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Federation of Screenwriters in Europe

The **Federation of Screenwriters in Europe (FSE)** is the voice of more than 6,000 professional writers of the audiovisual sector at European level. Created in June 2001, it is a network of national and regional associations, guilds and unions of writers for the screen. In 2012, it comprises 24 members from 19 European countries.

The common concerns of European writers are reflected in policy documents : the FSE Policy Paper, published in December 2007; the European Screenwriters Manifesto, launched in November 2006 and the Founding Charter of the FSE, written in June 2001.

The FSE is monitoring European debates and legislative issues. The FSE launches campaigns in favour of screenwriters' rights, collaborates with other creators' groups on joint campaigns and seeks constructive dialogue with the other creative forces of the audiovisual sector. It organizes major events where screenwriters debate on the new challenges of their profession (First World Conference of Screenwriters, Athens, 2009; European Conference of Screenwriters, Thessaloniki, 2006; RISE festival, Strasbourg, 2004).

The FSE is also active at international level, works closely with the International Affiliation of Writers Guilds (IAWG) and keeps contacts with other writers' organisations around the world.

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War against illegal streaming : protection of authors' rights or censorship ?

It is difficult to miss the rather numerous press articles on illegal streaming, legal measures to fight piracy on internet and freedom of access to the net... Here is a brief selection of news.

In France, three trade unions of producers and distributors of the audiovisual sector (APC, FNDV, SEVN) sent a 100 page claim to several internet services providers and search engines, in which they detail measures to be taken to block streaming sites offering users illegal free access to series and films (one of the measures is to block the DNS address of a website to prevent users from finding it on the net). Another debate is running, especially during the presidential campaign, over the law that the French government adopted in 2009 to fight illegal streaming : the **Hadopi** system, also called "Creation and Internet". It develops a gradual response to people who illegally share music and audiovisual files on internet, from simple warnings to imprisonment.

The European Audiovisual Observatory, in the latest issue of its IRIS newsletter, reports that **in Spain** "the new government has implemented the controversial Royal Decree based on the Intellectual Property final provision contained in the Ley de Economía Sostenible (Act for Economic Sustainability), informally known as Ley Sinde Act". The main aim of the law is to protect copyright owners, creators and other rightsholders against financial harm caused by illegal downloading.

The same IRIS newsletter reports that on 11 January 2012 **in the Netherlands**, "the District Court of The Hague ordered two Dutch internet access providers to block access to The Pirate Bay. Furthermore, Stichting BREIN, a foundation protecting the interests of the Dutch copyright industry, has been granted a right to directly request the providers to block future IP-addresses and (sub) domain names that may refer to The Pirate Bay".

In Ireland the Minister for Research and Innovation signed a Statutory Instrument into law to ensure that rights holders are in position to apply for an injunction against intermediaries whose services are used by third parties to infringe a copyright or related right. This was a requirement of EU directives but had been incorrectly transcribed in to Irish law.

In the US, in the frame of a wide anti-piracy procedure, the American court of Justice closed on 19 January 18 streaming websites, including Megaupload and Megavideo. Founder Kim Dotcom was arrested on copyright infringement charges. He is widely rumoured to have made millions of dollars from these websites. This spectacular arrest happened in a context of a large protestation of the Web (online petitions, open letters published in the media, blackout...) against the project of two anti-piracy laws (**PIPA** - "Protect Intellectual Property Act" and **SOPA** - "Stop Online Piracy Act"), a series of measures against websites considered to act against the American copyright laws. Both projects are still under discussion. However, though the Obama administration believes that "online piracy is a real problem that harms the American economy", the White House released a statement in which it says that it

will not support PIPA and SOPA : “While we believe that online piracy by foreign websites is a serious problem that requires a serious legislative response, we will not support legislation that reduces freedom of expression, increases cybersecurity risk, or undermines the dynamic, innovative global Internet”. UNI-MEI reports on its website that the **US creative community** (coalition of Hollywood guilds and unions) speaks out on the anti-piracy legislation. “In a joint statement the unions and guilds underline the importance for effective enforcement of intellectual property rights in the digital environment and call for a true and open debate on how to guarantee creativity and freedom of speech on the Internet”.

UNI-MEI launched at its General Assembly meeting in Mexico City on 29 November 2011 a **campaign** at international level to build a global IP culture and to fight against digital theft. “Affiliates committed to widen the campaign beyond the protection of creative content and remuneration of creators and call for building a global IP culture. The campaign will reach out to all stakeholders and decision makers as well as civil society. The aim is to bring about change in legislation, industrial policy and education to recognise intellectual property as a driver for creativity, the fundament for artistic and creative freedom and the basis for economic sustainability for the entire creative industry”.

The debate is also fierce at **European level**. In a speech on “Creativity for the Creative Sector : Entertaining Europe in the Electronic Age ” pronounced at the European Parliament during the Intellectual Property Forum on 24 January, Vice-President of the European Commission responsible for the Digital Agenda **Neelie Kroes** said : “Of course, many are also concerned about issues of illegal content. And I agree with them that we need to push people away from piracy towards legal content. Sites that knowingly enable massive copyright infringements and make large sums

of money at the expense of creators need to be stopped. As regards legislation to combat piracy, I have said on a number of occasions that we should not put in place disproportionate and highly intrusive measures with the potential to disrupt legitimate online activities. Therefore I think the US legislators have done the right thing by making a pause and seeking a better anti-piracy solution than the SOPA and PIPA bills which were on the table.”

Meanwhile, the European Commission is pushing for the adoption of the **ACTA Treaty** (Anti-Counterfeiting Trade Agreement), which affects, among other products, Internet. ACTA is supported by the entertainment industries but rejected by the civil society (for example La Quadrature du Net) who sees a major threat to freedom of expression online. The European Commission referred ACTA to the EU Court of Justice to know if the agreement respects fundamental rights. EU Commissioner for Trade **Karel de Gucht** declared on 22 February : “I welcome that people have voiced their concerns so actively – especially over the freedom of the internet. (...) So I believe that putting ACTA before the European Court of Justice is a needed step. ” Read also his speech “Why we need ACTA ”. ACTA was also discussed in public in the European Parliament Committee for International Trade for the first time on 29 February. This committee will make a formal recommendation to the European Parliament on whether or not to approve ACTA. There was also a public workshop on the 1st of March in which MEPs, academic experts, civil society organisations and EU officials discussed ACTA’s possible merits and disadvantages.

Now the International Trade Committee of the Parliament has voted against referring ACTA to the Court of Justice (the commission has already decided to make this referral).

S&D spokesperson on trade, Bernd Lange (DE), said that the S&D wanted Parliament to reject ACTA immediately

rather than postponing its decision by referring it to the court. "Today's decision not to ask for legal advice from the Court of Justice is the first sign that this Parliament is ready to reject ACTA. It was a mistake from the beginning to put counterfeit goods and internet content in the same agreement. The European Parliament was not involved in the negotiations and now we are asked to say either yes or no, without the possibility of amending the shortcomings. We cannot support the text as it is. ACTA will probably be buried before the summer", he said.

In parallel the review of the intellectual property enforcement directive from 2004 is continuing. Another stakeholders meeting will be held on the 26th April and the internal work for the Commission on the issue continues apace.

What about the creators ?

Most articles on the issue conclude on the complexity of online streaming, difficulties to impose legal solutions that are efficient without endangering the structure of internet and censoring freedom of expression. They also report on the debate between commercial interests of the industry (mostly referred as "right-holders") and the equation "internet = free access to contents". The voice of the primary creators of these very contents seems hardly audible, if not totally ignored in this context. That's the reason why FSE was positively surprised by Neelie Kroes' speech at Avignon on 19 November 2011, "Who feeds the artist?", in which she considers the situation of artists: "Morally, we want dignity, recognition and a stimulating environment for creators. Economically, we want financial reward so that artists can benefit from their hard work and be incentivised to create more." Representatives of FSE met in February with Ms Boix Alonso, Head of Neelie Kroes' Cabinet.

VOD and new distribution platforms : an attractive alternative to illegal streaming ?

Will the fight against websites offering illegal streaming benefit legal platforms ? Price, quality and diversity of the VOD (Video on Demand) offer on internet is also debated at the moment.

While the European Commission is examining the results of the consultation on the **Green Paper** for the online distribution of audiovisual content (see FSE newsletter of Sept. 2011), **Marielle Gallo**, French MEP, organised on 24 January in Brussels the IP Forum on "Online distribution of audiovisual and music works in the EU", during which she exchanged views with Neelie Kroes and a panel of experts (but unfortunately no creator). In her conclusions, she lists a number of obstacles and solutions to the development of online distribution of audiovisual works : cloud computing, licensing process, fragmentation of the internal market, VAT, etc.

The Committee on Culture and Education of the European Parliament is preparing a report initiated by French **MEP Jean-Marie Cavada** on the **online distribution of audiovisual works in Europe**, result of a consultation of several months following the Green Paper issued by the Commission. "Jean-Marie Cavada decided to focus specifically on the implementation of community strategies to facilitate the development of the online offer of TV programs and films while stressing the important role that the EU should play in the establishment of a genuine single market for online digital content". The report should be voted in plenary session in June or July.

Again, let's quote **Neelie Kroes** in her speech of 24 January at the European Parliament : "What we are seeing at the moment is huge growth and diversity. First, growth in consumer expectations. They expect an offer that is open rather

than limited, 'on demand' rather than on a fixed schedule, interactive and targeted rather than passive and controlled. We cannot ignore that : because these days if consumers don't get what they want, they won't be afraid to switch off. Second, growth in the scope of creative content. It's not just about taking 'old media' like music, TV and film and digitising them – although that is in itself lucrative. It's also about new media that didn't even exist before, content which is interactive, social, even user-created. Remember : the more widely we define culture and entertainment, the bigger are the market opportunities, the more unlimited our horizons. (...) And third, growth in the number of ways you can make money, and better reward creators, using content. Possibilities way beyond the old models. (...) Ironically, this growth and diversity has brought convergence. As the range of consumer demands, the range of creative works and the range of business models become more diverse, then the ways to operate them have tended to converge ". She also said in her speech that the European Commission will be coming forward with a paper on **Connected TV**.

The **MEDIA programme** of the European Commission communicates on its efforts to support new distribution models and new media. In 2011 it dedicated more than five million euros to support fifteen VOD platforms and DCD (Digital Cinema Distribution). See the detailed results [here](#).

It also spent 1,7 million euros to support seven pilot projects. Let's mention Seed Your Rights, a project of the German company Mediapeers aiming at facilitating cooperation between rightholders and VOD platforms.

At the Berlinale this year, the MEDIA Unit announced its project to launch a new call for proposals to sustain new distribution models of audiovisual works using simultaneously several distribution platforms (theatres, VOD, internet...) in several European countries. The total budget should reach 2 million euros.

— BRIEF NEWS

The **European Audiovisual Observatory** published in 2011 an IRIS Special on the "Regulation of On-demand Audiovisual Services : Chaos or Coherence? "

SAA, the Society of Audiovisual Authors, a European network of collecting societies of the audiovisual sector, organised a conference in Brussels on 29 November, "Audiovisual authors online - seizing the digital revolution ", to bring together multiple stakeholders (and in particular EU legislators) to look at the evolution of the sector and how audiovisual authors fit into it. Read also British screenwriter Paul Powell's keynote speech at the conference.

The **European Audiovisual Observatory** has just published a new IRIS plus report on "**Answers to Internet Piracy** ", which offers a brand new analysis of what is being done to combat piracy in Europe. The lead article focuses mainly on Russia, one of the countries listed by the International Intellectual Property Alliance (IIPA) on the "priority watch list " regarding movie, music, video game and software piracy, recently submitted to the Office of the U.S. Trade Representative. The publication also provides "overview articles on the European Commission's approach to the public domain, the French reflections on broadening HADOPI's scope of action and on various case law in the field of copyright from the EU, Sweden, Germany, Spain and France."

On 22 February the **French Parliament** ratified a law relating to the **digitization of commercially unavailable books**, published in France before the 1st of January 2001. The National Library will digitize some 500.000 to 700.000 unavailable books. Authors will have to make themselves known within a six-month delay, whether they want their books to be excluded from the catalogue or whether they accept their works to be digitised. Moreover, they will also have to prove that their publisher does not possess the rights for digital reproduction of their works. A collecting society will collect the rights and will compensate only the authors who will have made themselves known, and the publishers. French parliamentarians and several professional organisations (the society of French authors and the national union of publishers) seem to be happy with this new law. Others, mainly authors, denounce the "**official piracy** " introduced by the law, with a system quite close to the "opt-out " initiated by Google, however much criticized in France, as well as a dangerous threat to the inalienable authors' property rights. See several articles on the issue on www.actualitte.com.

Open letter to President Barroso

"It's a paradoxical situation : never has there been so much talk in Europe of the potential of the cultural and creative industries, and so little support for implementing policies that would defend and promote cultural diversity! " The **European coalitions for cultural diversity (CEDC)**, with the participation of the European Platform on the potential of cultural and creative industries organised a conference in Brussels on the 31st of January on "Culture, an added value for Europe " to develop the following questions : "What do creators and professionals expect from European policies? How could the development of creative and cultural industries be better fostered and sustained in Europe? ". The conference was opened by MEP Marie-Thérèse Sanchez-Schmid, member of the Culture Committee of the European Parliament and author of the report "Unlocking the potential of Cultural and Creative industries ".

On this occasion, CEDC is circulating an open letter addressed to Mr. Barroso, President of the European Commission, to remind the European Commission of the urgent need to defend strong commitments in favour of culture.

CEDC is an informal network of 13 national associations representing the diversity of the professional cultural organizations. They encourage the European institutions to adopt a European policy more favourable to culture and the diversity of cultural expressions. The network is hosted by SACD (French collecting society).

Creative Europe can improve

The Campaign We are More, Act for Culture in Europe advocates for changes in the Creative Europe proposal (the new Culture/Media programme of the European Commission for the years 2014-2020; budget under discussion). The organisers of the campaign have just published a statement addressed to all

Ministers of Culture and Members of the European Parliament to call for an improved recognition of the social dimension of arts and culture and the importance of risk taking and experimentation. In particular, the campaign "regrets the proposed discontinuation of operational grants in the Creative Europe programme and calls on the EU Member States, the European Parliament and the European Commission to ensure that the measure supporting European bodies within the Culture Strand recognises the specific role of European networks, as key actors ensuring active participation of civil society in European cooperation and policy-making ".

The campaign We are More also announced that on 9 February, the French Minister for Culture, Frédéric Mitterrand, published a statement defending the role of culture in Europe : "**Decalogue for Europe of Culture** ". 22 EU Ministers of Culture and the EU Commissioner for Culture signed the statement. So far, only Denmark, the Netherlands, Poland, Slovakia and Sweden have not added their signatures.

Recommendations to decision-makers

The **European Platform on the Potential of Cultural and Creative Industries** is a group of more than 40 organisations (among which FSE) representing a wide range of cultural and creative sectors. Created in 2008 in the context of the EU Structured dialogue with civil society, the platform aims to highlight the fundamental role of cultural and creative industries in Europe and unlock their full potential, through policy recommendations and public advocacy.

In 2011, the Platform launched a series of policy workshops on various issues, designed to open up spaces of dialogue and exchange between public decision makers and sectoral operators, but also to identify practical solutions to key issues : relating to culture and creation : how to enhance the support of the EU

structural funds to the cultural and creative industries; mobility and circulation of artists and works; education, skills and professional training; digital distribution and promotion; encouraging investment in cultural and creative content. The recommendations resulting from these thematic workshops were presented during the European Culture Forum in Brussels on 21 October 2011. Read in particular the recommendations issued by the workshop on digital distribution and promotion on p. 15-18 on reduced VAT, licensing, transparency and collective management of rights, creators' remuneration, VOD, etc.

Collective Bargaining

In Spain, screenwriters in Valencia Region require quality regional public television

Given the serious crisis affecting the audiovisual sector, EDAV and FAGA (both Spanish screenwriters guilds member of FSE), want to publicly express their opinion about the news related to the industry that appeared recently in the Spanish media :

"We defend and believe in a model of regional public TV channels ruled under the criteria of quality programming and achievement of social and cultural purposes specified in its charter of foundation. Concerning Channel 9, one of the causes of the crisis in audience, as well as the income crisis which has led to the current economic situation, is precisely the abandon of these public interest objectives.

Concerning the next ERE announced by Radio Television Valenciana, we believe it is unfair that workers are the victims of a bankruptcy situation which has come, not by their lack of professionalism, but by the mismanagement of public resources.

In the same way that we sympathize with the workers of the agency, we want to record the anguish of the rest of the Valencian audiovisual workers who since a few years have been living a situation of economic strangulation and lack of opportunities.

For all these reasons, we believe it necessary to open public debate with all stakeholders in the sector, and we urge politicians

to lead them to reverse the current situation and achieve a viable future for the audiovisual in Valencia Region ".

In Italy, Authors' claim on SIAE Solidarity Fund

Italian authors have addressed an open letter to representatives of the higher national institutions of the country, to denounce a resolution concerning SIAE (Italian Society of authors and publishers) Solidarity Fund, which they consider unfair both in its contents and application. Each author member of SIAE gives 4% of his/her author's rights to a Solidarity Fund which in return compensate the lack of regular revenues for precarious workers. If authors welcome the need to reform SIAE, they ask the authorities to cancel the resolution and want appropriate changes to be decided by democratically elected governing bodies.

Songwriters denounce unfair contracts

The **European Composer and Songwriter Alliance (ECSA)** organised in Brussels on 2-3 February a conference on creativity, legal environment and revenues, business models, authors rights, European copyright... "Music starts with the creators. We therefore strive to make a leap forward in the ongoing search for a fair balance between the needs of the creator and those of the user." One of the immediate outcomes is a formal complaint that ECSA submitted to the European Commission (DG Competition), stating that some of the most prominent broadcasters breach EU antitrust rules and very often impose unfair contracts on individual composers and songwriters.

Legal Case

SAA details on its blog a legal case of the European Court of Justice opposing the scriptwriter/director of a documentary film and the producer of the film. The same issue is also addressed in the latest FERA newsletter.

State Aid

The European Commission has launched a new [public consultation](#) on the state aid criteria it proposes to use to assess Member States' film support schemes in future. It is the second and final consultation in the process of reviewing the current state aid assessment criteria (Current Cinema Communication, due to expire on 31 December 2012). The new draft communication is based on the proposals made in the issues paper and the contributions received in the first round of public consultation (June 2011), to which FSE [contributed](#).

The European Parliament adopted a [resolution](#) on **European cinema in the digital era**.

Digital Strategy for European Film Heritage

The European Commission has published the final report of the study on the challenges of the digital era for film heritage institutions, conducted last year by the consultancy Peacefulfish (see our newsletter of September 2011). You can read the final study in English [here](#). A summary in French, English and German is also available [here](#).

Collective management

The European Commission is about to propose a directive on collective rights management in Europe. In the meantime, you can read the Roadmap on this legislative initiative [here](#).

Net Neutrality

Net Neutrality is an issue we follow at FSE and we invite you to read our June 2011 newsletter. The Council of Europe published its conclusions on the open internet and net neutrality in Europe on 13 December 2012 during the 3134th Transport, Telecommunications and Energy Council Meeting. As reported in the recent [IRIS newsletter](#) by Fabienne Dohmen, the Council acknowledges the fact that new technologies contribute significantly to eco-

omic growth, innovation and job creation in Europe. However "the creation of a well-functioning competitive digital single market by 2015 still poses challenges that need to be addressed", in particular net neutrality : "the open and neutral character of the Internet must be preserved (...) the Council invites stakeholders to develop strategies and economic choices that support an open internet platform, thus preventing the exclusion of small players and innovative models and enabling access to or transmission of online content, applications and services". Read the Council conclusions [here](#).

Net neutrality is also mentioned in the "Cavada Report" (read above) and the European Audiovisual Observatory published in 2011 the [IRIS plus 2011-5, Why Discuss Network Neutrality?](#)

New European Film Database

MEDIA Film Database (MFDB) was recently launched by Media Desk Catalonia in Spain. This [online database](#) lists all the films that have received MEDIA support from the year 2001 until now. The aim is to bring the results of MEDIA support to films closer - not only to professionals - but also to European citizens, journalists, researchers, film students, etc. The database lists more than 800 films and shows in which festivals these films were shown and the awards they received.

Europe's Television Heritage Online

Several thousand TV archives (videos, stills, texts and audio from European broadcasters and audiovisual archives), from the 1900's until today and coming from some twenty European countries are now available for free on [EUScreen platform](#). It's the result of a collaboration between 37 European partners, aiming "to promote the use of television content to explore Europe's rich and diverse cultural history." The website announces online exhibitions using audiovisual archives and an online journal dedicated to European Television History to come soon.

News from FSE members and other screenwriting events

UK / Radio Script

BBC Audio Drama Awards "aim to celebrate and recognise the cultural importance of audio drama, on air and online, and to give recognition to the actors, writers, producers, sound designers, and others who work in the genre." Tinniswood Award for Best Radio Drama Script went to *Gerontius* by Stephen Wyatt and Imison Award for Best Radio Drama Script by a writer new to radio was awarded to *Amazing Grace* by Michelle Lipton (In conjunction with the Society of Authors and the Writers' Guild of Great Britain).

UK / "Who controls the media and Who controls the news ?"

WGGB announced a national debate on 17 March in London, during which politicians, union representatives, journalists, campaigners, commentators and academics discussed how the media can be reformed, in the context of the "Revelations about the conduct of Murdoch-owned papers (which) have pitched the press into crisis".

Festival on Web TV in France

The third edition of French-speaking Web-TV Festival was held in La Rochelle, France, on 21-23 March 2012. The event proposed a professional market dedicated to Web-TVs, a film competition, round-tables and workshops on the audiovisual creation for the web...

Awarding New Media Writing

The Writers Guild of America, West (WGAW) and Writers Guild of America, East (WGAE) announced the results of the awards for outstanding achievement in writing for screen, television, radio, news, promotional, videogame, and new media writing at simultaneous ceremonies in Los Angeles and in New York City on 19 February 2012. For the second year, the guilds recognize pioneers in the frontier of web video. The outstanding achievement in writing for original new media

awarded *Episode 1, Episode 2, Episode 4, Episode 5, Episode 6* (Aim High), written by Heath Corson & Richie Keen and the outstanding achievement in writing – derivative new media award was given to *A New Day, Family Matters, Neighborly Advice, Step Mom, Everything Dies (The Walking Dead)*, Teleplay by John Esposito, Story by John Esposito and Greg Nicotero.

Training

MEDIA recently published The Training and Networks Guide 2012, which provides a complete training offer for professionals in the audiovisual industry in Europe - programmes co-financed by MEDIA, including script development. "The Guide aims to be a practical tool to help European professionals to plan their future career development and to facilitate networking and teaming up with their peers to develop joint audiovisual projects internationally."

FSE

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