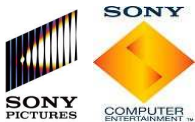




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CreativeMediaBusinessAlliance

Brussels, 23 July 2010

CMBA comments on the European Commission's Green Paper "Unlocking the potential of cultural and creative industries"

About the CMBA

The Creative and Media Business Alliance (CMBA) is an informal grouping gathering some of Europe's top media and creative business and industry associations. It was launched in November 2004 to give the sector a strong and united voice at the level of the European Union. The sectors represented by the CMBA are more than a mere driver for technology development or an "added value" to the EU's digital economy. They lie at the heart of the information society.

It is our impression that some of the questions in the Green Paper are mainly aimed at public authorities, whether at the local, regional or national level. That said, the questions appear to be based on research and documented assumptions regarding the conditions faced by creative and cultural industries (hereinafter "CCIs") in the marketplace. In this context, we welcome the opportunity to convey our thoughts. We have chosen to follow some of the general headlines of the document rather than to answer specific questions set out in the Green Paper.

1. "Policy context, objectives and scope"

The CMBA welcomes the Green Paper and fully agrees with its preliminary comment that *"[i]f 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 also strongly support the recognition made in the document that CCIs represent *"highly innovative companies with great economic potential and are one of Europe's most dynamic sectors, (...) with a high growth potential, and providing quality jobs"*.

These are important statements, notably because European CCIs are too often presented as almost 'endangered species' in need of 'intensive care'. On the contrary, European CCIs are high-value growth engines whose assets (mostly intangible assets that are valued, protected and commercially exploited on the basis of intellectual property laws) are at the basis of modern service and content-oriented market economies.

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This is not to say that CCIs do not face challenges. They clearly do. Some of these challenges feature manifestly in the Green Paper. Nevertheless, the CMBA would like to seize the opportunity of this public consultation to emphasize some crucial issues which were dealt with in passing in the Green Paper and which we consider would benefit from further development.

2. “Spillover effects” and “right enablers”

The CMBA fully supports the Green Paper’s statement that “...CCIs play a greater role in national and regional innovation systems than has previously been recognized by policymakers.” In our view, this acknowledgment is particularly relevant in the context of the development of knowledge-based societies where creative and cultural works are fueling digital devices and networks (e.g., broadband rollout), shaping socio-cultural trends and providing inputs to innovation by other industries and organizations in the broader economy.

Taking it from there, the Green Paper ponders the key question of “*how to accelerate the positive spill-over effects that culture and CCIs can produce on the wider economy and society.*” In this context, creative media industries play a valuable role in contributing to media literacy and promoting democratic debate, to the benefit of society in general. The document rightly emphasizes the need to reinforce further synergies between culture and education, as well as reflecting on how Europe’s economy could unleash its full innovation potential.

However, while reflecting on these issues, the Green Paper unfortunately totally leaves aside the fact that to continue playing a catalytic role for innovation and creativity in Europe, CCIs need to be able to protect their own investments in the first place. Closely related is the fact that they also need to be in a position to re-invest the fruits of these investments into new creative and cultural content and businesses. Indeed, the sad truth of the matter is that CCIs have in past years to a large extent been subsidizing the development of the ICT sector (e.g., broadband roll-out, online platforms of so-called “user-generated content”, online news aggregators, etc.) without always getting a fair deal in return in terms of commercial exploitation of their works and enforcement of their intellectual property rights.

In short, we wish to emphasize that a strategic document aimed at unlocking the potential of CCIs cannot downplay the importance of strong copyright protection and effective IPR enforcement, notably in the online world. Unfortunately, the Green Paper does not seem to attach the necessary importance to the fundamental basis of Europe’s CCIs, including their intangible assets, and therefore misses the opportunity to ask pertinent questions about how to ensure the continued activities and future potential of Europe’s CCIs.

3. **“Mobility” and “circulation”**

The Green Paper includes a call for promoting the mobility of artists and cultural practitioners throughout the EU and beyond. The CMBA fully supports this objective. Increased mobility benefits CCIs both directly and indirectly. Indeed, CCIs rely on authors, performers and cultural practitioners at large who constantly need to develop their skills through research, exploration, traveling and, more generally, cultural exchanges.

The European Union is in a key position to both identify and remedy obstacles to mobility, such as visa regulations, social and fiscal regimes and any administrative barriers. In addition, the European Commission can provide useful help simply by means of the information it is able to distribute on the different legal, regulatory, procedural and financial aspects related to mobility in general and mobility in the cultural sector more specifically.

That said, the CMBA considers that it is preferable to avoid lumping together issues regarding mobility of cultural practitioners and questions relating to the circulation of creative cultural works within the EU. These are clearly distinct topics. Our view is based on the belief that the EU should focus its attention on removing regulatory obstacles to freedom of movement within the internal market but that it should fully take heed of the commercial freedom of CCIs to distribute creative cultural content following a wide range of licensing models.

Licensing models will necessarily differ depending on the type of content that is being distributed. The industries that the CMBA represents encompass a wide range of content creation and distribution models which have their own characteristics and therefore different needs. In addition to the language issue, different content sectors have different ways of financing production and distribution, different traditions of management of rights and different modes of consumptions.

One uniform “distribution model” would not fit all content industries and is bound to stifle innovation. The current diversity (e.g. of licensing models) in the CCI marketplace is what drives the launch of new services and new business models. It is clear to us that no single business model could be effective at meeting the diverse needs of European creators, different content sectors and European consumers’ expectations.

We thank you for your attention and remain at your disposal should you have any questions.

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