouraging the diversity of opinions and enhancing the availability and competitiveness of European content, especially when using innovative technology tools.
30. The regulations on the promotion and prominence of European audiovisual and media content are intended to play an important role in ensuring media pluralism, enhancing cultural diversity, strengthening international competitiveness and promoting independent production.
31. In comparison to traditional ways of distribution, finding European works on VOD platforms can be challenging for consumers. It is therefore important to analyse the market and evaluate the effectiveness of the prominence measures.

INVITES THE MEMBER STATES AND THE EUROPEAN COMMISSION, WITHIN THEIR RESPECTIVES COMPETENCES, TO:

32. Speed up the transposition of the revised AVMSD⁴, since the effective implementation of the AVMSD will contribute to improve online access to European works.
33. Foster the discussion on the existing and envisaged solutions regarding the promotion of European works and enable the exchange of best practices on the prominence of European works' measures according to the different business models.
34. Develop the exchange of best practices and enhance cooperation between audiovisual regulators and film funding organisations.
35. Improve and facilitate the discoverability of legally available and creative content online in all the languages of the European Union, notably through online tools such as Agorateka⁵, with the aim of making it easily identifiable among a vast array of other content.
36. Encourage the development of databases such as Lumiere VOD⁶ in order to facilitate checking the country of origin of European works.
37. Foster continuous support for the theatrical distribution of European works, including the support for smaller and independent distributors for the circulation of a large diversity of European films, and support festivals as effective outlets for original and diverse content, both at national, European and international levels.

⁴ Audiovisual Media Services Directive (see reference in the Annex)

⁵ Pan-European portal of the European Intellectual Property Office (EUIPO):
<https://agorateka.eu/ea/About>

⁶ The first online Directory of European Films available on VOD, launched by the European Audiovisual Observatory on 16 April 2019 at the Council of Europe.

38. Assess and discuss the current situation of European works in the European Union, taking into account the market position of different stakeholders and all other relevant factors (level playing field, audiovisual and linguistic specificities in different countries, the current definition of European works⁷, etc.), with the aim of ensuring a diverse, fair and balanced market for European works.
39. Reflect on Europe's digital and technological sovereignty, taking into account existing European providers, and analyse the added value of a possible European platform, in cooperation with public service media, which would include European content from Member States to be made available to as many EU citizens as possible, while ensuring respect for intellectual property rights concerned and current competition and state aid regulations.
40. Encourage public service media to provide new opportunities for independent producers in the creation and promotion of European content.
41. Develop and encourage new schemes to promote the production and distribution of European audiovisual works targeting children and young adults.

INVITES THE EUROPEAN COMMISSION TO:

42. Continue playing an active role in facilitating the smooth implementation of the AVMSD via accurate monitoring, reporting activities and support to the Member States.
43. Analyse the situation of the European audiovisual market, focussing on the main challenges and imbalances from an EU perspective and possible solutions.

⁷ As provided for in the Audiovisual Media Services Directive.
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010L0013&from=EN>

C. SUSTAINABILITY

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UNDERLINES THAT:

44. In order to achieve its sustainable development, the media sector must build on its assets (such as creativity and cultural diversity); make the content available and visible; and adapt to the challenges and opportunities offered by the digital transformation.
45. Platforms and online providers, as global players in the digital economy, have an important role in ensuring the availability, accessibility and distribution of content. At the same time, they are becoming increasingly relevant for the democratic debate, cultural diversity, the respect of fundamental rights and values, the protection of minors from harmful content, and the protection of intellectual property rights.
46. Territorial and exclusive licensing remains essential for the freedom of creation, for the sustainability and financing of the sector, as well as for providing the basis for the development of new business models.

INVITES THE MEMBER STATES AND THE EUROPEAN COMMISSION, WITHIN THEIR RESPECTIVE COMPETENCES, TO:

47. Promote licensing practices aimed at ensuring a more equitable relationship between VOD providers, platforms, independent producers and other right-holders across the value chain, and to foster the development of measures designed to enable transparent and comprehensive information on the use of audiovisual works in online services, including the possibility to access data on the overall views and territories.

48. Promote the competitiveness of the European audiovisual sector, taking into account the role played by the territorial and exclusive licensing of rights in the funding system for European works. The question of licensing should also be included as part of the dialogue announced in the Media Action Plan on the circulation of audiovisual works.
49. Promote and support funding approaches that focus on innovation, growth, technologies and structure of the industry.
50. Further promote the relevant actions under the Media Action Plan, fostering the transformation and the resilience of the independent audiovisual and media companies, particularly MediaInvest, which is aimed at boosting investments in audiovisual production and distribution, as well as the interactive tool guiding media companies through various support instruments.
51. Encourage to increase the volume of European audiovisual works in the on demand catalogues with quality films covering a broad range in terms of subjects and age groups, and assess the possibility of setting up public-private partnerships for the dissemination of high-quality content at national, European and international level.
52. Focus on investing in citizens' resilience through measures for digital and media literacy in order to promote knowledge acquisition and critical thinking. This should empower users to identify illegal content and disinformation, as well as to understand the functioning of algorithm recommendation tools and benefit from the content discoverability.
53. Enhance and improve the training of professionals and companies in order to help them adapt to the changing creation and distribution model in the context of artificial intelligence (AI)-driven systems, and to foster the processes of reskilling and upskilling.

54. Promote and support the new possibilities that digital economy offers for the distribution of content with special regard to a fair balance between the development of AI systems and their use of the content to guarantee the competitiveness of both the AI sector and audiovisual and media sector. In this context, ensure a level playing field between relevant stakeholders, and help the audiovisual and media sector to thrive without hindering the dynamics of innovation.
55. Take all the necessary measures to prevent the access to illegal audiovisual content at national and EU level, and to establish effective online enforcement against commercial-scale infringement.
56. Take the necessary measures to enable the media sector seize the opportunities offered by the European Green Deal and the European Climate Law.
57. Discuss the possible policy initiatives related to the framework for internet advertising in order to ensure fair advertising rules for internet and traditional advertising with respect to audiovisual and media content.
58. Safeguard the independence of media organisations and take measures, as appropriate, to guarantee transparency and pluralism in the media sector.

INVITES THE EUROPEAN COMMISSION TO:

59. Ease the administrative burden related to the access to funding for European content, while fully respecting the requirements of the Financial Regulation.

Council conclusions

- Council conclusions on the strengthening of European content in the digital economy (OJ C 457/2, 19.12.2018)
- Council conclusions on improving the cross-border circulation of European audiovisual works, with an emphasis on co-productions (OJ C 192, 7.6.2019)
- Council conclusions on safeguarding a free and pluralistic media system (OJ C 422, 7.12.2020)
- Council conclusions on media literacy in an ever-changing world 2020/C 193/06 (OJ C 193, 9.6.2020)
- Council conclusions on ‘Europe’s Media in the Digital Decade: An Action Plan to Support Recovery and Transformation’ 2021/C 210/01 (OJ C 210, 3.6.2021)
- Council conclusions on the Working Plan For Culture 2019-2022 (OJ C 460, 21.12.2018, p. 12)

Legislative acts

- Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive, AVMSD) (L 303, 28. 11. 2018)
- Regulation (EU) 2021/818 of the European Parliament and of the council of 20 May 2021 establishing the Creative Europe Programme (2021 to 2027) and repealing Regulation (EU No 1295/2013) (L 189/34, 28.5.2021)

Communications and recommendations from the Commission

- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Europe's Media in the Digital Decade: An Action Plan to Support Recovery and Transformation, COM(2020) 784 final
- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – On the European democracy action plan, COM(2020) 790 final
- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Shaping Europe's digital future, COM(2020) 67 final
- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Making the most of the EU's innovative potential An intellectual property action plan to support the EU's recovery and resilience. COM (2020) 760 final

European parliament initiatives

- Report on artificial intelligence in education, culture and the audiovisual sector (2020/2017(INI))

European Audiovisual Observatory studies

- Yearbook 2020/2021 Key Trends, European Audiovisual Observatory (Council of Europe), Strasbourg

Council of Europe

- European Convention on Cinematographic Co-production, 1992