

BALANCE OF COMPETENCES REVIEW SCOTTISH GOVERNMENT RESPONSE

TOURISM, CULTURE AND SPORT

1. The Scottish Government welcomes the opportunity to contribute to this call for evidence.

CULTURE

2. Overall, we believe that the opportunities for cultural organisations and bodies are strengthened by the availability of funding and partnership programmes and expertise from Europe, but would acknowledge that more probably needs to be done in Scotland and at the UK level to support organisations to have better access to the opportunities on offer. Scotland is keen to develop partnerships across Europe for cultural, creative, social and economic benefit and see the EU and EU nations as some of the many partners available to us to do this. At the EU Culture Council in May 2013 the Cabinet Secretary for Culture and External Affairs represented the UK in the Ministerial policy debate on the role of culture as a soft policy option in EU external relations. She highlighted the value that both the Scottish and UK Governments place on culture as a valuable asset in promoting our nations around the world. Drawing upon a number of recent examples including the Olympics, the forthcoming Commonwealth Games in Glasgow, the Edinburgh Festivals and Scotland's recent cultural exchanges with China, the Cabinet Secretary highlighted how culture can help to build trust in bilateral and multilateral relationships, help to pave the way for trade promotion through exports and inward investment, and serve as a marketing tool to drive up tourism, which is a major contributor to jobs and economic growth.

Benefits

3. Between 2007 and 2013, over 200 UK participants in 176 transnational projects received funding from the EU's Culture Programme. In 2011, 43 UK cultural organisations participated in transnational projects and five UK-based European cultural organisations received an estimated €5.7 million in grants from the Cultural Programme.

4. Although it is very difficult to provide exact figures for projects based in Scotland, it is possible to highlight where Scotland has been part of a wider EU partnership and therefore in receipt of some funding. Of these projects, the Selected Projects Promoting Arts & Culture Across Europe (SPPACE) database highlights the following involving Scottish organisations:

2012: Edinburgh University, Glasgow Live in collaboration with Creative Carbon Scotland and the Scottish Sculpture Workshop - each worked in partnership with other European bodies and benefitted from funding.

2011: the National Youth Orchestra of Scotland, the North Highland Initiative and the Glasgow Sculpture Studios

2010: Imagine, University of Glasgow and UZ Arts.

2009: Badac Theatre Company.

2008: The Scottish Fisheries Museum.

2007: Aquacetera, Birds of Paradise Theatre Company, New Moves International and the University of Strathclyde.

2006: ARCH, Dionysia Press.

The Scottish Government is aware that Visiting Arts, which acts as the contact point in the UK for the European Commission's Culture Programme, have recently suggested that UK based cultural programmes could improve their access to funding if they were, amongst other things, better able to build on partnership working across Europe.

Creative Europe

5. This programme offers Scotland-based cultural practitioners great opportunities to access further funding and we welcome the intention to combine the current media and culture programmes, particularly with reference to the emphasis on employment, innovation, social cohesion and economic growth. The Cabinet Secretary for Culture and External Affairs spoke on behalf of the UK about the recent benefits of the Media and Media Mundus programmes, as well as the potential benefits of the Creative Europe programme when she attended the EU Culture Council in May 2012.

- The Scottish Government welcomes the €1.3 billion that has been allocated for this programme across Europe for the period 2014 -20 and the opportunities that this offers creative and cultural bodies across Scotland and would welcome a specific desk for Scotland in addition to the desk which currently represents UK interests and which is sited at Visiting Arts. **A Scottish Creative Europe desk would be very welcome in order to publicise and promote the programme in Scotland. The Cabinet Secretary for Culture and External Affairs made this point during the EU Culture Council in May 2012.**

EU Competition Law & State Aid

6. Culture is affected by EU competition law, but where a Member State is able to argue that the aid is necessary to protect cultural diversity then, as we are aware, that aid is permissible.

7. An example of where Scotland benefited in this regard would be when the UK introduced tax reliefs for British films, animation and high-end TV, all of which were approved by the Commission on these grounds.

8. This facilitated the building of a new television studio and production base at Cumbernauld, North Lanarkshire where *Outlander*, a US Sci-Fi series, will go into production later this year.

- **The Scottish Government welcomes any opportunity to facilitate the production of television, film and animation in Scotland, thus supporting skills and the local economy.**

European Capitals of Culture

9. In its current format, two cities from two different EU Member States are designated each year as European Capitals of Culture, and host year-long cultural programmes.

10. Glasgow was selected as a European City of Culture in **1990**, and the Scottish Government would take the view that this initiative has left a long-standing and meaningful legacy for the city. Glasgow used the opportunity that the ECC initiative afforded to successfully demonstrate how culture can be used to address a range of economic and social objectives as well as promoting community development and participation.

11. The UK is scheduled to host a European Capital of Culture in 2023.

- **The Scottish Government recognises the great benefits that the Capitals of Culture programme can bring to a city and, indeed, the recent UK City of Culture programme and our support for the city of Dundee, is predicated on an understanding of those benefits.**

SPORT

12. The EU dimension in sport has been enhanced and supportive to Member States (and Scotland) since the publication of the EU White Paper in 2007, which covers the social, economic and organisational role for sport. The Communication of the European Commission in 2011 (*Developing the EU Role in Sport*) took this further and helpfully developed and focussed these general themes of the White Paper within the context of the supporting competence for sport, as established in the Lisbon Treaty 2009. In the context of the UK and Scotland, the EU supporting competence has been supportive in developing existing policy priorities particularly in the areas of anti-doping (at a UK level), physical activity and healthy ageing (in Scotland).

13. The EU action in the area of anti-doping has been supportive of the role of WADA (World Anti-Doping Association) and, as such, has supported Scotland and the UK to provide a consistent and reinforced position with National and Scottish Governing Bodies of Sport. In the area of Guidelines for Physical Activity, the original EU guidelines (being supportive of the World Health Organisation Guidelines) have supported Scotland to assess its policy approaches. They were also used as the basis for the National Strategy for Physical Activity in Scotland, along with many strategies and plans at a local level. The EU guidelines remain an

important contribution to policy initiatives in physical activity and sport. The international sharing of approaches to policy implementation and delivery through the HEPA network has been welcome and the growing relationship between the HEPA network and the EU Expert Group on Health and Sport has helped develop the relationship between sport and health actors within UK and across EU. Scottish delegates have been able to participate and exchange learning with senior colleagues across the EU through both of these networks. This has brought access to evidence of policy implementation for sport and physical activity in a range of other EU countries that would not otherwise have occurred. This has also allowed for a consensus on the minimum level of EU monitoring of activity (both policy delivery and population outcomes) to be reached. This consensus on a few key variables will enable us to compare approaches and outcomes across EU. We welcome this possibility as an opportunity to learn further about successful approaches to tackling health through physical activity and sport.

14. More specifically, Scotland hosted the World Congress on Active Ageing in 2012 in Glasgow during the *EU Year of Active Ageing and Solidarity Between Generations* and this was in direct support of the work strand 'Healthy Ageing' within the EU Expert Group on sport and health. There was also a specific event within Scotland engaging a wide range of delivery and policy agencies to discuss the importance of healthy and active ageing and to prioritise actions for implementation. This is being led by the health department and third sector partners working in health and social care, illustrating the contribution that the evidence and supporting competence of the EU can add to influencing cross-sectoral work in sport within member states.

15. In summary, we have benefitted from the supporting competence of the EU in sport and see no need to extend this in the areas discussed above. Specifically, the opportunities for sharing policy, implementation and outcome learning across Member States have been of benefit to Scotland. The need for EU action in sport to cooperate with global organisations such as WADA and WHO is important in exercising the supportive competence.

TOURISM

16. The EU's new specific competence in tourism only came about in 2009 with the Treaty of Lisbon, with Article 195 specifically acknowledging the importance of tourism to Europe:

16.1 The Union shall complement the action of the Member States in the tourism sector, in particular by promoting the competitiveness of Union undertakings in that sector.

To that end, Union action shall be aimed at:

- (a) encouraging the creation of a favourable environment for the development of undertakings in this sector;
- (b) promoting cooperation between the Member States, particularly by the exchange of good practice.

16.2 The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish specific measures to complement actions within the Member States to achieve the objectives referred to in this Article, excluding any harmonisation of the laws and regulations of the Member States.

17. The EU had acted in the field of tourism for a number of decades prior to this formalisation, but without the level of competence afforded by the Lisbon Treaty. For example, in 1986, a Council decision established a consultation and co-operation procedure in the field of tourism, under which Member States exchange information and co-operate in the provision of services to tourists.

18. That being said, there remains little in the way of tourism specific legislation to date (the current revision of the existing Package Travel Directive is from a consumer protection angle).

19. Following the Lisbon Treaty, the European Commission published a communication in 2010, "Europe, the world's No 1 tourist destination – a new political framework for tourism in Europe", which set out its policy to promote tourism and maximize the industry's contribution to growth and employment - specifically stimulating competitiveness; promoting sustainable and quality tourism; and maximising the potential of EU financial policies for developing tourism. Specific examples of policies include the Calypso low season tourism project; the European Tourism Label for Quality Schemes; and the European Destinations of Excellence initiative to promote emerging destinations and sustainable tourism.

20. There are also a number of broader EU policies and programmes which have a direct tourism impact. For example, the European Regional Development Fund (ERDF) which supports more sustainable patterns of tourism to enhance cultural and natural heritage; the European Social Fund (ESF) which co-finances projects to enhance productivity and quality of employment and services in the tourism sector through education and training.

21. Tourism is a devolved responsibility of the Scottish Parliament, albeit there are issues such as VAT and visa control etc. that have implications for tourism that are reserved to Westminster, but which also have EU implications. While the functions of the state in providing for or supporting tourism are also subject to EU State Aid considerations, there is very little direct legislative control by the EU on tourism specifically.

22. Although the duties and responsibility of the national tourist body, VisitScotland, were established by an act of the UK Parliament – the Development of Tourism Act 1969 – any changes to the legal framework can now be undertaken by the Scottish Parliament (as evidenced by the Tourist Boards (Scotland) Act 2006, which made changes to the structure of tourism boards in Scotland).

23. SG involvement in tourism is primarily through setting the policy and legal context in which VisitScotland (VS) operates. VS' role is to grow and develop the sustainable economic benefit of tourism to Scotland's visitor economy which it

achieves through its marketing, promotion and information activities; the provision of support and advice to the industry to assist in improving the quality and sustainability of the tourism sector in Scotland; and through EventScotland, implementing the national events strategy, which helps sustain, develop and promote Scotland's international profile.

24. European policy on tourism is very much aligned to that of the Scottish Government and the Scottish tourism industry. Both VS and the industry-led Scottish Tourism Alliance have reflected the EU priorities outlined in the 2010 communication in terms of the development of sustainable, responsible and high quality tourism. VS' role is to focus on the development of a sustainable visitor economy; while the STA published its national strategy, Tourism Scotland 2020, which identified the key areas of development being leadership, sustainability; quality and skills and marketing as a means of making Scotland a destination to what it refers, of first choice for a high quality, value for money and memorable customer experience, delivered by skilled and passionate people.

25. EU policy in terms of funding and the movement of goods and people has been important to the industry; its specific focus on the tourism economy will also be of benefit to Scotland.

Employment

26. Growth in the tourism sector and the need to replace staff has created a reliance on employing workers from other EU member states. Skills Development Scotland figures indicate that 14% of the sector workforce were born overseas – above the average for other sectors of 8%. The ability of other Member States' citizens to be able to work in Scotland has therefore directly benefitted the tourism industry.

Funding

27. EU funding in particular has been important for both promoting Scotland and improving the sector. VS have benefitted from substantial EU funding for business development and marketing initiatives – almost £12m in the last six years. For example, ERDF has been used to develop green tourism within Scotland and support Homecoming 2009. In the past ERDF and ESF schemes operated by Highlands and Islands Enterprise (HIE) provided significant support to the tourism sector, including for upgrading accommodation standards (although the only support to tourism from EU funds that HIE now operate is the part funded Graduate and Summer Placement schemes).

28. Infrastructure development funded through the EU has also benefitted the tourism sector, particularly improved transport linkages in the Highlands and Islands as a result of its Objective 1 status in the 1990s.

29. Changes to European support to agriculture to improve the rural environment and encourage tourism as a way to diversify the rural economy also helps maintain an important aspect of Scotland's attraction to visitors – its natural beauty, especially so in 2013, the Year of Natural Scotland. For example, under LEADER a range of

schemes have been funded. Bike Trossachs were awarded £25,850 towards the Aberfoyle Bike Skills Area project, which will allow the lease of a hill and development of two tracks for mountain bikes where visitors and locals will be able to practice their skills and increase their fitness. Discover Clackmannanshire were awarded £3,146 towards holding the ScotFest festival in Alva in 2013 - a celebration of local food producers and healthy eating, which was expected to draw a large number of visitors to the area to experience the local produce.

30. An example of the wider work being undertaken is the “Go Rural” initiative devised by a team of Rural Leaders taking part in the 2012 Scottish Enterprise (SE) Rural Leadership Programme and funded by Angus Council (via an European Rural Tourism Business Support project) plus contributions from Association of Scottish Self Caterers, NFU Scotland, SE, VS Growth Fund and Scottish Land and Estate.

31. An on-going example of how EU competence and funding in an area can benefit tourism is the Sail West Malin Waters investment programme. As part of a collaboration of more than 20 partners from the West of Scotland, Northern Ireland and Ireland, Malin Scottish projects received £2.2 million of INTERREG IVA funding towards upgrading Scottish sailing infrastructure - with 25 per cent extra funding from local authorities and organisations on top bringing the total for Scotland to £3m. This will improve the infrastructure for sailors on the shared maritime region off the coasts of western Scotland, Sligo, Donegal and Northern Ireland, helping Scotland as well as the region in general become an important marine and cultural tourism destination.

32. Scotland is actively involved in European initiatives to promote tourism and is participating in its new policy competency areas. The Scottish Government sees potential in Scotland being involved in the various projects that are underpinning the Commission’s tourism action framework, some specific examples being:

Quality Assurance European Tourism Quality Label

33. Since April 2011, VS have participated fully in an open consultation process involving all member states on the planned European Tourism Quality Label. This has been led by the Directorate General for Enterprise and Industry - Tourism Policy. VS have provided data on their Quality Assurance schemes, participated in workshops, and contributed to research. The consultation is still live, currently focused on internal consultation within the Commission.

34. VS are also developing plans to hold a Quality Forum in Scotland in 2014, with a key target being the Nordic / Baltic countries. The aim of this Forum would be to discuss quality assurance, in which VS is a leader, with a view to influencing the thinking of other European destinations and ultimately shape European policy on the proposed Quality Label.

35. VS have also been proactive in working with partner organisations in other Member States in the area of quality improvement . For example, in Sweden they have developed a partnership supported by Tillväxtverket, the Swedish Agency for Economic & Regional Growth to support the development of a new Swedish quality

scheme. This started initially with West Sweden Tourist Board but now has been adopted nationally under the Swedish Welcome organisation.

Accessible tourism

36. VS have been very proactive in promoting accessible tourism for older and disabled people through their Accessible Tourism Project (ATP), which has been mainstreamed into their operational thinking, and has ensured that Scotland has taken a march on other countries in what is a growth area that remains relatively untapped. From hosting a successful accessible tourism conference attended by over 240 delegates in March this year, VS were invited to sit on the EU Accessible Tourism Task Force, at which they will shortly be giving a presentation on the ATP, as well as engaging with the tourism industry.

37. VS is also actively bidding to speak at the EU Tourism day event in December 2013 in Brussels, which this year has “accessibility” as its central theme. This would focus on VS use of their business case for developing accessible tourism, in that there are a large number with a significant spend – for example DCMS indicated that there are 11 million disabled people in the UK with a potential spending power of £80 billion per year; in the EU, 166 billion Euros for over 45 million disabled people (European Commission 2004) – and as a driver to engage, and indeed change people’s perceptions of this subject, differing from the EU legal approach.

Challenges

38. EU competition law has had a direct impact on the operations of VS as well as the other national tourist bodies within the UK. The Commission’s view in respect of state aid compliance regarding the provision of a web booking service on VS’s website led to its agreement to curtail such operations from December 2012. Activities undertaken by VS and other publicly funded organisations within the tourism sector have therefore to be State aid compliant, which may limit organisations’ aspirations or the demands for action from the industry.

39. EU procurement rules in respect of the threshold or number of quotes required has particular implications in rural areas, and can have a bearing in terms of tourism. This is to reflect areas such as islands where trades are already limited and travel costs dissuade mainland based companies. Flexibility could reduce unnecessary costs, whilst still having a transparent process that recognises the challenges of remote rural living.

Background Information on Culture

Development of EU Culture Competence

1. EU Competence in relation to culture is 'Supporting', where both the EU and the Member States may act, but action by the EU does not prevent the Member States from taking their own action.
2. The culture competence was introduced with the signing of the Maastricht Treaty in 1992, which provided a limited competence in culture. The Treaty also gave the EC a competence to act externally by co-operating with third countries and international organisations in relation to culture. Importantly, Maastricht also provided a new specific route for approval of State Aid in relation to culture and heritage preservation.
3. This new role was nevertheless limited to promoting co-operation between the cultural operators of the different Member States, or to complementing their activities in respect of promoting both national and regional diversity, as well as highlighting a shared European cultural heritage.
4. A further step was taken in 1999, when the Treaty of Amsterdam extended the cultural competence, and required the European Community to take cultural aspects into account in its actions under other provisions of the Treaty on European Union: in particular in terms of respecting and promoting cultural diversity.
5. One of the main mechanisms the EU uses to attempt to promote Europe's diverse culture is through funding programmes. For example, a Media Programme provided funding to support a pan-European network of cinemas including Eden Court in Inverness, as well as Edinburgh Napier University's ENGAGE training course.

Creative Europe

6. The Commission's proposal for a new Creative Europe programme follows on from the current Culture, Media and Media Mundus programmes which will come to an end in December 2013.
7. The Council adopted a partial general approach on Creative Europe in May 2012. (Ms Hyslop was part of the UK delegation at this Council and she spoke about the merits of the Media Programme in Scotland). It adopted a revised partial general approach, incorporating text relating to the proposed new loan guarantee facility, in November 2012. The programme budget remains outside the scope of the partial general approach.
8. The Culture and Education Committee of the European Parliament adopted its report on the Creative Europe on 18 December 2012. Dates for the debate and vote in the plenary session have not yet been set.

9. The Presidency has been holding informal trilogue meetings with the Commission and the European Parliament, with a view to negotiating a text which could form the basis of a First Reading agreement. The Council working group and COREPER have been kept informed of the progress of these discussions and Member States' views have been sought on possible compromise amendments.

10. Funding will open will open in January 2014 and this will become the main EU programme for culture, audio-visual and CIs.

11. There will be numerous opportunities for Scotland and having the Scottish desk should, in theory, be helpful.

12. There is a proposal for a Creative Europe Programme, which aims to promote cultural and linguistic diversity and strengthen the competitiveness of the cultural and creative sectors. The UK Government flagged some issues around a new loan guarantee facility, stating that it is not convinced that a sector-specific guarantee is the right way to proceed. There is also a question around Creative Europe Desks, and whether or not each member state should only have one desk or more. **At present, there is a single UK desk for culture and three media desks, one of which is based at Creative Scotland.**

EU Competition Law & State Aid

13. Culture is affected by EU competition law. The Treaty on the Functioning of the European Union states that where competition law is necessary for the functioning of the Internal Market, it is within the exclusive competence of the EU. This means that even if the EU does not act, Member States may not.

14. Perhaps the most relevant element of competition law for culture is State Aid, i.e. the intervention of the State to aid a particular sector, including tax reliefs, lottery funding or local authority funding.

15. All State Aid measures by Member States must be approved by the European Commission, which will reassure itself that the aid will not lead to a distortion in the Internal Market. If the Commission does not approve the aid, it is illegal for the Member State to provide it. The UK cannot over-ride these decisions, but they are subject to reviews by the EU courts.

16. There are specific provisions for some State Aid measures in relation to culture. This still requires approval by the Commission, but if a Member State can successfully argue that the aid is necessary to protect cultural diversity then aid is permissible.

17. The UK has introduced tax reliefs for British films, animation and high-end TV, all of which were approved by the Commission on these grounds.