

The European Union's Market Access Strategy in a changing global economy

Response of the UK Film Council

1. Please tell us about yourself

1. Name of the organisation or institution on behalf of which you respond

UK Film Council

2. Country where your organisation is based

UK - United Kingdom

3. Type of organisation

A Member State or a public or semi-public authority

4. E-mail address

carol.comley@ukfilmcouncil.org.uk

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Anonymous views will be taken into account, and drawn on in the summary response to the consultation.

Do you wish your participation to remain confidential?

No

2. Identifying, prioritising and tackling barriers to trade

2.1 How do we identify barriers?

Q 1: Do you favour new approaches to enable the European Commission to work more effectively with Member States to anticipate likely problems in third markets?

Yes

If yes, what specific approaches do you think might work?

The European Commission's work around market access is not visible to many firms and organisations in the film industry. They would not automatically think that they should be talking to the Commission as part of their activities. They would not be aware that the Commission might be able to assist them in either anticipating problems they might encounter in third countries or addressing those problems. They would not be aware, for example, that some EU delegations have Intellectual Property (IP) specialists. If they were aware of the Market Access Database (which is not easy to find if you do not know it is there - it is not highlighted on the EC's Trade home page and it does not come up if you type the words, "market access database" , into the EC's Search engine) they would find it difficult to find the information - under "Communications and Audiovisual Services" or under "IP Enforcement", most of the fiches are empty. So a necessary first step is to better inform industry about what resources exist, perhaps (in this case) working through DG Information Society which, through the MEDIA Programme, is in contact with the film industry. The Commission might also encourage member states to feed through information, perhaps using the national film agencies (of which the UK Film Council is one).

Q 2: Do you favour new arrangements to improve the flow of information between business and the European Commission on trade barrier problems?

Yes

If yes, what specific suggestions do you have? What works well in existing arrangements? What could work better?

Once the industry is better aware of the Market Access resources that are available, it can be encouraged both to ask questions and to feed through information. We know (anecdotally) of many problems faced by European film rights owners in accessing the Chinese market: quotas on non-Chinese films allowed to be distributed in China, the need to work through very few distributors, the Chinese authorities indifference to the pirating of European

films on DVD. But none of this information seems to have trickled back to the Commission or, at least, is not to be found on the Market Access Database. It is difficult, for example, to find out whether there is an IP specialist in a particular EU delegation. There is, for example, no obvious link from IP Enforcement (dealt with by DG Internal Market) to information about IP Enforcement in third countries. In short, the Commission's information about market access aspects of film do not seem to be well-integrated into the Commission's general information about film. This needs to be addressed.

Q 3: Should the European Commission's Market Access Strategy have additional special features to better suit the needs of Small and Medium sized industries?

Yes

If yes, what specific arrangements would you recommend? [Please also reflect in your reply above what contribution your organisation could make to improve identification of market access barriers.]

Our understanding that small and medium enterprises (SMEs) are less likely than large enterprises to be aware of and involved in market access matters. Thus the lack of visibility of the Commission's market access initiatives is likely to be greater in a sector such as film production and distribution which consists almost entirely of SMEs. The suggestions made above - the need to use those parts of the Commission - as well as bodies like national film agencies - that are in contact with the SMEs in the sector to raise the profile of the Commission's market access resources - particularly apply to the film sector. SMEs will need education - who can help. what help is available, what the SMEs themselves may be able to contribute.

2.2 How do we prioritise barriers for removal?

Q 4: How should the Commission prioritise trade barriers, markets and sectors to be addressed by the Market Access Strategy?

The UK Film Council, in consultation with the UK government, has identified a number of national markets outside of the European Union which are of particular interest. These include markets having actual or potential significance as export markets for UK film (e.g. United States, China, India, Korea, Japan, Russia) and markets which, particularly in relation to film production services, are seen as strong competitors to or collaborators with the UK (e.g. Australia, Canada and New Zealand). We are obviously most interested in the film sector, or the audiovisual sector generally. The trade barriers faced by the film sector include import quotas (e.g. China, Korea), lack of IP protection (e.g. China, Russia), the inability to enforce contracts

(e.g. India) or the simple lack of transparency of the market (almost everywhere). Of course, the European Union which has given no undertakings in the GATS on audiovisual services, would not seem to be in a position to press third countries strongly on barriers they present to European exporters especially since we explicitly give a strong priority to the need to preserve cultural diversity and recognise the validity of measures to privilege national film production over films from other countries.

2.3 How do we tackle barriers?

Q 5: What changes to existing EU approaches would help ensure faster, more effective resolution of issues for EU exporters?

The UK Film Council believes that it is preferable to work with third countries, especially through established institutions like the Association of South East Asian Nations (ASEAN) or Mercosur, to develop a common understanding of the importance, say, of combatting piracy, or encouraging the circulation of each other's films, of high standards of media literacy, of the preservation of the audiovisual heritage, rather than to think in terms of resolving conflicts. If a third country, for example, gives a low priority to fighting piracy, it is difficult to imagine that such a country will be an effective ally of the EU in dealing with piracy and other IPR issues.

3. The Market Access Database

Q 6: In general, do you feel the MADB is effective as a tool for exporters in its current form?

No

Is it user friendly?

No

What works well? What works less well? (please comment)

See answers above. In summary, it is not clear why, when the Commission itself is engaged in dialogues with third countries over market access, as in the case of the quotas in China on the number of films that can be released theatrically and the restrictions on how those films can be released (e.g. the requirement to release the films through one of a very small number of Chinese companies, the information regarding these quotas and how the issue is being addressed is not included in the database. The absence of such crucial information from the database may act as a disincentive for firms and, indeed, for member states, to contribute to populating the database.

Q 7: Does it cover the right range of information on export conditions and on barriers ?

No

... and the right range of countries ?

No

If not: To serve your needs better, what would need to be changed?

The flow of information into the database has to be improved. A simple filter, in the meantime, that would prevent the user being referred to empty fiches, would be beneficial to reduce frustration. It would be useful to have a facility to enable a user, on discovering that information he or she thought should feature is in fact absence, to send a message to the database manager.

4. Conclusion: new approaches to working together

Your comments:

This consultation exercise has been a valid educational opportunity, sensitising us to the need to engage better with the Commission on issues of importance to our sector and alerting us to areas for which the flow of information between the Commission, member states and companies may be susceptible to improvement.