

**... And, action!**

**Stakeholders' workshop towards a more accessible, competitive, diverse, and inclusive European film industry**

**By Caterina Sganga & Pelin Turan**

The European film industry (EFI) stands at the intersection of the EU cultural and market policy agendas. In light of its multi-layered nature, having an insight into the operationalisation of the EFI and developing strategies to boost its competitiveness – while remaining loyal to the EU values, principles, and norms – require the use of a panoply of methodological tools that could reflect the spectrum of diverse policy and normative frameworks and the greatly various stakeholder perspectives and sector-specific needs and expectations. The [REBOOT](#) project constitutes an academic response to this need. By adopting an interdisciplinary approach to analyse the multi-faceted and complex governance models that inform the EFI, REBOOT also pays particular attention to the policy and legal dimensions of this phenomena.

To provide a comprehensive analysis of the impact of the EU legal framework on the EFI, its institutional context and the policies that inform film-making activities in Europe, SSSA has joined forces with [ELIAMEP \(Hellenic Foundation for European and Foreign Policy\)](#) and the [University of Vienna](#). SSSA is conducting an extensive mapping of the enablers and disablers for the competitiveness of the EFI created by EU and Member States' laws in the fields of copyright, media, cultural heritage, data protection and open data policies. The systematic overview and detailed legal analysis of these subjects will help highlighting how and to what extent the Union effectively supports or hinders stakeholders' creative engagement with cultural and creative materials. This study will be complemented by the mapping of EU values, principles, and rules on equality and non-discrimination, cultural diversity, and pluralism, which will allow identifying the legal leverages that may be used to achieve a more accessible, competitive, diverse, and inclusive EFI.

To this end, SSSA devised an eight-staged thematic model, which builds upon the consensus on the five stages of the film-making process, and includes (i) development, (ii) pre-production, (iii) production, (iv) post-production, (v) distribution, (vi) exhibition in traditional venues, (vii) exhibition in alternative and digital venues, and (ix) preservation. For each stage, an evidence-based and research-supported brainstorming was performed to come up with a preliminary list of key areas from which legal hurdles and disputes may arise.

This model constitutes the basis for performing a systematic review of the international, regional, and supranational legal instruments adopted and administered, respectively, by the United Nations, Council of Europe, and EU, in order to identify the rules that have or may have a direct or indirect impact on the EFI. This exercise was particularly useful to outline the themes to be explored in more detail, also by taking into account the existing empirical evidence and literature on the matter. Whereas these initiatives were mainly concerned with having an overview of the regulatory framework through a top-down approach, SSSA has also drafted a set of survey questions addressed to experts of selected EU Member States, with the aim of getting a better understanding of the implementation of these principles and rules in national contexts, also to have a bottom-up view of the same phenomena. The combined analysis of these multi-level framework will constitute the backbone of SSSA's research, which will be complemented with the findings gathered from interviews with key EFI stakeholders and EU policy-makers. This exercise will allow evaluating the adequacy and capacity of the existing regulatory framework to respond to the needs and expectations of the EFI, and to reflect on the policy trends crucial to the sector.

In fact, even a glance at the existing legal landscape reveals the co-existence of various problems that haunt the EFI, and a multitude of tools that can already offer solutions to them. For instance, the selection of cultural content to be used in a film during the development stage requires ascertaining whether such material is protected by copyright or belongs to the public domain. In the former case, film-makers may explore different options, from the presence of exceptions and limitations (E&Ls) to copyright that may enable the unauthorized use of such content to the possibility to use out-of-commerce extended collective licensing mechanisms, up to the need to obtain normal licenses from rightholders. Even when the identification of rightholders is easy, the variety and quantity of the content to be licensed, as it is often the case for documentary film-making, may be overburdening and impose an indirect restriction to the artists' freedom of artistic expression.<sup>[1]</sup> In addition, the fact that a specific content is in the public domain does not necessarily allow its free use, since several EU Member States have a *public domaine payant* that obliges the payment of a fee for such uses.<sup>[2]</sup> The fragmentation of national rules on key matters such as the type of content and the purpose of free uses covered by E&Ls may further complicate the process.<sup>[3]</sup> Member States may also feature overlapping legal regimes with harsher requirements due to the concurrent application of different rules – as it happens between copyright, public domain and cultural [heritage law](#). And the list of challenges may continue – suffice is to think at the problems raised by the cross-border licensing of the films for exhibition at different venues, and the cross-border portability of digital content available on VoD and digital platforms. While the literature on the challenges created by IP, data and media laws is rich, the same cannot be said in the field of promotion of cultural diversity, visibility of historically marginalised or vulnerable groups and minorities, and accessibility issues for persons with disabilities.

To have an open discussion on the relevance and prevalence of the issues identified in the preliminary stage of the research, SSSA held an online workshop on 27 April 2023, involving all

members of the REBOOT Consortium and advisory board, along with the representatives of the key stakeholder groups. The workshop had the goal to discuss understanding of the legal implications of the film-making process, to explain the methodology applied to identify gaps and enablers for achieving a greater competitiveness, cultural diversity and accessibility of the EFI, and to present interim research results. Participants were encouraged and welcome to share their perspectives and provide feedback on SSSA's methods and research agenda on the basis of their diverse background, expertise and experience, with the aim to fill in the gap between 'law in books' and 'law in action' and refine the scope of the research.

The workshop channelled out a rich experiential knowledge stemming from the day-to-day practices of distinguished representatives of the EFI. The unique perspectives brought in by industry representatives and creators have not only guided the better alignment of the legal mapping performed by the SSSA team, but it has also increased the Consortium's general level of awareness on current industry-specific concerns and debates that have not yet been consolidated into the policy debate. This first exchange marks just the beginning of an inter-institutional conversation between industry and academia, while a series of other occasions are currently being planned in order to enhance this dialogue, with the goal to trigger meaningful changes in the EFI and the European cultural scene at large. This will lay the groundwork to articulate a set of policy recommendations to be presented to the EU and national policymakers, and code of best practices for stakeholders by the end of the REBOOT project.

## References

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