

**REPORT
BY THE THINK-TANK
ON THE
AUDIOVISUAL POLICY
IN THE EUROPEAN UNION**

MARCH 1994



PREFACE

This report was prepared by the audiovisual Think-tank set up by the Commission last November as part of the preparations for its Green Paper 'Strategy options to strengthen the European programme industry in the context of the audiovisual policy of the European Union'.

It was felt appropriate that contributions from representatives of European professional organizations, those involved in the administration of the MEDIA programme,¹ Member State authorities and any other interested organizations, selected individual professionals with recognized status in the programme industry should also be given the opportunity to make their views known through their personal contributions to the analyses of the issues involved and their recommendations for strategic solutions.

This Think-tank, chaired by António Pedro Vasconcelos (film and television producer, former coordinator of the National Secretariat for Audiovisual Production in Lisbon) was composed of David Puttnam (film producer, director of Anglia TV and Enigma productions), Michèle Cotta (journalist and television producer with France 2, former president of 'la Haute Autorité de l'Audio-visuel' and past head of news at TFI), Peter Fleischmann (film director, founder of the European Association of Film Directors, director of Hallelujah films) and Enrique Balmaseda Arias-Davila (lawyer, former legal adviser to Spanish television and past director-general of the Institute of Film Arts in Madrid).

The expertise of Gaetano Stucchi (RAI) in the field of new technologies also provided valuable input.

¹ Council Decision of 21.12.1990 concerning the implementation of the action programme to develop the European audiovisual industry (MEDIA) (1991-95); Doc. 90/685/EC published in OJ L 380, 31.12.1990, p. 37-44.

The resulting Think-tank report, which it now seems appropriate to make widely available, contains a wealth of analysis and proposals. It does, however, only reflect the opinions of the authors and is in no way an officially approved Commission document.



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LETTER BY THE
EUROPEAN COMMISSIONER
IN CHARGE OF
AUDIOVISUAL SECTOR
TO THE CHAIRMAN
OF THE THINK-TANK

Dear friend,

You are no doubt aware of the importance the Commission and I myself attach to the development of Community policy in the audiovisual sector. At a time when technological developments are making new types of communication possible, I am thoroughly convinced that the sector should be rethinking its future and the Commission should step up its support measures.

At the meeting of ministers in Mons on 4 and 5 October last year, I informed the ministers of the 12 Member States of my intention to present to Parliament and the Council a Green Paper on the audiovisual sector in order to stimulate debate on various options for the future.

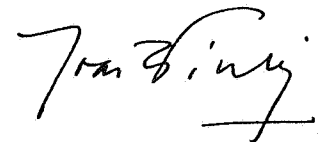
It is in this context that I am inviting you to chair the Think-tank the Commission is setting up, in order to ensure the involvement of several internationally renowned figures in the sector.

The Think-tank will bring together a small group of individuals who, such as yourself, have a certain authority in this sector. Its job will be to come up with suggestions for guidelines for audiovisual policy in line with the conclusions reached at Mons and in the context of preparing the ground for the Green Paper on the audiovisual sector with a view to the Conference that is to follow its publication. Its deliberations should lead to the production of a report, which is to be the basis of the Commission's Green Paper. In addition, each member will be called on to chair a thematic group at the Conference itself.

In order to facilitate the Think-tank's proceedings, which are to be conducted between 1 November 1993 and 30 May 1994, it

will come under the MEDIA Business School, since this is the structure in the Community programme most involved in carrying out forward-looking research on audiovisual matters. Among the other members of the Think-tank will be David Puttnam and Enrique Balmaseda. The rapporteur will be Gregory Paulger, Head of DG X's Audiovisual Policy Unit.

I look forward to working together with you.



João de Deus Pinheiro

LETTER BY THE
CHAIRMAN OF THE
THINK-TANK TO THE
EUROPEAN COMMISSIONER
IN CHARGE OF THE
AUDIOVISUAL
JOÃO DE DEUS PINHEIRO

Brussels, 3 March 1994

Dear Commissioner,

I am pleased to submit to you the report of the Think-tank, which you were good enough to ask me to chair.

As chairman, I would first of all like to underline the considerable efforts made by the members of the Think-tank, not only in replying to your call within very tight deadlines but also to overcome their inevitable and healthy divergencies on many issues. I was able to appreciate the efforts they made and I am grateful to them.

Indeed, with different professional and national backgrounds, it seemed at times difficult, if not impossible, for all the members to reach agreement as much on the issues at stake as on the recommendations for action. At all events, the seriousness of the situation, the urgent need to supply answers and the necessity for strong political support for the effort our industry must make to overcome its colossal deficit and its lack of competitiveness lead each of us to stress the consensus items rather than those which remain problematical.

Therefore, although all the members of the Think-tank have agreed on the text I am pleased to submit to you, this does not mean that all the doubts in each of our minds have been lifted as regards both the diagnosis and recommendations.

Moreover, as you yourself will see, we do not pretend to provide definitive answers to all the questions, nor ready-made solutions to all the problems. We would not presume to do so, even if we had had the time and the means.

I am, however, convinced, and I believe the others share this view, that what is important is to find the right questions and to put them in the appropriate manner.

A lot of ground remains to be covered at the conference you have decided to convene in the wake of the publication of the Commission's Green Paper. It will then be up to the practitioners and their representative bodies, the politicians and, I would even say, public opinion to take a position.

Lastly, on behalf of my colleagues, I would like to thank you for the trust you have placed in us, and which we have endeavoured to deserve.

Yours sincerely



António-Pedro Vasconcelos

I — INTRODUCTION

(THE POST-GATT ERA)

The GATT negotiations highlighted the strategic importance of the audiovisual sector. What has become just as obvious is that the only two players that have remained in the competition are the United States of America and the European Union.

For a few weeks, politicians and public opinion were mobilized for a passionate debate where the rhetoric often hid the real stakes. The Americans wanted to ensure continued domination of the European market, which is today vital for the growth of a sector that is their second-largest source of earnings from exports. To do this, the Americans were bent on eliminating, or at least putting a freeze on, the fragile structure of European regulatory and aid systems, which were especially not to be extended to the new mediums of cable and satellite.

The Europeans, on the other hand, were determined to remain totally free to regulate and support the audiovisual sector in all its aspects and in all its areas.

And yet, the Americans spoke in the name of free competition (a system that in many countries has become distorted) and demanded the liberalization of a market that they had, in the mean time (as T. Guback explains very well¹), 'shaped to ensure it would play in their favour' while their market remains practically closed to imports.

Europe, in contrast, staunchly defending its cultural identity, gave reason to believe that the audiovisual sector was not of major economic importance and especially could not be considered a common activity, regulated by ruthless market rules: 'cinema is not a product like the others'.

This subtlety, unquestionably right, was nevertheless the historical source of a lot of misunderstanding. André Malraux, ending his prophetic 'Sketch of cinema psychology', said, 'Moreover, cinema is an industry.'

¹ Guback, T. *Non-market factors in the international distribution of American films*. Guback's text is a decisive contribution to understanding the often overlooked importance of constant support from the American Administration for their film and television industry and especially the way in which their diplomacy has always backed the effort of the MPAA (Motion Pictures Association of America) to ensure domination of the European and world markets.

Until the 1960s, this double nature of films — work and product — did not pose any serious problems in Europe for those who made them: popular art, European cinema was concentrated in two or three major production centres, the prestige of film stars crossed borders, films enjoyed the public's favour, receipts largely covered production costs and investors did well.

This was a time, not so long ago, when cinema was still practically alone on the audiovisual market, before the explosion of video and the deregulation of the hertzian waves which brought in its wake a whole multitude of private stations, and also before the proliferation of satellite and cable and the announcement of digital compression.

Having at the same time reached its full artistic maturity, with its best directors (American and European, but also from other continents like India and Japan) controlling the forms of film narration, cinema could be said to have become finally that total art, that universal language — the 'seventh art', which the visionary Canudo spoke about at the beginning of the century.

This 'victory' of art over industrial constraints, artists over businessmen,² encouraged new generations of directors everywhere in Europe to fight for the definitive 'liberation' of cinema from what they believed to be market constraints. Later we see how and why this small revolution took place and to what extent it contributed to making Europe, in the audiovisual field, a continent broken up into several small islands isolated from one another, without the ability either to finance themselves or to face the invading domination of the American products that they thought they were fighting.

An artistic activity, probably, to the extent that its consumption is not material but spiritual (factory, but of dreams), cinema, like the whole of audiovisual production, nevertheless obeys the laws that regulate the entire industrial production. Even if it manufactures prototypes, the film and audiovisual industry must find the means in the market to finance them.

Forgetting this obvious fact, Europe over these past few years has chosen what could be called an environmental approach to its film and television production, acting as if it was a 'species on the verge of extinction' that had to be protected from industrial predators.

It is not surprising, therefore, that intervention by the States and the Community in the audiovisual sector too often favoured this attitude, which today enables the Americans to accuse us so easily of protectionism. Yet quotas, specifications, subsidies and taxes have failed to stop the inexorable advance of American products on our markets, which in 15 years have risen from 35 to 80% on average in cinemas while European products today only account for 1% of the American market.³

In the USA, after the crisis of the 1960s, marked by the upheaval of industrial and business structures — due especially to the advent of television — as well as corporatist demands and the

² There will never be enough said about the historical importance of copyright — which still does not recognize directors as the author of the film (the director's work being considered as 'work made for hire') — in the consolidation of the American industrial system and which has been for the producer one of the most powerful means of control over his product and for the banks a solid guarantee that the industrial spirit prevails over any vague artistic desire on the part of the director.

This battle, which has been going on since the 1920s, has not to date succeeded in changing the system, despite the recent canonization by Hollywood of its great directors (with the grand tributes the Academy made to Alfred Hitchcock, Billy Wilder, John Huston, Frank Capra and many others). It is being waged today at the head of the Director's Guilds by people as important as Spielberg and Lucas and has the support of the Associations of European Directors. It should be added, in any case, that the problem of American directors having control over their work has almost disappeared. A director, in the European sense of the word, like Martin Scorsese admits that he has never had any problems with his producer. It would, moreover, be interesting to one day tell the story of this battle of the great American directors to ensure control over their works: Manckiewicz, Preston Sturges and Richard Brooks winning the battle to have the right to write the screenplays to their films themselves; John Ford going to shoot westerns in Monument Valley, far from the watchful eye of the producer, and only filming the shots absolutely necessary for editing; Preminger filming sequence shots,

proliferation of independent producers, worsened by the disappearance of the last generation of pioneers and the crisis of confidence suffered by the nation after the traumatic defeat of Viet Nam, the Americans regained their vitality.

They were once again on the offensive, with the strategy of blockbusters, the rapid integration of new marketing channels (video and television) and an increased concentration of the major companies throughout the world, while Europe devoted its energies to building a kind of Maginot line increasingly incapable of containing the advance of the Hollywood war machine.

And now on the eve of the end of the century, with Europe groping around for a response to the technological challenge of high definition, the Americans surprise us with a leap forward. Stressing the development of research on the digital transposition of images and developing interactive technology, they are capable of covering the planet with their images through means that make obsolete the traditional forms of their consumption.

Even if films continue to be their leading product and cinemas the privileged place on which the other markets depend, the combination of television, computer technology and telecommunications is going to totally change the forms and concept of entertainment as well as the traditional organization of its operations, investment priorities and especially the relationship between the consumer and the product.

Paradoxically, from an economic point of view, the model of the cinema theatre, that is to say the model of the direct exchange (projection-ticket), remains profitable in the new reorganization of telecommunications. All the most prominent market trends in the development of the telematic and television product offering and in audiovisual distribution show that at the centre of the system lies the direct choice of the public, its desires and buying power, its needs and the available money and time to satisfy them.

Rather than the institutional or advertising resources on which television has lived for a long time, what counts is individual spending, which tends to be growing and totally taking over the financing of the audiovisual industry. This shows to what extent the industry is once again dependent on the choice of the public, meaning the individual, which some call the consumer and which we prefer to call the citizen.

This is the new challenge. It has been calculated that in the medium term (according to figures in the Commission's White Paper on growth, competitiveness and employment) household spending on audiovisual products is going to double. The problem is determining whether this rise in consumption is going to further worsen our deficit, that is to say whether it is going to mean more profits for American products or, on the contrary, be an opportunity for us to get back in touch with the public.

which prevented any manipulation by the producer; Hitchcock starring on the same level as the actors ('actors are like cattle'); Hawks including his signature in the credit titles and becoming himself producer etc. Demands today from the directors of the American Guild are especially on the 'moral right' that enables directors to consider themselves the authors of their works and thus to forbid any abusive intervention on their work once the copy has been established, which becomes a problem of major importance, especially with the endless possibilities of manipulation created by new technologies. In this sense, it is important to quote an extract from the speech by a producer-director as prestigious as George Lucas ('Senate hearing on Bern Treaty'): 'People who alter or destroy works of art and our cultural heritage for profit or as an exercise of power are barbarians, and if the laws of the United States continue to condone this behaviour, history will surely classify us as a barbaric society. ... The corporations, which hold many of the copyrights, are usable entities. They are bought and sold, and corporate officers change on a regular basis. ... Supporting the moral rights clause is good business. ... Artists need a sense that the work they are doing is meaningful and that what they are doing will last, complete with all the subtle nuances they have struggled so hard to achieve.'

³ If we do not take into account British films which account for about 2% of the American market, but which are often financed with American money or American films shot in the United Kingdom.

Only we have the answer, which is to modernize our distribution structures, on which will depend, as stated below, whether we have 'more market for our products and more products for the market'. For this, we must first begin by creating solid companies structured according to the dimension and future energy of the European market, adopting from the start a transnational and multimedia strategy.

This restructuring of distribution networks is of capital importance, as important as the investment to be made directly in the production of new titles, which will constitute the basis for the machine to start up again and for new players to appear.

It is in the dysfunctioning of this interdependence that the key to our deficit has resided for so long. Creating a new distribution network is also going to establish new kinds of demand, because this network will be obliged to invest in projects that are going to feed it. In turn, the optimization of consumption that will result from this, in terms of time and money, may also open up new frontiers to the audiovisual market: more resources, more enterprises, more European industry.

This is an optimistic vision. It is in keeping, moreover, with the conclusions of the White Paper. This market, which today employs 1 800 000 people in software alone, can increase its resources if we simply stop coming up with so many excuses. That is what the Commission seems to do: 'If we begin with the principle that we have a good chance of increasing our market share, if we devote the necessary efforts to it, it is not absurd to hope that the sector of audiovisual services can provide employment, directly or indirectly, to 4 000 000 people.'⁴

But to do that we must not limit ourselves to gaining on paper what others are gaining on the ground. Our systems of regulation, including the 'television without frontiers' Directive which is to date the only tool at Community level, must be expanded and improved with the sole aim that justifies them: helping create a competitive industry where the European viewer recognizes himself and which opens other markets to us.

If we want to go on talking forever about the American strategy, we must also accuse ourselves of a lack of strategy.

The situation has not miraculously changed after the positive outcome of the GATT negotiations. Europe has only won the first round, the Uruguay Round.

This first improvement nevertheless marks a decisive moment for Europe in the awareness of the strategic importance of the audiovisual sector. But if this awakening is to contribute to developing a competitive industry, the trade balance between our two con-

⁴ Commission White Paper 'Growth, competitiveness, employment — The challenges and ways forward into the 21st century', 5 December 1993.

tinents must first be restored, which implies being able to overcome quite a few contradictions and misunderstandings.

The Americans must be reminded that liberalism is not synonymous with the law of the strongest and that it is precisely because of strong protection from competition that their industry has developed so well there.

Europeans must perhaps be reminded that Europe was only great when it was able to speak for the largest number: Cervantes like Shakespeare, Molière like Mozart and Verdi like Picasso were able to make their national geniuses universal. That is the great challenge facing our creators today. Europe must find its universalist vocation again. Like the Americans, if we want to reach a world audience, we must first recover our own public. If it were only a question of protecting our film culture, soon all we would have left would be the cinemas.

For Europe, recapturing access to its own market is a right that could be called natural. But Europe cannot wait for it to be sent from heaven. It has to move from a position of cultural resistance to one of industrial offensive if our culture is indeed to survive.

In a nutshell, it is not a question of protecting ourselves from the market but protecting the market.

Must we break down the barriers and let the market alone take care of restoring the balance and bring competition into play? Certainly not. We have seen elsewhere and in other areas the catastrophic results of this shock therapy.

What has become obvious after the Uruguay Round victory is that defending Europe's cultural identity, forged over the centuries by the rich mosaic of its many languages but whose common trait has always been universality, is, in the case of the audiovisual sector, inseparable from recapturing the European market and therefore its audience. This implies consolidating an industry capable of meeting and even anticipating demand, an industry that has the political support and sufficient financial means to become competitive on world markets.

In Europe, over the past 15 years, only the audiovisual sector of all the large industrial sectors has not acquired a transnational outlook.

And yet Europe has talent, a market and sufficient money to create this industry. But today, for lack of confidence and strategy, all these assets are of less benefit to it than to the USA.

Analysing and understanding how this situation has been possible and proposing the means to change it is the objective of this report.⁵

⁵ The purpose of this report is not to paint a comprehensive and detailed picture of the situation of the audiovisual industry in each country and the EU as a whole. For this, publications such as the one by IDATE (*Marché mondial du cinéma et de l'audiovisuel*), CERICA (*Statistiques du cinéma en Europe*), London Economics (*ACE market modules*) as well as the information sheets published regularly by Screen Digest, among many others, are largely sufficient, even if they do not always coincide.

The sole purpose of this report is to outline the major trends in the industry and audiovisual policy in Europe, and to focus the debate on the question confronting all those trying to find the answer: 'How can the European Union create a programme-making industry that is in keeping with its market, its resources and its ambitions and that meets and anticipates the demand of the public in order to become competitive on the international market?'

António-Pedro Vasconcelos

II — DIAGNOSIS OF THE SITUATION

A — GLOBAL APPROACH

1. ECONOMIC DIMENSION AND IMPACT ON EMPLOYMENT TRENDS

The European Union is the greatest developed audiovisual market in the world in terms of consumers and the second in terms of value. As reported in the Commission's White Paper on growth, competitiveness and employment, the audiovisual market of the EU today, including the production and distribution of programmes (software) and hardware, is estimated at ECU 257 billion. The programmes industry represents 54% of that global market. US industry exports to Europe have increased surprisingly in the last 10 years, from ECU 330 million in 1984 to ECU 3 600 million in 1992. In 1991, 60% of US audiovisual programme exports came to the European Union and the EU trade deficit with the USA stands at around ECU 3 500 million per year.

In the European Union the demand for programmes has risen from 200 000 hours in 1981 to 650 000 in 1992 (a consequence of the increase in the number of television channels: 40 in 1981 and more than 100 today). The demand for audiovisual productions in the EU will go up from ECU 23 billion today to ECU 45 billion by the end of this century; the number of channels will rise from

120 to over 500 and the number of programme-hours from 650 000 to 3 500 000.

At least 1.8 million people today are employed in the EU audiovisual sector and it is estimated that a further two million jobs could be created in the next 10 years if Europe makes maximum use of the growth potential of its domestic market and of the outside European markets. Most of these jobs will demand high levels of skill.

2. SOCIOCULTURAL IMPORTANCE

It is estimated that people in industrialized countries dedicate an average of three to four hours per day, to watching television. In the immediate future audiovisual technology will also be fundamental to kinds of teaching, education and occupational training sectors.

'Humanity will to a large extent be educated by audiovisual means. Audiovisual practice will invade everything in the coming decades, but this does not mean it will have to be worse; this depends on how we do it. In all events, I do not think that any of the cultures in our continents, whether large or small, will be able to develop normally unless their roots are nurtured in the European context.' These are the words of a European, the Czech intellectual, Antonín Lihem, which summarize to perfection — it is impossible to say more with

