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POUR LA PROTECTION ET LA PROMOTION
DE LA DIVERSITÉ DES EXPRESSIONS CULTURELLES

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This document has been prepared in 2016 by the research group Diversidad Audiovisual for the scientific international association ULEPICC for the tenth ordinary session of the Intergovernmental Committee for the Protection and Promotion of the Diversity of Cultural Expressions. The author is responsible for the choice and the presentation of the facts contained in this Report and for the opinions expressed therein, which are not necessarily those of UNESCO and do not commit the Organization.

Implementation of the Convention in the Digital Environment
Support to the development of operational guidelines

Getafe (Spain), 1th December 2016

Regarding the 'Preliminary draft operational guidelines on the implementation of the Convention in the digital environment' (DCE/16/10.IGC/7, Annex), presented as work document to the tenth ordinary session of the Intergovernmental Committee for the Protection and Promotion of the Diversity of Cultural Expressions (Paris, 12-15 December 2016), the academics belonging to the research group **Diversidad Audiovisual**¹, would like to express our satisfaction about this text which reflects four years of debates on the need to adapt the postulates of the *Convention on the Protection and Promotion of the Diversity of Cultural Expressions* to the digital environment.

Since 2012 our main concern has been the study of cultural diversity within audiovisual industries as well as the implementation of the aforementioned Convention. Cultural expressions and, especially, audiovisual goods and services, must face important transformations. The digital scenario offers the possibility of enriching their diversity, reinforcing visibility and improving access to the wider public, even though it also poses new challenges. The emergence of global agents with logics and practices of business concentration and legal and financial engineering, for example, can become an obstacle to the diversity of audiovisual industries on line. Our analyses are currently focusing therefore in understanding and mapping the role played by powerful intermediaries (Google, YouTube, Spotify, Apple...), as well as small and medium independent agents, since we have already defined and identified good practices that are capable of protecting and/or promoting the diversity of cultural expressions in the audiovisual field.

Recalling the evidence compiled in our website diversidadaudiovisual.org and our *Statement about the protection and promotion of cultural diversity in the digital era* (ULEPICC, 2013)², we commit to cooperate to achieve useful and agreed

¹ The group currently develops the research project 'Diversity of the Audiovisual Industry in the Digital Era' with support of the Spanish Ministry of Economy and Competitiveness within the National RDI Program Aimed at the Challenges of Society [CSO2014-52354R]. More information in: www.diversidadaudiovisual.org.

² This document was prepared by the research group Diversidad Audiovisual on behalf of the international scientific association ULEPICC in accordance with Resolution 4.CP 13 for the seventh

operational guidelines convinced of the urgent necessity of the implementation of the Convention in the digital age.

Regarding the document 'Preliminary draft operational guidelines on the implementation of the Convention in the digital environment', we wish to express our full support to the statement: "The distinctive nature of cultural activities, goods and services as vehicles of identity, values and meaning does not change in the digital environment" (General considerations, 2). We also agree with the idea that operational guidelines on the implementation of the Convention in the digital environment "shall be interpreted and applied in relation to the Convention as a whole, thus promoting a transversal approach to the diversity of cultural expressions in the digital environment" (General considerations, 6).

Additionally, we would like to underline that:

-To protect and promote the diversity of cultural expressions in the digital environment the individuals and peoples must not only be granted access to cultural expressions, but also participation in the creation and distribution of cultural productions.

-The crucial role artists and creators play in the survival and visibility of different cultural expressions, is also the case with micro, small and medium-sized enterprises (SMEs) and non-profit organizations that belong to the cultural sector. Commercial as well as community-based entrepreneurship are essential for the existence of a diverse and rich cultural sector.

-Likewise inter-ministerial groups on digital issues are indeed a need. Representatives of different Ministries, especially those with responsibilities over Culture and Education, must be involved, as well as civil society groups and the Convention's contact points.

-Diversity in digital scenarios must include the distribution of cultural goods and services and agents, while also ensuring visibility and discoverability. These should especially take into consideration local and multilingual content.

-When referring to the diversity of digital cultural expressions, creation, production, distribution, promotion and consumption must be considered from a comprehensive point of view. Storage is also key, considering the role cloud companies are gaining in the aforementioned activities.

-When supporting the development of infrastructures to improve access to diverse digital cultural expressions, interoperability as well as affordability cannot be forgotten.

Finally, with the aim of contributing to the conversation on the drafting of the 'Preliminary draft operational guidelines on the implementation of the Convention in the digital environment', we would like to submit the following writing suggestions:

* In order to promote equitable access and balance in the flow of digital cultural goods and services (Article 16 of the Convention) in a context of high concentration of ownership in cultural industries, we believe it is necessary to emphasize the importance of micro, small, and medium-sizes enterprises (MSMEs) and non-profit organizations active in the production, distribution and promotion of cultural goods and services. We therefore suggest the possible modification of paragraphs such as 8.2, 11, 10, 13.1, 15.1, 16.4, 17.1 as shown below.

Examples:

Paragraph 8.2

-As it is donned now:

"8.2 the promote equitable access and balance in the flow of digital cultural goods and services, in particular through the application of preferential treatment provisions for works created or produced by artists and cultural professionals from developing countries".

-Modification suggestion:

"8.2. the promote equitable access and balance in the flow of digital cultural goods and services, in particular through the application of preferential treatment provisions for works created or produced by artists and cultural professionals, micro, small and medium-sized enterprises (MSMEs) and non-profit organizations from developing countries".

Paragraph 11

-As it is donned now:

"11. Parties may update their legislative and regulatory frameworks for public service media to promote the diversity of cultural expressions in the digital environment, taking into account the increasing convergence of operations across the value chain".

-Modification suggestion:

"11. Parties may update their legislative and regulatory frameworks for public service media and non-profit media organizations to promote the diversity of cultural expressions in the digital environment, taking into account the increasing convergence of operations across the value chain".

Paragraph 17.1

-As it is donned now:

“17.1 improve the digital distribution of cultural goods and services produced by artists and cultural professionals from developing countries, including through artistic and cultural collaboration, co-production and co-distribution agreements”.

-Modification suggestion:

“17.1 improve the digital distribution of cultural goods and services produced by artists and cultural professionals, micro, small and medium-sized enterprises (MSMEs) and non-profit organizations from developing countries, including through artistic and cultural collaboration, co-production and co-distribution agreements”.

* Taking into consideration that access to culture and participation in cultural life are two ideas historically supported by UNESCO with the aim of democratizing the field of culture and social communications, we suggest the incorporation of the expression ‘citizen participation’ in, for example, paragraph 13.

Paragraph 13

-As it is donned now:

“13. At the stage of creation, Parties shall aim to support new forms of creativity in the digital environment, including real-time interactivity. This may include national, regional or local policies and programmes and funding schemes that:”.

-Modification suggestion:

“13. At the stage of creation, Parties shall aim to support new forms of citizen participation in the digital environment, including real-time interactivity. This may include national, regional or local policies and programmes and funding schemes that:”.

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