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MAPPING CULTURAL DIVERSITY GOOD PRACTICES FROM AROUND THE GLOBE

A Contribution to the Debate on the Implementation of the
UNESCO Convention on the Diversity of Cultural Expressions

MAPPING CULTURAL DIVERSITY – GOOD PRACTICES FROM AROUND THE GLOBE

A Contribution to the Debate on the Implementation of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions

– A Project of the U40-programme „Cultural Diversity 2030“ –

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An International Laboratory for Diversity

The Catalan Law of Cinema

Martí Petit, Jordi Baltà Portolés, Laura Gómez Bustos, Núria Reguero

On 1 July 2010, the Parliament of Catalonia adopted the Catalan Law of Cinema, the first to contain an explicit reference of the UNESCO Convention within its Preamble as a source of legitimacy. Following the spirit of the Convention, the Law provides a list of measures to counter the imbalances existing in the film market in Catalonia and promote the linguistic diversity of cultural expressions

In general terms, the percentage of Catalan citizens who consume culture in Catalan is remarkable. This is worth emphasising as the Catalan media sector has to compete in equal conditions with media companies operating in the Spanish market, where economies of scale apply due to the cultural link with Latin America. The resulting imbalances are clearly illustrated in Figure 1. Such imbalances are particularly acute in the film sector: less than 4% of the population watched films in Catalan in 2009 whereas 91.3% did so in Spanish.

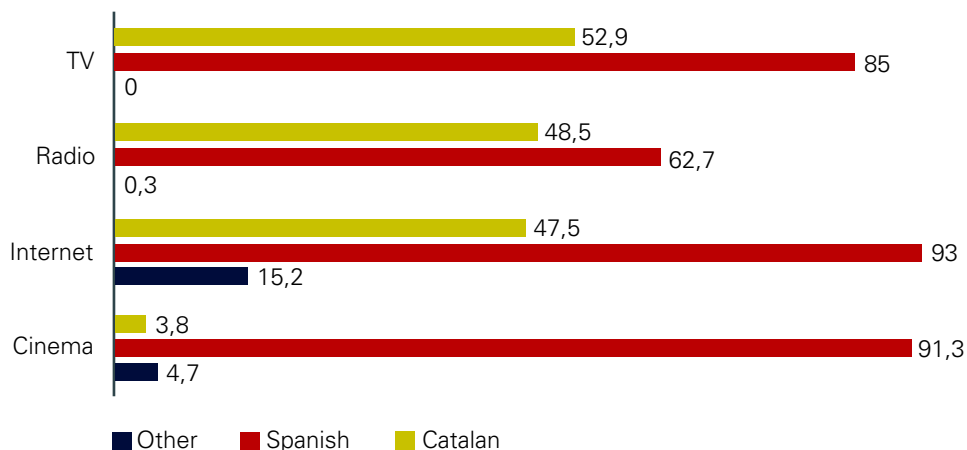
As for the economic side, Catalonia is the sixth European market in terms of global attendance. It is also the second European market in terms of attendance frequency per capita, with an average

of 3.46 tickets sold per capita and year.ⁱⁱ Hence, the resulting landscape shows a strong but unbalanced film market with a high degree of imbalances, especially in terms of distribution and dubbing. The Catalan Government has addressed this problem by adopting a new Law of Cinema that aims to correct the numerous market failures within the Catalan film system.

The CLC, the UNESCO Convention and Cultural Communities with lighter Economic Weight

Having full jurisdiction in the field of culture, the Government of Catalonia adopted Resolution 440/VIII on 25 March 2009, in which it subscribed to the principles of the Convention and called upon public authorities and private actors

Figure 1. Media shares according to language of consumption. Year 2009. Multiple choice percentages

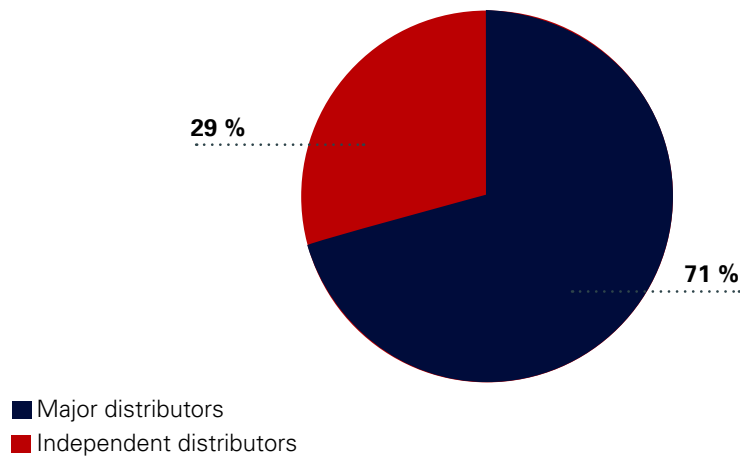


Source: Barometer of Communication and Cultureⁱ

ⁱ The Barometer of Communication and Culture analyses the cultural habits of the population (over 14 years of age) within Catalan-speaking territories twice per year. The sample consists of 39,395 in-depth personal interviews. See: <http://www.fundacc.org/fundacc/es/>

ⁱⁱ The Catalan Institute for Cultural Industries (ICIC) and European Audiovisual Observatory. Press release, 11 February 2008.

Figure 2. Cinema Distribution Quota in Catalonia, according to box office receipts. Year 2007



Source: ICIC

to apply these guiding principles within the territory and adopt concrete measures to promote free cultural expressions and openness to other cultures of the world. The Resolution marks the starting point of the process – led by the Catalan Ministry of Culture and Media, which is in charge of the film sector – and resulted in the adoption of the Catalan Law of Cinema (CLC) on 1 July 2010.

The CLC updates, completes and unifies the film regulatory framework for Catalonia, which includes processes related to the creation, production, distribution and exhibition of cinematographic works as well as all aspects of training and the preservation of cinematographic heritage. As per Article 4 of the CLC, the public agency in charge of the implementation of this law is the *Català de les Indústries Culturals* (Catalan Institute for Cultural Industries, ICIC). The ICIC is dependent on the Ministry.

The CLC is a policy measure that directly enables the implementation of the Convention, as per Article 7 – *Measures to promote cultural expressions*. It is the first Catalan law that contains a direct reference to the Convention within its Preamble as a source of legitimacy:

“The second pillar of reference of this law comes from the consideration of cinematography and audiovisual sector as strategic ones in cultural, economic and social terms. In that sense, the UNESCO Universal Declaration on Cultural Diversity, adopted in November 2001, and the

Convention on the Protection and Promotion of the Diversity of Cultural Expressions, adopted on 20 October 2005 in the framework of the 33rd General Conference of this United Nations agency, recognize that cultural diversity constitutes the common heritage of humanity, and must be recognized, protected and disseminated in the interests of current and next generations.”

The CLC responds to the challenges faced by many linguistic communities in a rapidly globalising world, as called upon in Article 8 – *Measures to protect cultural expressions* of the Convention.

Why the CLC? Reason 1: Distribution

As in the rest of Europe, film distribution in Catalonia is clearly dominated by the major North American film companies.^{iv} In the Communication of the European Commission titled “Principles and Guidelines for the Community’s Audiovisual Policy in the Digital Age,” the dominance of North American productions in the EU market was pointed out.^v Ten years on, these imbalances in the audiovisual flows between the EU and the United States of America remain. Catalonia is no exception to the rule (see Figure 2).

Further, US film companies prioritise Hollywood films: 85% of the films distributed in Catalonia by the four main film companies in 2007 were American films.^{vi} In recent years, cases of unfair practices by these dominant companies have also emerged.^{vii} These practices further impede the presentation of Catalan works in movie theatres.

iii Article 127, Catalan
Autonomy Statute.
iv These include the following
US majors: Warner Bros,
Fox Films, Universal Pictures
International, Walt Disney
Company, Sony Pictures,
TriPictures and U.I.P.

All the above-mentioned factors were instrumental in the development of the CLC, which has addressed the issue of distribution through the creation of a network of public-private cinemas in Catalonia. As per Articles 24 and 25 of the CLC, the network consists of public and private movie theatres that voluntarily adhere to give preference to:

- Cinema produced in Catalonia, particularly films made in Catalan;
- Cinema produced within the EU (which would be screened in the original version with subtitles in Catalan, if the original version is not in either official language of Catalonia, namely Spanish or Catalan); and,
- Cinema of cultural and artistic interest produced outside the EU (which would be screened in the original version with subtitles in Catalan, if the original version is not in an official language of Catalonia).

The activities of this network are supported through the Catalan Fund for the Promotion of Exhibition, which aims to “strengthen and modernise movie theatres in Catalonia and counter eventual distortions for linguistic or cultural reasons stemming from the market” (Art. 37, CLC). Contributions to this Fund come primarily from the ICIC, the Spanish Government^{viii} and the private sector, following agreements between these actors and the Catalan Government (Art. 30, CLC).

Why the CLC? Reason 2: Dubbing

The dominant position of North American film companies affects not only the distribution of cinema produced in Catalonia, but also the distribution of cinema dubbed or subtitled into Catalan.

The Spanish case is an anomalous one in the film market as international films are nearly always dubbed. The supply of international films in subtitled original versions is extremely limited. Films in foreign languages do not reach even 5% of consumption, a percentage much lower than in other European markets. In fact, original version films in Spanish or dubbed into Spanish account for over 90% of the consumption in Catalan-speaking territories (see Figure 1). Only 3% of the 854 906 cinema screenings in Catalonia in 2007 were in Catalan. The reasons for this situation may be traced back to the censorship policies imposed during the Spanish military dictatorship of General Franco (1939-75) under the guise of preserving the population from ‘bad external influences’. Besides the explicit censorship of cultural works produced in Spain, imported works were also controlled. Dubbing was the main tool used by the regime to control the influence of foreign cinema.^{ix}

If, exceptionally, a film was also dubbed or subtitled into Catalan, the Catalan copies would compare unfavourably to the Spanish owing to the following reasons:

- First, Catalan copies would not be over 10% of all copies distributed;
- Secondly, the distributor would place the Catalan copies in secondary cinema theatres; and,
- Last but not least, the commercial release of the films being centralised at the Spanish level would give the Spanish language an unfair advantage. The title of the film and all its publicity (such as trailers and advertising) are done in Spanish. Hence, audiences exposed to these activities in Spanish tend to watch films in Spanish rather than Catalan.

In response, the Catalan Government has long applied financial aid policies for dubbing in Catalan.^x The CLC will further serve to correct the existing malfunction and promote film exhibition in original version with subtitles in Catalan. As with the case of the network of cinemas discussed earlier, these measures will also be supported by the Fund for the Promotion of Exhibition.

The underlying reasons given by the Catalan Ministry of Culture and Media for promoting the screening of films with subtitles in Catalan (rather than dubbing) are twofold: respect for the integrity of the cinematographic work as it was conceived by its creator; and, promoting foreign language learning among Catalan citizens.^{xi}

In this regard, the most demanding measure (and the one most criticised by film exhibitors) is in Article 18 of the CLC:

Guarantee of linguistic access

1. When a dubbed or subtitled cinematographic work is released in Catalonia and there is more than one copy, distribution companies shall distribute 50% of all the analogue copies in the Catalan version. This obligation has to be respected both in terms of dubbed films and subtitled films. If the films are distributed in digital format, all copies shall incorporate linguistic access in Catalan. Distribution and exhibition companies shall guarantee linguistic balance in distribution and exhibition according to population, territory and screen time. They shall also guarantee balance between Catalan and Spanish when advertising the cinematographic works affected by this Article.
2. Previous provisions shall be legally developed and, particularly, the following aspects will be set:

v European Commission, Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions, “Principles and Guidelines for the Community’s Audiovisual Policy in the Digital Age”, Document No. COM(1999) 657 final, Brussels, 14 December 1999.

vi Source: ICIC. Origin of the products distributed by the main 4 majors in Catalonia. Year 2007.

vii On 10 May 2006, the Spanish Competition Court imposed a sanction of 12 million Euro on five major North American film companies as they agreed on the commercial policies to be applied in their relations with exhibitors. It also fined the Federation of Cinematographic Distributors (Fedecine), of which the five majors are members, for having created a database that allowed them to share information of capital importance for competition; and, for having agreed upon a single box office form to control box office receipts. Source: Tribunal de Defensa de la Competencia de España (Spanish Competition Court), Resolution of the 10th of May of 2006, Inquiry 588/05, films distributors.

viii Set forth in Article 36 of the Spanish law 55/2007.

3. Progressive implementation of the obligation established within this Article so as to achieve full implementation within a maximum of 5 years of the obligation to distribute 50% of analogue copies in Catalan as well as the obligation to incorporate linguistic access in Catalan to all digital copies.

A 'Good Practice' to Protect Linguistic Diversity in Film

The CLC can be considered a good practice of the implementation of the Convention because it has translated the principles of the Convention into a specific policy measure to protect linguistic diversity in the film sector.

The law addresses the acute imbalances that exist in film market in Catalonia. In such a market, there also exists the danger of the colonisation of the tastes of local audiences, with the result that people begin to identify their own cultural expressions with folklore and perceive imported ones as 'modern'. This concern is particularly applicable to cinema, given the reach and influence of Hollywood movies. Further, the cultural and linguistic diversity of foreign films are not duly represented in Catalonia. The existing structures of film distribution make it difficult for the audience to gain access to internationally-renowned and artistically-superior cinema. In turn, this limits the personal enrichment and creation of collective values that such art can foster.

Therefore, public intervention becomes necessary to guarantee the proper functioning of the cultural market. The CLC is a good example of such an intervention. This is stated clearly in the Preamble of the Law which argues for "coherent regulation" to protect the linguistic diversity of cultural expressions which "might be aborted if the activity to be promoted is

exclusively ruled by the forces of a market which does not adjust its functioning to fair competition rules."

By doing so, the Catalan Law of Cinema has the potential to become an 'international laboratory' that ensures respectful globalisation for linguistic communities whose weight (in numbers or economic terms) is inadequate to guarantee its economic survival.

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- x An example of the Franco-era censorship is the dubbing of *Mogambo* (John Ford, 1953). The film deals with a love triangle between a safari hunter, Victor Marswell (Clark Gable), Elise Kelly (Ava Gardner) and Linda Norley (Grace Kelly), who is married to an anthropologist, Donald Norley (Donald Sinden). In the film, Linda Norley has an affair with Victor Marswell. Since adultery was not acceptable as per the Franco-era censorship rules, dubbing was employed to reinvent the plot. Linda was turned into Victor's sister, with the result that the story turned out to be even more shocking and incomprehensible for the audience. Spanish censorship had turned *Mogambo's* adultery into incest!
- x European Commission. *State aid: Commission authorises a €12 million support scheme for dubbing and subtitling films in Catalan*. Press release, 24 March 2010. Online document: <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/356> [Accessed: 28/06/2010]
- xi Ministry of Culture and Media of Catalonia, *Press Dossier. Bases de la Llei del cinema de Catalunya*. Online document: http://www20.gencat.cat/docs/CulturaDepartament/Cultura/Documents/Documents%20VJ/Arxiu%202009/Dossier_prensa._Bases_llei_cine.pdf [Accessed on 6th September 2010].