

What if we started again with culture?

Advocating for European
sovereignty

★ ★ ★

Jean-Noël Tronc



What if we started again with culture?

Advocating for European sovereignty

JUNE 2022

AUTEURS

Jean-Noël Tronc

ENGLISH TRANSLATION

James Connell

ÉDITEUR

Margaux Leban

DIRECTRICE DES ÉTUDES

Dr Elise Bernard

DIRECTEUR GÉNÉRAL D'EUROPANOVA

Corentin Gorin

COMITÉ DE RELECTURE

Interne:

Elise Bernard

EuropaNova

64 bis avenue de New York, 75016,
Paris, France
contact@europanova.eu

www.europanova.eu

EuropaNova
★ Academia

Table des matières

Preface.....	9
A few remarks about the content of this book.....	13
Preface.....	16
Introduction.....	19
I. Europe without culture.....	25
The founding misunderstanding of 1957.....	25
<i>The Treaty of Rome ignores culture.....</i>	<i>25</i>
<i>Missed opportunities.....</i>	<i>26</i>
European reunification lifts hopes.....	27
<i>With the fall of the wall, dreams of a united and sovereign</i> <i>Europe.....</i>	<i>27</i>
<i>Maastricht: culture makes its way into treaties while</i> <i>the rupture between the people and the Union</i> <i>begins.....</i>	<i>28</i>
A European identity, united in its diversity, hangs on its history and culture.....	30
European Union, a fleeting identity.....	31
Europe of peace and Europe of power.....	33
II. The cultural economy, a key advantage for European sovereignty.....	35
A powerful motor for the European economy.....	35
Culture: when fragility sparks innovation.....	36

<i>An economy of prototypes.....</i>	36
<i>An economy of innovative and atomised individuals.....</i>	36
<i>Authors'Right and Copyright , a European invention and a instrument of liberty.....</i>	37
<i>Collective management, the numbers that provide the strengh</i>	40
<i>The cultural professions are often precarious.....</i>	42
Eight lessons on the European cultural industries.....	42
<i>A sector with jobs for young workers.....</i>	42
<i>Jobs that cannot really be outsourced.....</i>	43
<i>An essential role in territorial planning.....</i>	43
<i>Sectors that export and contribue to the influence and attraction of Europe.....</i>	43
<i>Sectors most exposed to global competition.....</i>	45
<i>An economic model that closely blends the public with private.....</i>	46
<i>The difficult between cultural diversity and globalisation.....</i>	46
<i>Culture at the cutting edge of digital technology.....</i>	47

III. The European Union vs. the cultural industries.....48

The rejection of the ACTA treaty.....	49
Private copying, the sad case of the Spanish school....	49
Negotiations for a free-trade treaty with the United States: a threat hangs over audio-visual regulation...51	51

The battle for the press to gain the right to equitable remuneration.....	53
The 2014 directive on collective management.....	55
The European copyright reform.....	56
<i>A reform that took off in the wrong direction.....</i>	56
<i>The fantasy of the single digital market.....</i>	60
<i>The battle for author's right.....</i>	61

IV. Culture and digital services, the great misunderstanding.....72

Open source software and the public domain.....	72
The libertarian ideology.....	74
The “silicolonisation” of minds.....	76
The Google example.....	77
Tech giants and libertarians: allies or adversaries?....	80

V. Europe’s loss of digital sovereignty weakens its cultural industries.....81

Cultural influence strategies.....	81
<i>The American strategy: protectionism and expansionism.</i>	81
<i>The Chinese strategy: nationalism and gigantism.....</i>	82
<i>Cultural influence, a universal strategy.....</i>	84
The loss of Europe's digital sovereignty.....	85
<i>The demise of the European telecommunications industry....</i>	86

<i>How European citizens subsidise the American Internet platforms.....</i>	88
<i>Net neutrality, the great hijacking.....</i>	89
The « value gap », or when the platforms get rich thanks to culture.....	91
Challenging the European model for financing creation.....	92
VI. Proposals for Europe.....	95
Which way forward for Europe's digital sovereignty?.....	95
<i>Adapting the tools to fight against the abuse of dominant positions on the Internet.....</i>	95
<i>Economic support that favours cultural industries.....</i>	98
<i>The implementation of the proposed directive on copyright and neighbouring rights.....</i>	99
<i>A new treaty for author's right.....</i>	99
<i>Regulation of the platforms to preserve cultural diversity.....</i>	100
<i>A new strategy for the European public domain.....</i>	100
<i>A Babel project to get beyond the Europe of languages.....</i>	101
<i>Unite the cultural and digital sectors with a single creative strategy.....</i>	102
Proposals for the reinforcement of European identity.....	104
<i>European discovery classes.....</i>	105
<i>A European cultural pass for primary school kids.....</i>	105
<i>A European history chapter.....</i>	105
<i>Common news programs.....</i>	106
<i>Strengthen Europe's external audio-visual strategy.....</i>	106

Mobility for artists.....107

A Eurovision for European choirs.....107

Put faces on European banknotes to celebrate our common identity in our daily lives.....108

Foster the emergence of a European elite for sovereign missions.....108

Common consulates abroad.....108

Conclusion.....110

List of annexes.....112

List of websites.....139

Acknowledgements.....140

For my stars, Marianne, Camille, Héloïse and Juliette.

Preface

Jean-Noël Tronc, March 2022



Jean-Noël Tronc



Traducteur :
James Connell

This book was originally published by Le Seuil in April 2019, in French. It was translated into Portuguese and published by Guerra Y Paz in 2020, with a preface by my friend the great Portuguese author and journalist, José-Jorge Letria.

Today, it gives me great pleasure to introduce the English version with this preface. This translation was commissioned in response to the requests of many colleagues around the world who were kind enough to ask me for a version they could read. Indeed, at the 2019 annual general meeting in Tokyo of CISAC, the confederation that regroups the world's authors' societies, I was asked to summarise the main ideas and proposals that this book sets out.

The Covid-19 crisis, which hit creators and their collective societies particularly hard, forced me to devote all my energy to a plan to save Sacem and its members. So this publishing project was delayed, even though the English translation had been done just before the pandemic broke out.

I took advantage of my departure from Sacem at the end of 2020, after almost 10 years at the head of the world's leading collective management society, to complete this project and finally honour the commitments I had made to publish the book in English and, of course, to tell "the end of the story" of the adoption of the Copyright Directive. This was one of the most memorable battles fought in the European Parliament for a long time, and one in which I played a decisive part.

When I handed the manuscript to my publisher, Le Seuil, at the end of January 2019, the outcome of this confrontation was still undecided. The book was published in France a few weeks before the final vote on the Copyright Directive, and it served as a warning of the very serious risk that the draft directive, which had become an issue in the European Parliament electoral campaign, would ultimately fail.

We had serious reasons to be pessimistic because of the extent to which lobbying — by Google in particular, but also Facebook — had weakened the positions of those in favour of the copyright directive. The tech giants' campaign, which began in earnest in the autumn of 2018, planted a series of fake news items about the copyright project firmly into the debate. Every MEP was now required to take a position on a text that had until then been very technical. Disinformation campaigns, such as the one conducted on YouTube, had such an impact that some MEPs told us that they were distraught by the fear that was being instilled in their children.

Some EU states, such as Poland, the Scandinavian countries or Luxembourg, poured considerable energy into preventing the adoption of the text. In Germany, the poisonous deception reached its peak as tens of thousands of demonstrators took to the streets at the end of March 2019, convinced by the constant haranguing on social networks that the adoption of the directive, which was very limited in scope and included new exceptions to copyright, could lead to the outright closure of internet services.

I have therefore completed, in the third chapter of this book, my account of this memorable battle, which, observers did not emphasise enough at the time, was only very narrowly won. The text was adopted by a majority of just five votes out of 750 MEPs.

This book was written in French, by a Frenchman, and some readers might spot a tendency to lean a certain way. To each his own culture and identity. I have tried to express a 'European' point of view, and I am confident in my conviction

that Europe embodies the best for the future of humanity and so must embrace an ambition for power.

This is not a book about copyright, nor about the cultural industries, much less about collective management, even if references abound on these important issues to illustrate my point. I am convinced that the cause of creators is important for democracy and that it is best defended by non-profit collective management. This is above all a book by the convinced, and even passionate, European that I am. But I am now also the worried citizen of a continent that is now almost alone in firmly upholding the values of democracy, reason and tolerance, when, in most other parts of the world, a drift toward authoritarian and populism seems to be accelerating.

This book was written in “the world before” — before the return of war to Europe, before the nuclear threat and the most serious humanitarian crisis to hit Europe since the Second World War.

Russia’s invasion of Ukraine has been a rude yet useful awakening. We are at risk of paying a steep price for our blindness on many fronts, starting with our military shortcomings or our energy dependence. As I write these lines, there is no guarantee that the war will not spread, in one way or another, and solidarity among Europeans could be eroded by a lasting crisis that could increasingly affect European society and the economy. The indifference — sometimes bordering on hostility — of a large part of the rest of the world underscores how isolated Europe is when it comes to the values it embodies.

Yet one thing is now certain: the European conscience, which had long fallen into lethargy, has been awakened. Millions of Europeans are experiencing the tragedy of the Ukrainian people as if it were their own. Before the Russian invasion, Ukraine, a country comparable in size to France, in population to Spain, and by its true history — far from Putin’s revisionist fantasy — to the oldest nations of Europe, was almost unknown to the other peoples of the Continent. Little French schoolchildren do not necessarily learn the story of Anne of Kiev, who became Queen of France in the 11th century, even before the First Crusade. She was a queen whose mother was a Swedish princess, in other words, a woman from the Viking people whose descent via rivers from the Baltic Sea to the Black Sea on rowing boats would be the very origin of the word “Rus.”

This trajectory symbolises how much Russia, Belarus and Ukraine have been an integral part of European history and culture for well over 1000 years — to use the words of General de Gaulle, a Europe that stretches “from the Atlantic to the Urals.”

Since the reunification that followed the fall of the Berlin Wall, the separation between East and West within the European Union has been a serious fault line, aggravated in recent years by a number of misunderstandings. Western Europe has often been legitimately accused of a certain contempt for the countries of the former “Eastern Bloc,” and historical and cultural knowledge of the East’s history remains quite insufficient. During the French presidential campaign, a candidate from one of the main political forces revealed on a television program that he did not know that Romania and Bulgaria were members of the European Union!

Europe is the only continent to have been first and foremost a civilization, for 28 centuries. This is precisely one of the themes of this book.

Most of Europe ignored the real nature of the current Russian regime, its historical revisionism and the ultra-nationalism of its leader, along with its profound indifference for Ukraine as a nation. This, and the fact that Ukraine is probably the most misunderstood of the great European countries by Europeans themselves, are two cultural phenomena that would be interesting to analyse. This is not the purpose of this book. On the other hand, by choosing as a subtitle for this book “Advocating for European sovereignty,” I was siding with a very small minority (before March 2022) of those who are in favour of a Europe with real power. I

refer the reader here to the remarkable analysis of Luuk Van Middelhaar, and to his distinction between the “Europe of Peace” and the “Europe of Power,” which I mentioned in the first chapter.

Russian aggression and the threats, including nuclear ones, brandished by Vladimir Putin, have made it possible to reconcile supporters of a strengthening of NATO with promoters of a European defence.

And no political leader, even among the extreme, is considering, until further notice, offering his fellow citizens a solitary destiny by leaving the European Union. If Putin had attacked in March 2016, the Remain camp would have won by a large margin in the United Kingdom.

Europe is not the European Union, but faced with the Russian challenge and rising threats from many sides, the European Union is indeed the matrix through which we must now patiently go through the steps towards a new deepening and a necessary enlargement of our Union to all the peoples of European civilization. The European Union is a huge paradox: envied or feared in the rest of the world by many, often decried from within by its own citizens.

The permanent “migration crisis” that Europe is facing underscores the immense power of attraction our European civilization has on the rest of the world.

The European Union occupies a central institutional position in the heart of the European sphere. It therefore embodies this power of attraction for the rest of the planet, where millions of individuals dream of coming to Europe and then, sooner or later, merging into a model of society that is very different from their own.

Whatever its divisions and shortcomings, the Union allows us to speak as equals in the game of great powers. This is also why what is happening today — in Ukraine with Russia’s projection of power, but also in the Sahel, where the security collapse seems to be accelerating — should once again convince us that we need to strengthen democracy as well as ties between Europeans, in spite of everything. This is only possible through the construction of a true European consciousness, which I will come back to.

As Churchill, undoubtedly the greatest of Europeans, said: Democracy is the worst form of government, except for all the others.

Yet, for a significant part of Europe’s inhabitants, this same European Union and its institutions arouse indifference or even hostility. Since the French rejection of the draft European Treaty in 2004, through the Brexit vote that deprived the EU of 13% of its population, not a single major referendum on Europe has avoided rejection by the majority of people participating.

In the various Brussels episodes described in this book, especially in chapter three, cultural actors have often been shocked by the way decisions are made within the EU institutions. This method, slow, consensual, often technocratic, is both a strength of resistance to extremes, and therefore an asset for Europe, and a weakness, because of the lack of understanding, and even exasperation, that it can provoke among the inhabitants of the Union.

The Union likes mushy consensus and grand abstract principles. Defining our identity through the affirmation of European values in the “Brussels” sense would certainly be a dead end. By constantly repeating that the identity of the European Union lies in the abstract values of peace, democracy and the market economy, we sink into a double denial.

For one, these values are not reserved for Europe: New Zealand or Chile are peaceful democracies with market economies, but they are not European. Russia is an increasingly dictatorial state, yet it is at the heart of European history and culture.

What is more, these values were not the foundation of Europe. Europe has existed for nearly 3,000 years, according to the title of a famous work published in 1961 by the Swiss Denis de Rougemont, (“Twenty-eight centuries of Europe, the European conscience through texts, from Hesiod to the present”). Europe is the only continent that is also a civilization whose roots are both Greco-Roman and

Judeo-Christian, which does not prevent it from having adopted other civilizational contributions. Europe was not born on the day of the Schuman Declaration, May 9, 1950. We might add, in passing, that choosing this event to celebrate Europe Day each year is embarrassing. Robert Schuman was a “Munichois” politician in 1938 — one of the many French parliamentarians who voted for full powers for Marshal Pétain in July 1940. Surely, we could do with a better symbol. Since the end of the 70’s, with the election of the European Parliament by universal suffrage in 1979, the European Community, which became the European Union with the Maastricht Treaty in 1993, has occupied an increasingly central place in the lives of Europeans, through its decisions and its legal framework. Unfortunately, fewer and fewer citizens see European integration as a great positive cause. It is no exaggeration to say that “euro-scepticism”, in various forms, is now a majority sentiment.

This phenomenon is fed by an inverse drift between, on the one hand, a “European machine” turned towards the deepening of the EU through the production of norms in all domains. This comes at the expense of its enlargement, and, on the other hand, the feelings of the citizens, who are often indifferent or even hostile. Retreat is not the solution. The cautious and resigned abandonment of the idea of admitting other countries into the Union is a mistake. Our Europe is a civilization, which stretches, as we have said, from the Atlantic to the Urals. To rekindle the European dream, we must re-establish the perspective of the enlargement of the Union among its reasons for being. This must be done on the condition that we assume a historical and cultural definition, and therefore a civilizational one, which would lead us to rule out any prospect of membership for countries such as Morocco or Turkey. This would not have anything to do with the question of Islam, since Albania is fully European.

We absolutely must look for concrete ways to reverse the trend of estrangement between citizens and the EU, starting with strengthening the sense of belonging and pride. However, such feelings cannot be nourished by the institutional and technical side of Europe, which only lawyers and lobbyists can appreciate.

The purpose of publishing this book in English today is to contribute to the search for concrete ideas for the construction of a common cultural identity that is so sorely needed.

It really is urgent. Constant efforts to rekindle the flame, such as the Conference on the Future of Europe, which was opened before the summer of 2021 and is due to last until 2022, at the end of the French Presidency of the European Union, have so far failed to generate any real interest. Worse, they simply go unnoticed amid the hubbub of the news.

In May 1948, the International Congress of Europe was organised in The Hague under the honorary presidency of Winston Churchill to bring together all movements for European unity. The real enthusiasm around this event is in the distant past.

Between the 2008 crisis, the Brexit crisis and Covid-19, the European Union has shown a remarkable capacity for resilience. In the face of external attacks, it has been able to resist, as we have seen so far in the failure of Vladimir Putin’s strategy to divide the EU countries over the Ukrainian question.

After a calamitous start in the face of the Covid-19 health crisis, marked by a general “every man for himself” withdrawal and lack of coordination, the EU has pulled itself together, both through its vaccination policy, in which it was able to dispense with formal texts and take initiatives, and through a budgetary flexibility that will make it possible to say, one day, that the Germans, without whom it would not have been possible, saved the Union.

Among the recent European Union initiatives there is one that I personally welcomed, and that was among the 18 proposals listed in the last chapter of this book. In December 2021, to mark the 20th anniversary of the euro, the ECB and the European central banks announced plans to include the faces of personalities from European history, culture and science on our euro banknotes. The

embodiment of our common identity is indeed something that can be built, in a concrete way, by decisions like this that impact millions of Europeans and foreign tourists every day.

In recent months, legislation adopted by the Union such as the Digital Services Act and the Digital Market Act, or the industrial project around microchips are some very encouraging examples of the EU's ability to react together, quickly, and in the right direction.

Above all, the immediate and unanimous reaction, unexpected in its scale and firmness, of the EU countries in the face of Russian aggression, legitimately raises immense hope in the medium term. It is up to our leaders, but also to us, the citizens of Europe, to seize this unique opportunity.

The European adventure can move forward again, against all odds.

A few remarks about the content of this book

This book is a contribution to the debate over Europe around three ideas:

The first idea is that the European Union cannot continue to evade the debate over its cultural identity. Europe is a historical, geographical and cultural construct that goes back almost thirty centuries. We must both confront and assume the identity debate that is present in all our countries and is the main source of tension with Hungary or Poland. This is the theme of the first chapter and it leads to some of the main proposals of the book: the creation of a course on European history in school curricula, faces on euro banknotes, the creation of a European war college, the merging of consulates among European countries, or a technology project to develop instant automatic translators, since the language issue is also a challenge for building our future as a European civilisation.

This book develops a second idea: culture, whether it has to do with the cultural and creative industries, public policies or individual practices, is a strategic pillar for the European Union. It is even among the most important sectors of the European economy, as detailed in the second chapter. As far as the regulatory framework and legal models for the cultural economy are concerned, Europeans have invented just about everything. The last decade, which got off to a very bad start with the rejection of an international anti-counterfeiting treaty in 2010, has ended with the adoption of a new framework, adapted to the digital age, that the rest of the world can take as a model. This is the theme of the third chapter.

Finally, this book addresses a third idea: that of Europe's future in the increasingly global and digital era in which we live. As the American Samuel Huntington rightly anticipated in a famous 1996 book "The Clash of Civilizations", the now dominant tensions between areas of civilisation and between models of society are cultural in nature, with the virtual disappearance of the North-South and East-West antagonisms of decolonisation and the Cold War. From now on, Europe must assert and defend its cultural power, avoiding the misunderstandings between culture and digital technology that characterised the first years of the Internet boom (Chapter 4), and adopting a policy of influence and power — but also of protection — faced with the risk of losing its cultural and political sovereignty in the digital domain (Chapter 5).

The European Union now has a strong and supportive new regulatory framework for the cultural sectors in the digital age. When this book was written, between the summer of 2018 and February 2019, many still feared the worst. Then, in April 2019, the EU adopted one of the key texts to regain control of its digital sovereignty: the Copyright Directive. The legislation's passage was preceded a few months earlier by the adoption of the Audiovisual Media Services Directive obliging online platforms to invest in and broadcast European works, and was followed, in the summer of 2019, by the adoption of the so-called Cable and Satellite Directive, which clarifies the European framework that ensures fair remuneration for creators.

These three directives, together with the adoption in 2018 of the General Data Protection Regulation, signified a change of era, much more than a simple awareness of digital technology. In this, as in many other areas, the European Union has truly set an example for the rest of the world.

Having participated in a very central — and personal — way in the battle for the adoption of the Copyright Directive, I can testify to the power of the multiple messages I received at the time from all over the world, in particular from my fellow directors of authors' societies, or artists who were members of their boards, from the United States and Canada as well as from Latin America, Africa or Asia. The transposition of the Directive into national law is almost complete in France and is well advanced in several of the 27 EU countries, but it is far from finished. Attempts like the Polish government's appeal to the European courts against certain provisions of the Copyright Directive highlight the relentlessness of the Directive's opponents and the efficacy of the gigantic lobbying effort certain American digital platforms carried out.

It is important to remain more vigilant than ever in its implementation, but the essential framework is there, and will be there for a long time. The investment in European shows and films that the Audiovisual Directive requires platforms such as Netflix to make can be counted in the hundreds of millions of euros. This marks a moment of upheaval for the European audio-visual and film sector, which is currently faced with a real shortage of talent and resources, including studio space and the availability of technicians trained in the specific constraints of series production.

In France, for example, the volume of production is set to rise 40% over the next five years, according to some estimates. This is what led President Macron to announce, as part of the France 2030 programme, an investment of €300 million for the audiovisual and film industries. In Italy, Germany, Spain, Poland and several Eastern European and Scandinavian countries, the cultural industries have made similar observations.

When they are organised, like the France Créative movement, whose birth this book recounts (notably through a founding note from 2014, in the appendix), or its counterpart Italia Creativa, both of which instigated the first studies on the economic weight of culture in France and Italy, they have been able to exert a positive influence on national and European public authorities.

At the beginning of January 2021, we organised a delegation of about ten cultural personalities to meet no less than seven European Commissioners one after the other. These meetings raised the alarm about the effects of the Covid-19 crisis, with cultural sectors like the performing arts among the worst affected, along with tourism and air transport. An EY study published on this occasion estimated the loss of revenue linked to the Covid-19 crisis for the European cultural sectors at €200 billion (out of a total of approximately €545 billion) for the year 2020.

For the future of the EU and Europeans, public policies for culture and education are essential. Bringing them together under the same European Commissioner, a task now carried out with great talent by Maryia Gabriel, is an excellent thing. The Union, and each country, must invest massively in these sectors. Just as with the energy or defence industries, Europe must not accept losses of sovereignty in these areas. At a time when the foundations of freedom are in danger from within the great powers themselves — witness the assault on the Capitol or the emergence of digital totalitarianism in China — education remains the best weapon for democracy. It must be mobilised to strengthen our European consciousness.

With this in mind, I asked for a preface to Antoine Arjakovsky, Director of a at the Collège des Bernardins. The fascinating collective work History of European Consciousness that he edited in 2016 was very useful in the writing of this book. Arjakovsky, Director of the Board of the Institute of Ecumenical Studies in Lviv, Ukraine, is among the people taking concrete action in the ongoing tragedy

there.

I would like to thank him for his positive response.

I would also like to thank Editions du Seuil, who authorised this publication in English, as well as my friends at the European think-tanks EuropaNova and Volta, who agreed to publish and distribute it.

Thanks also to Robert Ashcroft, who was a long-time colleague when he was head of PRS, the British equivalent of Sacem, and who was kind enough to read through the English translation.

Finally, I would like to thank the family of authors' societies for making this publication possible; it is a model that is more indispensable than ever in today's digital and global world: the translation was done by James Connell, thanks to the communications department of Sacem, the oldest of the authors' societies in the field of music, which I had the good fortune to lead for nearly 10 years.

Preface

Antoine Arjakovsky



Antoine Arjakovsky

Jean-Noël Tronc is a man of experience and conviction. A graduate of the Essec business school in Paris and of Sciences Po, he was close to Michel Rocard. He was also an advisor to Lionel Jospin on information technology issues. As director of the Society of Authors, Composers, and Music Publishers (Sacem), he poured his heart and soul into protecting the rights of creators and regulating the digital industry at the European level. In March 2022, Tronc was named to lead the Centre National de l'Enseignement à Distance (National Centre for Distance Learning), and it doesn't take much imagination to see that he will continue to fight for a humanist education system and a robust creative cultural industry at the national and European level.

In this book, whose original French title is, *Et si on recommençait par la culture? Plaidoyer pour la souveraineté* (Seuil, 2019), Jean-Noël Tronc rightly raises the question of European cultural identity. Because, more than ever, this identity is under threat. The cultural system dominated by Big Tech, which plunders the knowledge generated by the professional media as well as the cultural content nurtured by artists, has weighed on Europe for the last thirty years as an all-powerful and inescapable civilisational model. At the same time, on the European continent, the Russian state has been challenging the democratic and liberal order as a whole. It is now threatening the whole of European civilisation through its massive use of propaganda and its desire to destroy Ukraine, which is guilty of having created a democratic nation-state on its borders and of wanting to join the great family of European nations.

Only a sovereign Europe can resist assaults of this kind. But this means Europeans must emerge from a metaphysical torpor characterised by a belief, dominant since the fall of the Berlin Wall, in the end of history. To stand up to the new barbarians of the twenty-first century, Europeans must now emerge from this amnesiac coma that has characterised them since the intellectual victory of the deconstructionist movement. They need to recall Rabelais' adage: "Science without conscience is the soul's perdition."

There can be no European sovereignty without a common ethical consciousness and a shared cultural identity. The problem is that the European Union spends only €250 million per year on culture out of its €260 billion budget, or about 0.001% (1/1000th) of its resources.

Moreover, until recently, European elites, paralysed by the post-modern paradigm, were unable to propose a model that could counter ultra-liberalism and ultra-authoritarianism. This is why Jean-Noël Tronc's pioneering thinking and tenacious commitment to a Europe of culture is so important. This means that after the time of institutional, economic and monetary construction, Europeans must become aware of themselves as a meta-nation with a particular responsibility at a time of great challenges in the globalised world. This nation of nations, or this federation of nation-states to use Jacques Delors' words, must be able to take root in a sphere of shared experience. It must be able to project itself onto the horizon of shared expectations. This is how European civilisation can flourish in a single space-time of freedom, justice, respect for the environment, and peace.

This new civilisational approach requires first of all a legislative battle at the level of the Parliament and the European Commission. For years, Jean-Noël Tronc mobilised his networks to ensure that a directive creating new rights for the media, authors and artists was adopted in 2019. This directive has defined more transparent conditions for relations with the major Internet platforms, notably by requiring them to pay for the content they hoover up from the websites of the news media. But it also established a three-year exception for European start-ups to foster their development and clarified the legal status of Internet users who share content. After the European cultural industry tumbled into the crisis linked to COVID19, Jean-Noël Tronc also fought for massive public financial support for Europe's creative and cultural industries. The report he commissioned in 2021 from the consulting firm EY called for support for private investment in companies, organisations, entrepreneurs and creators in the cultural industries, but also urged stakeholders to "mobilise the imagination and creative forces of culture to meet the challenges of tomorrow."

His battling has not been in vain. Since March 2022 the EU has put in place rules through the Digital Markets Act to stimulate and unlock digital markets, enhance consumer choice, enable better value sharing in the digital economy and stimulate innovation. In addition, the Digital Service Act will now require online retailers to check the identity of their suppliers before offering their products. New obligations have been imposed on very large platforms with "more than 45 million active users" in the EU (including Google, Apple, Facebook, Amazon, Microsoft and Twitter). These players will have to assess the risks associated with the use of their services themselves and put in place appropriate measures to remove problematic content. They will be required to be more transparent about the data they control and their recommendation algorithms. They will be audited once a year by independent bodies and placed under the supervision of the European Commission, which will have the power to impose fines of as much as 6% of annual revenue in the event of repeated infringements. In the context of the Russian aggression in Ukraine and the related consequences stemming from the manipulation of information online, a new article has been introduced to establish a crisis-response mechanism. This mechanism, which would be activated by a Commission decision, allows for "proportionate and effective" measures to be taken against very large platforms that contribute to spreading false information.

It so happens that at the same time as Jean-Noël Tronc was fighting for a Europe of culture and imagination, we published, together with some thirty European historians, a unique "History of European Consciousness" (Salvator, 2016). The book is both a diachronic and synchronic account of the pulsating heart of European identity — the volcanic European consciousness. Without even a hint of apology, but also without denying the most glorious pages of European consciousness, we showed that during its different paradigmatic periods (the mythological age, the age of Christianity, the age of the Enlightenment and secular modernities, and the age of the political project) European consciousness has been marked by the Greek taste for universality, the Roman sense of law, the Judeo-Christian and Islamic representations of a creator God, as well as the humanist conception of the inalienable dignity of every human being. This historiographic project remains unfinished. Now, President Macron wants to relaunch it in the framework of the French presidency of the EU Council.

Several European historians reacted immediately. 1 They say they are ready to implement a history of European consciousness that belongs both to professional historians and to every European citizen, a sort of vast mosaic of inter-

active and connected viewpoints that would make it possible to bring to life the great adventure of “the art of being in the European world” Will they finally be heard? No one knows. One thing is sure now, Jean-Noël Tronc’s vibrant plea for European culture deserves to be read with attention.

Introduction

September 12, 2018 was a remarkable day for Europe. On that day, the president of the European Commission, Jean-Claude Juncker, made his last speech on the state of the Union, at the end of a mandate marked by Europe's worst political crisis since 1957. That same day, the European Parliament was set to decide on sanctions against the Hungarian government as well as on a proposed directive on authors' rights (*) that had sparked an intense battle.

Each of these three events underscored a dimension of the profound crisis that was hitting Europe. In his state of the Union speech in 2016, Jean-Claude Juncker had declared that he had "never seen such a narrow field of compromise" among Europeans, nor had he experienced "national governments so weakened by populist forces." The Union, he said, was living through an "existential crisis." Two years after that speech, the situation had become worse, and the very existence of our Union was in play with the European elections of May 2019.

In his essay, *The Destiny of Europe*¹, the Bulgarian political scientist Ivan Krastev described the fracture line that divides Eastern Europeans from Western Europeans and constitutes, through its identity-focused dimension, one of the most daunting aspects of the current crisis. As its original title, *After Europe*, implied, the author feared the disintegration of the Union, which he thought would bring down Eastern Europe's liberal democracies.

We, as Europeans, are up against the wall. The vote in favour of Brexit showed that the unthinkable was possible: the union was losing 13 % of its population. It was as if France were to lose 8.5 million people. For the other nations, it was wrenching: it is clear that, in a threatening international environment, the Union is, more than ever, the only way forward. But at the same time, European institutions' difficulty recognising that the system is no longer functioning correctly fuels an undeniable anger among the people whose votes – in every election since 2005 – have mostly been negative.

However, if we cling to the idea that there really is no real alternative, we are flirting with catastrophe. Some European speeches recall Steve McQueen in John Sturges film *The Magnificent Seven* :

"Reminds me of that fellow back home that fell off a ten-storey building."

"What about him?"

"Well, as he was falling, people on each floor kept hearing him say, "So far, so good."

The years-long fight in Brussels over authors' rights and the powers of regulation in the cultural sphere has been one of the most remarkable illustrations of Europe's disfunction.

On September 12, 2018, we, the representatives of Europe's cultural industries, all motivated by the same desire to fight and the same anger at seeing Europe play too often against its own team -- we succeeded, at the end of a huge information campaign, in convincing a large majority of European Members of

*it has been decided for the entire translation to use "author's right" every time it should be mentioned "author's right & copyright", two different meanings.

1. Ivan Krastev, *Le Destin de l'Europe*, Paris, Premier Parallèle, 2017.

Parliament, to vote in favour of a version of a copyright directive that, contrary to its initial intention, amounted to real progress. Even if the battle is not over even as I write this, that date will remain in history as the day the powerful lobby of the American tech giants was defeated in the EU at the end of a proper political battle.

The vote came after an initial rejection of the text by The European Parliament on July 5, 2018, following an unusually violent disinformation campaign led by extremely powerful companies bent on preserving their colossal profit margins: They called efforts to protect creators “Internet censorship,” brandished predictions of “suffocating European start-ups” even while the tech giants themselves were methodically digging the graves of our technology companies and whole sections of our economies, via an abuse of a dominant position that is unprecedented in economic history.

This battle in Brussels over authors’ rights has been going on now for 10 years, and the rejection of the text on July 5 happened on almost the same date as the definitive rejection in 2012 of the Anti-Counterfeiting Trade Agreement (ACTA). That project had the historical distinction of having more than 90 percent of the European Members of Parliament vote against it.

This shows that the fault – if blame is to be apportioned—is not always with the Commission, which is often wrongly accused of all evil. The demagoguery of certain parliamentary groups and the obstructionism of member states are carry a large share of the responsibility for the European crisis.

In other battles, the European Union has been able to present a common front in assuming a cultural policy and enacting protective regulation. One example is common pricing for digital books, a policy validated by Brussels. Similar support was given to aid for the digitalisation of European cinemas, or, more recently, obliging SVOD (Subscription Video on Demand) platforms to make 30 percent of their offerings European.

Now one must avoid contradiction and not alternately accuse the Union of doing too much then not enough. I’m thinking of an example that I experienced first-hand, that of the 3G telecommunications licenses (UMTS) at the end of the 1990s, when member states refused to harmonise the procedures around the granting of these licences across Europe. This led to the craziness of country-by-country auctions and the collapse of our telecommunications industry. Or, recently, Chancellor Merkel’s unilateral initiatives on nuclear power and Syrian refugees: the first killed the common energy policy before it was born and the second is directly responsible for the worst political crisis in the history of the European Union.

However, among cultural players throughout Europe, the feeling has settled in that “Brussels” is mostly indifferent to cultural issues, be they symbolic or economic, or even hostile, as with regulation, in particular on the question of copyright, the pillar of funding for creators. Many authors and artists, as well as other cultural professionals, have joined the cohorts of disappointed Europeans who see nothing in the institutions but a floating technocracy, far from their own realities, apparently won over by the discourse of the dirtiest lobbies, in particular those of the big American Internet companies.

My desire to take up my pen and bear witness was born of this fight in Brussels, after a particularly shocking public hearing in the European Parliament on Tuesday, November 11, 2014. It really took a lot for a longtime pro-Europe militant to begin to have doubts, but I came back from it practically a Eurosceptic.

Hubert Védrine, in his scathing essay, *Save Europe!*, was right to say that we are wrong not to distinguish the anti-Europeans, between 15 and 25% of citizens, depending on the country, according to him, from the Eurosceptics, which he puts at 60 %, along with “15 to 20% who are traditional, measured pro-Europeans.” The diehard *Européist fédéralists*, “probably barely exceed 1%,”

he wrote².

I was a *Européist federalist*, and I am proud of it. And I remain a convinced European, as much by reason as by feeling.

Reason, because there is no real alternative to maintaining the dynamic of construction and reinforcement of Europe, lest it decline until its possible collapse. Now, for an individual country in the Union, this anti-European *sovereignism*, this idea that now is a good time to “go back home,” means leaving history behind. And for all of Europe, it would mean failing to turn up for a rendez-vous with progress, a reinvention of the future through power and cultural singularity.

One must add that, in today’s world, the alternatives that are the United States, China or Russia underscore how much, to paraphrase Churchill’s thoughts on democracy, Europe as a civilisation is the worst system apart from all the others. A failure of the European project would be a failure for all of Humanity.

That feeling emerges because Europe is, through its history and culture, at the heart of my education and my aspirations. In my travels outside Europe’s borders, often accompanied by other Europeans, I’ve found it evident that what unites us is much stronger than what divides us.

As a dedicated European, and often a simultaneously disappointed one, I wanted to bear witness in this book to the great misunderstanding that has gradually deepened between Europe’s institutions and the forces of culture.

First of all, I should stress that the institutions of Europe built themselves up without culture. The European Union thought it would be able to justify itself solely through its institutional existence and by sectoral policies that are essentially economic and financial, the great “single market.” Europe’s founders hoped that a common culture would gradually emerge from this dynamic of peace and liberalism. The more time passes, the more this Europe, created without culture and without pressing its cultural identity as a lever of power, seems like a ghost, often distant and sometimes threatening, in the eyes of its peoples.

As I will explain here, this absence is all the more surprising given that its cultural and creative industries are among Europe’s greatest strengths.

Culture, creativity, authors, authors’ rights, collective management, cultural industries, national and local cultural policies, public cultural institutions, private citizens who fight for culture – all of these are nourishing forces for Europe. Of course these things are not missing in other bastions of global civilisation, but here in Europe their prominence is greater than anywhere else. It’s right there in our motto, United in diversity: above all else, our incredible cultural diversity has given us strength and created the force of attraction that Europe has for the rest of the world.

In an economy dominated by services and intangible value, culture, with 7 million jobs, is one of the main reservoirs of growth and employment as well as a source of constant innovation, creativity and global reach.

And yet too often, the European Union, built from the beginning with no competence in the matter, has taken sides against culture, in the name of the digital revolution or through indifference to the potential of its cultural industries. In any case, through concrete actions Europe has harmed its own interests, both public and private.

We even saw a kind of deforming lens in Brussels, an almost irrational aggressiveness toward national cultural policies and **author’s right**. Perhaps that is because nothing is more alien to the logic of “harmonisation” than the cultural dynamic.

I describe here in detail different episodes of the battle we have had to wage in Brussels for years, over draft treaties, guidelines or in the context of international trade negotiations.

The offensive against copyright in Brussels was carried out essentially in the name of digital transformation, and was fuelled by many misunderstandings

2 Hubert Védrine, *Sauver l’Europe*, Paris, Liana Levi, 2016, p. 23.

between stakeholders in culture and technology. So, I thought it important to analyse the main factors that contributed to these misunderstandings, in particular the issue of open-source software and the public domain, the libertarian ideology associated with computing, and the fascination Silicon Valley inspires.

I also wanted to explain why the situation in Europe today is so worrying amid the loss of digital sovereignty and the collapse of our telecommunications and IT industry.

There is an enduring ideological alliance between liberals – dedicated above all to pushing the logic of markets, competition and consumerism – and libertarians, who are opposed to all regulation. As culture came in contact with digitalisation, this alliance has had devastating effects in Europe, in telecommunications as well as in the cultural domain.

In an increasingly global and digital world, it has basically come down to this: a European consumer pays a reasonable price for high-speed Internet thanks to the investments her telecom operator made in Asian equipment, and he consumes content and services from the big American platforms. This sums up the challenge of the “transfer of value” that is happening at the expense of Europe and which has as much to do with the networks as it does with content.

What is more, the loss of our digital sovereignty has weakened Europe’s positions across the whole economy, especially in culture. Meanwhile, most of the non-European powers are developing ambitious policies of cultural influence, aligning protectionism with expansionism.

Therein lies one of the main weaknesses of a Europe that is incapable of building a strategy for power and seems stuck 20 years in the past. With the fall of the Wall, the hope of a peaceful world seemed real. In *The End of History and the Last Man*, published in 1992, Francis Fukuyama³ explains that once capitalism had triumphed over communism, a single development model was set to be imposed on all of humanity.

Even though the book was sharply criticised, particularly in France where its American-centric view ruffled feathers, the European élites were basically satisfied by an analysis that confirmed the triumph of the market economy model on which the European Community had been built since 1957. To cite the famous TINA (*There Is No Alternative*) beloved by Margaret Thatcher, the idea that the European project, based on the great market and the euro, was the culmination of our torn and long conflicted European history, was fairly widely shared.

Samuel Huntington’s 1996 book, *The Clash of Civilisations and the Remaking of World Order*⁴, in which he contradicts Fukuyama, sparked ironic reactions as its thinking was considered conservative, even reactionary, particularly its sharp criticism of American multiculturalism.

The book is remembered for Huntington’s prediction of a clash between major zones of civilisation whose geographic definition, defined by the author, was quite questionable. But we must get back to his fundamental thesis. Put simply, Huntington maintained that with the end of the Cold War, identities and cultures would be at the origin of conflicts and alliances between states and peoples, not ideologies, North-South opposition, or economic rivalries⁵. He explained that the post-Cold War world had become multi-civilisational because the West had ceased to dominate the international system. He saw that, despite the economic, scientific and military omnipotence of the West, and the attractiveness of its culture to other civilisations, the dissemination of its ideas had not given rise to a universal civilisation.

3 Francis Fukuyama, *The End of History and the Last Man*, Penguin Books, 1992

4 Samuel Huntington, *The Clash of Civilizations and the Remaking of World Order*, Simon & Schuster, 1996, the book follows on his article “The Clash of Civilizations”, which appeared in *Foreign Affairs* magazine in 1993.

5 He explained that “(...) the fundamental source of conflict in this new world will not be primarily ideological or primarily economic. The great divisions among humankind and the dominating source of conflict will be cultural!”

Yet today we live in a world that is not far from the vision of Samuel Huntington: dominated by the new Chinese expansionism, the return of an authoritarian Russia, the United States of Trump, neo-Hindu nationalism, all against the backdrop of a violent crisis in Islam. We can see how close identity and culture are to the heart of tensions between states, including within the European Union.

However, rather than drawing lessons from this reality and prioritising a strong and protective political ambition that would underpin the cultural sectors and the business models that support them – like authors' rights and collective management – European institutions have instead worked fiercely for 10 years to weaken them with hostile regulatory initiatives.

I've spent the last six years as chief executive of the Sacem, along with many others, "limiting the damage" in Brussels, warding off blows. We were knocked into a stupor upon hearing the new European Commission president, Jean-Claude Juncker, present his programme to Parliament after the 2014 elections: He set out as a priority to "break the barriers of copyright" in an effort to make up for Europe's lagging digital economy! As if one of the great contributions of Europe to humanity -- and the keystone of the cultural industries -- were an obstacle to be struck down.

I would have much preferred to spend the same energy supporting a victorious strategy, built on a foundation of support from Brussels to our cultural industries. We are losing the battle of digital distribution and broadcasting. We must act. It is still possible for our cultural industries to win the battle of creation and global influence.

Few debates have been as fake as the one that was said to pit culture against the digital economy. As an observer and an actor in both worlds, I wanted to bring my share of truth to this question, which is crucial for the future of Europe.

I'll let others more qualified than me develop the deep economic, legal and historical analyses. My approach is empirical, based on more than 30 years of professional experience during which I've constantly been involved with European issues.

During my studies, I was parliamentary assistant to the vice president of the commission for economic, monetary and industrial policy affairs, the MEP Gérard Fuchs, a passionate European. I followed the Maastricht Treaty negotiations with him.

As a consulting engineer at Andersen Consulting, now Accenture, I saw Europeans attain global leadership in the telecommunications industry.

As project manager at the Prime minister's General Planning Commission, I contributed to the report entitled *The Public Service*, commissioned by the Prime Minister at the time, Alain Juppé, and his Secretary of State for telecommunications, François Fillon, to implement the decision taken in Brussels to liberalise big public services.

As an advisor to Prime Minister Lionel Jospin over five years, I conceived and directed the public policy for the Internet and the digital sector. In this role, I saw Europe mobilise to develop an "Information Society" and participated in the creation of the "Lisbon Strategy" adopted in March 2000, whose goal was to make Europe "the most competitive and dynamic knowledge economy in the world by 2010."

As CEO of Orange France, I witnessed the collapse of the European IT and telecommunications industries, and observed the role the EU played, under cover of good intentions, in that enormous industrial failure.

As **CEO** of Canal + Overseas during the introduction of pay TV services in Vietnam, the Maghreb and elsewhere, I was able to see the distance between European, and particularly French, rhetoric on cultural influence and the reality of the means employed by other countries. They were so much more ambitious than we were, and so much less naïve – both proud of their cultural identity and

solidly protectionist in an effort to tip the scales to favour their national cultural industry and carry out a policy of global influence.

As CEO since 2012 of the world's leading authors' society, the Society of authors, composers and editors of music (Sacem), which today accounts for, with 165,000 members from 163 nations, nearly 15% of the global authors' rights revenue received by collective management, I've seen a massive gap between perception and reality: that of the often very negative view the French and European elites have of the cultural economy, and the fact that the cultural sectors are a rare example of an economic category where France and Europe are No. 1 in the world.

This book was born from an observation: Europe's growing loss of sovereignty in the digital economy and its negative consequences on our cultural influence. These two sectors, which we have set in opposition to each other in recent years, nourish one another. Their non-European competitors are often the same companies. Above all, they are keys to our future – if, that is, the ambition that motivated the European Community founders, the ambition to regain together both our sovereignty and our power, remains the same.

This book is the expression of three convictions: Europe has built itself up without culture – you could even say in opposition to culture – and this must not continue; framing culture as an opponent to the digital economy is sterile, false and dangerous; to save the Union we must endow it with a real policy in this domain, a policy that underpins our digital and cultural sovereignty and strengthens European identity.

I would like to plead that, this time, to borrow Jean Monnet's apocryphal prescription, we "start with culture." Because what is slowly killing Europe is its lack of soul and the denial of its identity. What could save it, while rehabilitating it in the eyes of its people, would be first the affirmation of its identity and the recognition of its cultural power, products of a prodigious history and limitless creativity.

The European Union now knows it is mortal. Faced with a slow collapse that is stalking it amid a rising revolt at the ballot box, only a strategy of sovereignty and power, which places the cultural question at its core, can give new meaning to the European project and allow us to finally build a sense of sense of belonging shared by all the peoples of the Continent.

Culture is the best remedy for the European crisis; that is the thesis of this book.

I

Europe without culture

The founding misunderstanding of 1957

We credit Jean Monnet with the saying, "if I had to do it over again, I would start with culture." In reality, it was [Hélène Ahrweiler](#), former rector of the Academy of Paris, who had [attributed it to him](#) in a speech on the occasion of the European Students Forum in 1988: "If I had to do it all over again, I would start with culture, Jean Monnet might exclaim if he were to return among us."

There is a less well known declaration from one of the other founding fathers of the European Community, Robert Schuman, published in his 1963 book [Pour l'Europe](#): "Europe, before becoming a military alliance or an economic entity, should be a cultural community in the most elevated meaning of the term."

The Treaty of Rome ignores culture

This beautiful vision did not get a concrete translation during the founding of the European Economic Community. At the birth of the EEC in 1957, the desire to concentrate on a technical approach, to dissociate institutional Europe from cultural, historical and geographical Europe, was assumed.

It is understandable, because it was about banishing the nationalisms that had led to the catastrophe of two world wars. Our continent had been cut in two by the Iron Curtain. Central and eastern Europe, Portugal and Spain were deprived of liberty, with democratic union, peace and prosperity remaining a faraway dream.

As the Swiss Denis de Rougemont wrote, in his message to Europeans on May 10, 1948, "the supreme conquest of Europe is called the dignity of man and its true form is in freedom. This is the final goal of our fight. It is to save our acquired freedoms, but also to extend the benefits to all men, that we want the union of our continent."

Depoliticising relations between the states from the start and concentrating on economic cooperation is surely what allowed the improbable: less than five years after the fall of the Third Reich, on May 9, 1950, Robert Schuman, then the French foreign affairs minister, proposed the creation of a Franco-German union for the production and management of mineral resources, the core of military machines of the day. This was to become the European Coal and Steel Community (ECSC), which had been imagined by [Jean Monnet](#), then the French economic planning commissioner and future founder of the Action Committee for the United States of Europe. The idea was to "lay the first concrete foundations for a European federation."

Until then European history had been a mix of national identities, borders and resentment over past wars. Culture and memory had often been used in the service of harmful and warlike passions.

This is why, just a few years after the fall of the fascist and Nazi regimes that had instrumentalised culture and education, integrating culture into nascent European missions and institutions seemed impossible. What is more, Cold War tensions played out through cultural channels, via the often Manichean mobilisation of artists and intellectuals.

The centuries-old dream of an institutional union was being realised at a time when Europe had never before been so weak nor so divided, under the yoke of the Soviet occupation in the East and the American protectorate in the West.

If it had been born centuries earlier, a European union would no doubt have immediately affirmed a desire for cultural and political power, something the founders of the EEC could not afford.

On March 15, 1957, the Treaty of Rome created an economic community of six countries, but did not make any provision for culture or education. We had to wait 20 years, until 1977, before a first “cultural action plan” was implemented by the European Commission.

The European Community has suffered since its inception from a denial that has become, over time, almost fatal. We cannot forge an identity with only the links created by economic exchanges. A Europe that is simply a market of consumers cannot pretend to create strong bonds.

Missed opportunities

Europe’s leaders did repeatedly consider the question, particularly in 1973, when Great Britain, Ireland and Denmark joined. With this expansion, the Soviet bloc obviously excluded, “The Europe of Nine” could more easily claim to represent Europe, at least free Europe, which could not yet be called Western Europe because Portugal, Spain, and Greece were still under dictatorships.

In Copenhagen in December 1973, the heads of state and government adopted a [Declaration on European Identity](#), a text that expressed the conviction that a European identity was required “to ensure the survival of the civilisation which they have in common.” With such a grand ambition, one would have expected a precise definition of what this common civilisation consisted of. But the declaration only evoked “the diversity of cultures within the framework of a common European civilisation” and “common values and principles.”

The member countries remained vague on the central question of European identity and were content to detail their common values through the affirmation that the Europe of Nine intended to safeguard “the principles of representative democracy, of the rule of law, of social justice” ... “and of respect for human rights.”

This abstract definition of our identity remains, in 2019, one of the fundamental limits of the European construct. Indeed, many countries in the world are committed to peace, democracy, the market economy and human rights. This does not necessarily make them European countries.

The European Commission, even without any powers in cultural matters, nevertheless proposed in 1977 a raft of odd measures such as equipping museums with “European rooms” designed to demonstrate common heritage, the creation of Community cultural institutes or even the production of 365 television shows dedicated to “great Europeans of the past and present.”⁶ Historians from nine different countries worked on a common history textbook that was never published. Unfortunately, the ministers of the Council of the European Union refused to discuss the Commission’s proposals.

In June 1993, once Greece, Portugal and Spain were admitted to the

⁶ European Commission, communication to the Council of 22 November 1977 on common action in the cultural sector.

Community, the leaders of the Europe of Twelve met to define the [criteria of adhesion](#): stable institutions, a market economy, and the adoption of the “[acquis Communautaire](#),” the 80,000 pages of European legislation. Any reference to question of culture and identity had disappeared. So much for “common civilisation.”

European reunification lifts hopes

With the fall of the wall, dreams of a united and sovereign Europe

With the fall of the Berlin wall and the gradual return to democracy of the former Soviet countries, the reunification of the continent became possible, and hope was born that with successive expansions, the Union would one day cover the whole geographical and cultural area of Europe. I use the term “reunification” conscious of the fact that Europe had never been politically united before the arrival of the “Iron Curtain.”⁷ But, as I will illustrate below, the Cold War created a nearly watertight division in Europe unlike any that had ever been seen before in its long history, so we tend to forget that the free circulation of people and ideas did not have to wait for the CEE to exist. The same goes for the current Union – it is far from covering all of Europe, especially after the Brexit catastrophe, which marked the departure of a nation that is historically and culturally essential to Europe.

I have a fond memory of that time: the meeting of European socialists and social democrats in Berlin at the end of November 1989, a few weeks after the fall of the wall. The moment is steeped in history. This was in fact the first political meeting held at the restored Reichstag since it was burned by the Nazis in 1933.

We arrived in Berlin accompanied by Pierre Mauroy, the former prime minister and president of the socialist Internationale, and we rode with one of the leaders of the SPD in a big black Mercedes, into East Berlin, for lunch. At Check Point Charlie, the passage between West and East (I had gone through already, in 1988, on my first trip to East Europe, under the suspicious gaze of an East German police officer) a soldier in a very “Warsaw Pact” hat snapped to attention and we passed through without stopping. I noticed then that the politicians with me were crying, moved by this tangible sign that the split between East and West was now dead, and with it the idea of an alternative model to capitalism.

For these social democratic leaders, the communist dictatorships of the East did not even come close to representing a model. But they probably guessed that the triumph of capitalism would lead the European Union down an increasingly liberal and consumerist path, to a place where Europe’s sole ambition would be to constantly deepen its great market.

Whereas for my parents’ generation, building Europe must have been about warding off the risk of war above all else, for my generation, born in the sixties, the European dream was the hope that with the end of the dictatorships of Eastern Europe, a reunified and sovereign continent, freed from American or Soviet tutelage, would emerge.

Our education in the fight for freedom did not come from May 1968, nor from Vietnam; it came from Solidarność, **whose banner we displayed, Václav Havel, Andrzej Wajda and Milan Kundera**. Our political commitment was not a choice between fear of the Soviets and anti-Americanism. As a 15-year-old

⁷ The expression Iron Curtain was coined by Winston Churchill, Europe’s greatest politician, in his famous speech in Fulton, Missouri, on March 5, 1946 in the presence of President Truman. In the speech he sounded a warning about the totalitarian Soviet system that had descended on half of Europe: “From Stettin in the Baltic to Trieste in the Adriatic, an iron curtain has descended across the Continent. Behind that line lie all the capitals of the ancient states of Central and Eastern Europe.”

Amnesty International volunteer, I wrote to Pinochet as well as to Jaruzelski to demand the release of political prisoners. We admired the artists and intellectuals of Eastern Europe for their talent and their courage. They had seen the “socialist dream” up close, and they embodied a certain vision of Europe, united by culture, often the main means of resistance to oppression. A reunited Europe could aspire to power and global influence, well beyond the economic prosperity guaranteed by the common market. But 30 years later, this hope has been cruelly dashed and the generation behind us is an orphan to the European dream. How did we get here?

Maastricht: culture makes its way into treaties while the rupture between the people and the Union begins

West Europeans welcomed the reunification of the continent with hope but also with apprehension. Indeed, with the integration of the Southern European countries, the tension between enlargement and deepening was already being felt. Negotiations on the future Maastricht Treaty were tainted by strong reluctance, particularly from the left but also from the extreme right.

In 1992, I sensed for the first time the profound gap that existed between the political elites and public opinion, at the same time I witnessed the rise of Euroscepticism. Almost 25 years before Brexit, a lot was going on, and Brussels’ deafness to the changing attitudes of the people was already remarkable.

Public opinion was beset by the feeling that the Union was too liberal and the condemnation of the fact that achieving a social Europe was being pushed back in favour of accelerating economic and financial integration.

I lived it first-hand. In parallel with my studies I was working for the MEP Gérard Fuchs, head of European affairs for the Socialist Party, which was pro-Maastricht. I lead explanatory meetings about the treaty in the field. We quickly started calling them “tomato meetings,” such was the hostility felt toward the euro, and more globally, the liberal approach of the treaty, by a large and vocal portion of attendees.

At the end of June 1992, we were trying to warn an advisor to President François Mitterrand when she cited polls that had the “yes” vote winning with more than 60%. On Sept. 20 the “yes” vote barely won: with an unusually high participation rate of 69.7%, the positive votes struggled to reach 51%. That was the last European text not to have been rejected by the people of the Union.

Paradoxically, it was the [Maastricht Treaty](#) that finally gave Europe some influence in cultural matters. The treaty says that the Union “shall respect its rich cultural and linguistic diversity, and shall ensure that Europe’s cultural heritage is safeguarded and enhanced.”

This great symbolic step forward looks positively cautious when you look at the slim financial backing the Union devotes to culture today and the marginal way these resources are presented in EU financial documents. The only significant program, [Creative Europe](#), supports the creative and audio-visual sectors and has two components. The Media program finances European audio-visual projects. The Culture program is supposed to “encourage the inter-connection of European artists and cross-border cooperation on projects.”

In the seven big chapters of the new financial framework for 2021-2027, the European budget under discussion, which sums up all the ambitions and priorities of the Union, this program appears in the chapter titled “Cohesion and values,” in a subsection called, in a very Brussels jargon: “Investing in human capital, social cohesion and values.”

What is revealing about the importance given to cultural issues in EU policy is that the word culture does not even appear in the summary of the multi-year financial framework.

Quite unfortunately, the Commission chose a heavily political title for its

152-page communiqué detailing the budgetary framework: “A modern budget for a Union that protects, empowers and defends.”⁸ So the key idea of using culture to shore up the construction of Europe remains clearly ignored.

The European Commission proposed to finance Creative Europe with 1.85 billion euros for the 2021-2027 budget. It is still under discussion but would be a significant increase.

That demonstrates good intentions, and one can only rejoice at the ambition set out for the Creative Europe program on the Commission’s website: “Culture is a key sector for the formation of a common European identity. Supporting European creative audio-visual production will help facilitate dissemination and bolster international competitiveness, especially in the context of the digital revolution.” Of course. But with only 249 million euros budgeted for 2021, 0.001% of the total⁹, and an inevitable sprinkling, the Commission hardly has the means to meet its ambitions. Anne-Marie Autissier, a specialist in European issues, pointed this out in a recent radio show¹⁰, “there is no European cultural policy. There is a “culture” article [in the treaties] that provides expertise in support of [the policies of member states] of the European Union.”

Euronews represents another failure of attempts to nurture a common cultural sphere. Founded in 1993 by the major public European audio-visual groups, (France Télévisions, Italy’s RAI, Belgium’s RTBF, Spain’s RTVE, etc.) on an initiative of the Commission. Euronews is one of the projects that most symbolises the willingness, even if embryonic, to build common tools for culture and information by creating a “European CNN.”

Ambitious from the perspective of cultural diversity, with more than 15 languages, Euronews’s innovative “No Comment” format, which showed news as it happened – with no editing or commentary – was slammed by critics for being a symbol of a Europe without a voice.

But Euronews suffers from a lack of direction and constant financial need, stemming from the disinterest and eventual financial abandonment of some of its founders – France Télévisions and Rai dropped all financial support¹¹. And on Feb. 15, 2017, amid total indifference, Euronews, which already was no longer European after the sale of a 53% stake to the Egyptian media group Orascom, sold a further 25% of its capital to the American network NBC. Relative to the communications or translation budgets of all the European institutions the money in play is negligible. What a sad symbol of the lack of cultural ambition for Europeans!

There are, however, some real successes that should be highlighted. For example, intercultural dialog, which has steadily developed in Europe with school and university exchange programs, the twinning of towns, and the Erasmus programme, created in 1987, which links more than 3,000 academic institutions. One can only hope that the Commission will be allowed to follow through on its promise to increase the budget of the renamed Erasmus+ to 30 billion euros for the 2021-2027 period. Another strong but symbolic move, which we owe to the French and Greek culture ministers Jack Lang and Melina Mercouri, is the naming each year since 1985 of a European capital of culture.

Without a doubt, intercultural dialogue remains, with the enthusiasm of the European movement and its many clubs and foundations, one of the most significant achievements of the Europeans.

It is regrettable, in this regard, that Daniel Cohn-Bendit’s proposal to use the 73 European Parliament seats left vacant by Brexit to establish in Parliament

8 [Press release from the European Commission dated May 2, 2018.](#)

9 For the multi-year financial framework (2021-2027), the European Commission proposed a total budget of 1.279 trillion euros, or 1.1 percent of the Union’s GDP, a small increase from the 2014-2020 period, despite a “loss” in revenue of about 13 billion euros per year because of the British departure.

10 France Culture, Les nouvelles batailles culturelles : Union européenne, l’urgence culturelle, « Culture Monde », November 29, 2018.

11 By comparison, the annual Euronews budget is about 75 million euros, while France 24 or RFI get about 250 million euros and BBC World has a budget of more than 600 million euros.

a section of seats elected from a truly European list was not successful. Such a measure would certainly have helped advance a sense of European identity by giving all Europeans a chance to fill about 10% of the Parliament seats from a real European list with candidates from all member states.

In his [State of the Union address](#) on September 13th 2017, Jean-Claude Juncker, speaking with convincing sincerity of his love for Europe, concluded by advising European members of parliament to “think about this on the occasion of the European Year of Cultural Heritage in 2018, during which we will celebrate our cultural diversity.” Here is a sad observation: who among us has heard anyone talk about this year of cultural heritage?

So far the union has not done much with this ambition “to highlight a common cultural heritage” that this European cultural policy is supposed to promote. It’s a real paradox since the existence of a “European civilisation” seems to be obvious, as it was underlined in the Copenhagen Declaration on European Identity.

A European identity, united in its diversity, hangs on its history and its culture¹²

Curiously, European identity is an idea that seems new. It is, however, the result of a long common history -- political and economic, yes, but also and foremost, cultural and intellectual – of the people who have rubbed shoulders and mingled on the same “isthmus of Asia” for three millennia.

The sources are innumerable. I won’t pretend to be a historian here but I can nonetheless say that the evidence of what brings Europeans together on a historical and cultural level is immense, and ancient, as the title of Denis de Rougemont’s 1961 book indicates: *Twenty-eight centuries of Europe. The European conscience through writings from Hesiod to our days.*

Etymologically speaking, Europe is a product of Greek mythology. She is the goddess of the sea in Hesiod’s Theogony, in the 8th century BC; she is a mortal that Homer evokes in the Iliad, the Asian princess kidnapped by Zeus from Phoenicia and taken to Crete. For Herodotus, Europe is “the land across,” opposite Asia. It was in fact the Greeks who cut the world up into continents.

European civilisation is expressed in the great proximity that already united the literary community from the beginning of the High Middle Ages, culminating in the 18th and 19th centuries. It resulted in a free flow of ideas and men as early as the Middle Ages that far surpassed that of the aristocratic elite. And whether religious or secular, students were already circulating throughout Europe, just like merchants, pilgrims, artists, or soldiers of fortune.

In some respects, mobility and multiculturalism were superior then to what they are today, as illustrated by Jean Lacouture in *Jesuits, a multibiography*¹³. At the beginning of the 16th century, a student would generally study abroad, choosing Bologna, Salamanca, Tübingen or Paris without too much thought about the countries in which these university towns were situated. Lacouture describes the seven years Ignatius of Loyola spent in Paris, where Latin was the universal language of education – whence the “Latin Quarter.” Half of the students were foreigners, dispersed into “nations,” like the “nation of France for Parisians, southerners, Italians, Spaniards, Portuguese and Turks or Egyptians!”

Europe has also existed through the awareness of common threats. In his description of the battle of Poitiers, Isidore the younger recounts the confron-

¹² For this chapter I relied on two amazing collective works: Europa, notre histoire, l’héritage européen depuis Homère, edited by d’Étienne François and Thomas Serrier, Paris, Les Arènes, 2017, which brings together 149 short articles on the question of European identity under all its facets, and Histoire de la conscience européenne, edited by Antoine Arjakosky, Paris, Salvator et Collège des Bernardins, 2016, as well as the indispensable Vingt-huit siècles d’Europe by Denis de Rougemont, Paris, Payot, 1961.

¹³ Jean Lacouture, *Jesuits, a multibiography*, Counterpoint, 1995.

tation as a fight between the Saracens and the “Europenses” who rallied under the banner of Charles Martel. Charlemagne was described by his contemporary Angilbert as “Pater Europae.” In the twelfth century, King Béla IV of Hungary, worried about the advance of the Tatars, warned of a threat “contra totam Europam.”

Europe has certainly existed through the efforts at union that have followed one another over the centuries. The king of Bohemia, Georges de Podebrady, drafted at the end of the fifteenth century a proposal for an assembly of European Nations. In 1623, the priest Crucé came up with the idea of a tribunal in Venice to arbitrate among nations. Saint-Pierre’s Project for perpetual peace in Europe, published in 1713, inspired Kant’s essay, [*Perpetual Peace: A Philosophical Sketch*](#) from 1795.

In the 19th century, proposals for a European union multiplied. The most famous of these was probably Victor Hugo’s speech calling for a United States of Europe, which influenced both Aristide Briand and Richard von Coudenhove-Kalergi’s Paneuropean Union in the 20th century. The idea of a council of Europe was proposed by Winston Churchill in 1946 at the University of Zurich and carried out in September 1949 in Strasbourg.

Europe is, of course, first and foremost a civilisation. It is the product of a fortunate meeting between Jerusalem, Athens and Rome, which produced a cultural model so powerful that it had a universal impact. In a lecture in 1922, Paul Valéry said: “Europe is where the influences of Rome on administration, Greece on thought, and Christianity on the inner life are all felt at once.”

Taking up the question of European identity means “taking the skeletons out of the closet.” The historian François Fejtö wrote: “We Europeans are, at the very least, responsible for our future, even if we cannot do anything about our past.”¹⁴ After all, the American identity was notably forged over the great massacre that was the Civil War. It is important to fill the void that keeps European citizens from identifying with the political whole that is supposed to unite their continent, which existed, culturally and politically, many centuries before there was any talk of a union of European states. As Denis de Rougemont observed, “Europe is much older than any of its nations.”

The same difficulty arose during the debate that led to the reference, in the constitutional treaty of Oct. 29, 2004, to the “cultural, religious and humanist inheritance of Europe,” a debate that probably would have surprised the founding fathers of the European Community, Adenauer, Monnet, Schuman and Spaak, all Catholics whose names were given to the buildings of the Commission and the Parliament in Brussels and Strasbourg.

The existence of a cultural community among Europeans goes back to our Greco-Roman beginnings and takes root our Jewish-Christian origins. That in no way excludes Islam from being part of European history for centuries, in Spain, Portugal or Sicily, and in the Balkans even today.

I should add that the disappearance of colonial empires and the emergence of other powers – first American, then Soviet, finally China, has not erased the profound cultural influence that Europe retains in the rest of the world. Of course it has everything to do with the combined cultural influences of the principal European nations. But for non-Europeans, it is obvious that that these influences are linked and belong to a common civilisation.

European Union, a fleeting identity

The European Union has progressively acquired attributes: a flag, blue with a dozen yellow stars, which is the 1983 remake of a flag adopted in 1955 by the Council of Europe and whose stars symbolise “the ideals of unity, solidarity

14 In *Europa, notre histoire*, edited by Etienne François and Thomas Serrier, op. cit., p. 16.

and harmony between the people of Europe.” Nice concept, albeit a little abstract when you know that the stars on the U.S. flag represent each of the American states, and that their number rose with the enlargement of the federation. In fact a lot of Europeans think that our stars symbolise the Europe of the Twelve of 1986.

The Union also has an anthem, taken from Beethoven's Ninth Symphony; a Europe Day, May 9th, which commemorates the Schumann Declaration of 1950, considered the birth certificate of the Union; a [motto](#), *United in diversity*, which was used for the first time in 2000 and is included in the Constitutional Treaty.

And of course, the Union has a currency, the euro. The introduction of a common currency is the strongest integration choice made since 1957. It is the only achievement of European integration that is used on a daily basis by 350 million citizens. There are, in fact, more Europeans who use the Euro than there are people in the United States.

The history of the design of the euro coins and notes is, by the way, a glaring example of the missed opportunities to build a European identity. Everywhere in the world, throughout history, the design of currency and coins has served as a symbol of the power of the nation or country that uses them: famous personalities, buildings or plants that people identify with. However, what is striking about the illustrations on euro notes is their impersonal nature. At the beginning, the idea was to choose emblematic Europeans. What could be more natural? When the euro was created, the 11 founding countries put historical figures from their own countries on the notes.

An initial list of 18 themes was selected, among them personalities, but also poetic works, cities, monuments, flora and fauna. Anything that could symbolise the common identity of Europeans. The theme of personalities was chosen with the idea of celebrating European cultural heritage. Each note was to present a man or woman on one side, and that person's contribution to civilisation on the other. For example, Rembrandt and painting, Marie Curie and science, Beethoven and music.

So a problem cropped up with notes bearing images symbolising seven different values: certain countries would be left out. The specialists assembled in the *Theme Selection Advisory Group*, whose recommendations and lines of thinking are worth reading, noted, as if through regret, that famous people were likely to be associated with their countries. It was a curious reluctance considering that the coins in circulation had us regularly paying with euros that had the king of Spain or Belgium on one side, without causing particular offense to our republican leanings or national identity. But with notes it would have been impossible to produce several different series to get around that obstacle. So the idea of putting famous people on notes was discarded.

The same problem comes up with plants and animals. At the end of the day the theme “European architectural epochs and styles” was chosen in keeping with the power of the continent's cultural influence. The experts noted that “for the quasi-totality of the global population, Europe is distinguished by the quality of its plastic arts ... While American and Japanese tourists would prove incapable of citing the name of a European leader, they often know the names of the most famous European museums.”

And so the project launched, with the idea that the front of the notes would feature portraits of “ordinary men and women” extracted from paintings, and the back of the notes would illustrate a style of architecture typical of an era, in a way that would “express the architectural richness and unity of Europe without making specific reference to any existing building.” Things were really getting complicated.

The experts were called in again, and they selected seven historical styles – antique, roman, gothic renaissance, etc. – while recommending real buildings for representation to obtain a more authentic outcome. The Maison Carrée in Nimes and the Pont du Gard were thus chosen for the 5 euro note, for

the 10 euro note Lund Cathedral and Mont Saint Michel Abbey, etc. Here was an opportunity to provide all Europeans with common cultural icons. Alas, even that was too much: The Pont du Gard, though a symbol of the first uniting of Europe under the Roman Republic (then Empire), still could be placed in an individual country, France in this case. Any possibility of identification was ultimately eliminated to achieve the current result: bridges on the front, windows and doors on the back, supposed to symbolise “the European Union’s spirit of openness and cooperation, as well as communication between peoples.” Whatever. Every day, the European Union’s identity vacuum is literally palpable, for millions of Europeans, by way of these flimsy bank notes.

Europe of peace and Europe of power

Going back to 1957, a founding ambiguity has weighed on our European institutions. In the anthology *Histoire de la conscience européenne*, Luuk Van Middelaar, a professor at the Catholic University of Louvain, describes the twin goals of Europe’s founders: a *peace project*, pursued by Jean Monnet and his successors, and a *power project*, represented by the dominant vision of the French and Germans at the birth of the EEC.

The two objectives could be compatible but, as Luuk Van Middelaar explains, they result in different political projects: “Peace project: abolishing nations, breaking the sovereignty of the states, so that the first step toward world peace can be made in Europe. Power project: melting nations into a larger whole, group the power of the states so that Europe can best defend its common interests in the global context.”

These two objectives are therefore partly incompatible: “In the first case, nationals must become stateless world citizens (or depoliticised consumers of goods and services.) In the second case, they must become committed Europeans – even proud of their identity. In other words, the peace project requires the sacrifice of national identity for the benefit of universal values, while the power project requires the development of a European identity.”¹⁵

There you have it: often constrained and forced, the two federalist-inspired institutions, the Commission and Parliament, have above all promoted Europe as a project of peace and prosperity. In concrete terms, Europeans first saw the effects through the construction of a liberal legal and economic framework, built around a large market that requires constant improvement through a sort of integration and harmonisation that can be constricting.

For those familiar with the institutions in Brussels, it is striking to see how much the notion of the consumer often serves as a counterfeit stand-in for that of the citizen. Whether it is about our telecommunications industries or the cultural sectors and the judicial framework these operate under in Europe, the domination of the liberal, consumerist vision has had tremendous effects. We shall return to this in detail.

As such, citizens feel their identities have lost value in favor of a universalist vision devoid of any specific European incarnation. Some may even feel their identities are under threat, a sentiment that is exploding with the refugee crisis.

Danger is therefore imminent if we do not change our approach to take on a policy of power. This is, of course, what is increasingly being done by European leaders who, like Emmanuel Macron, take claim to the theme of sovereignty even as they admit that there is now a need to speak about peoples and identities.

¹⁵ Luuk Van Middelaar, “Pourquoi forger un récit européen ? La politique identitaire en Europe. Nécessités et contraintes d’un récit commun”, in *Histoire de la conscience européenne*, edited by Antoine Arjakosky, Paris, Éditions Salvator et Collège des Bernardins, 2016, p. 33-34.

Basically, a common threat can convince an increasing number of people that the vision of a Europe of power, sometimes criticized as very French, is the only alternative to a Union whose existential crisis may lead to failure.

As we will see, this makes it all the more important for Europe to demonstrate ambition in the cultural domain, where it is in a strong position globally – as much through its vitality and creativity as through the size of its cultural economy.

II

The cultural economy, a key advantage for European sovereignty

A powerful motor for the European economy.

Even if our information technology industries are currently very weak, the European cultural and creative industries (CCI) are in a powerful position at the heart of our economy.

A 2014 [study](#) by the EY consulting firm titled *Creating growth: Measuring Cultural and Creative markets in the EU*¹⁶ provided for the first time a complete set of quantitative and qualitative data on the economic and social weight of the CCI in the Europe of 28. It was a first, because, strangely, while cultural heritage and creation are at the heart of European identity, no such study had yet been carried out.

The EY analysts took an internationally recognised sectoral approach, one [set by Unesco](#) in the Convention on the Protection and Promotion of the Diversity of Cultural Expressions in 2005¹⁷.

The EY study shows that with 535.9 billion euros in annual revenue and more than 7 million jobs, the CCI are at the heart Europe's economy and its competitiveness. The first important lesson: culture is the third-largest employer in Europe, after the hospitality industry (a sector culture contributes to, notably thanks to live shows and cultural tourism.) The CCI employ 2.5 more people than automakers, 5 times more than the chemical industry, 7 times more than telecommunications (with 1.2 million jobs). Culture carries more economic weight than the steel or agribusiness sectors.

Within the cultural sectors, the ranking established by EY, which can be found in the appendix, also holds a number of surprises, like the economic importance of sectors like music or graphic arts, often less identified by the public as "industries" than cinema or book publishing.

Europe's creative economy also has the distinction of being resilient and of having held up well during the economic crisis of 2008 to 2012. While jobs in other sectors fell by 0.7% during this period, job creation in the CCI rose by an average of 3.5 percent between 2000 and 2007 and held steady during the crisis (+0.7%).

However, not all cultural sectors are flourishing, as another EY study for France Créative¹⁸ shows. The 2015 study underscores sharp job losses in France

¹⁶ See Annex 1 for an exhibit from the EY study.

¹⁷ Unesco defines the cultural and creative industries as "the activities, goods and services that embody or transmit cultural expressions, independently of the commercial value they may have." Eleven sectors are involved: book publishing, press (newspapers and magazines), music, live shows, television, radio, cinema, video games, graphic and plastic arts, architecture, and advertising (only in its creative part).

¹⁸ France Créative is an association formally created in 2016 but that began regrouping actors from every cultural sector as early as 2013. It began with the private sector but has since spread out to public-sector stakeholders, who had studies carried out by EY on the economic weight of culture in France. See www.francecreative.org.

in book publishing (-10%) and the press (-8%).

The CCI were built up slowly, with a combination of intellectual activity and economic life. In an effort to better understand how they work, let's take a look back at the particularities of this European history and on their economic characteristics.

Culture: when fragility sparks innovation

An economy of prototypes

More than any other sector, culture is an economy of prototypes. Each creation passes (or fails) the test of an audience. Even if the digital system, with its "recommendations," reviews published on social networks or cultural proposals based on your personal tastes, does open up new perspectives, some of them positive, others dangerous for creative diversity, culture remains a model founded on risk taking with every new creation.

A common cliché represents the cultural industry as overprotected, but the reality is that the business model is permanently fragile – the often thin or negative margins provide the proof. In live musical shows, for example, the average net margin of private enterprises is less than 1%¹⁹. Another example is music publishers: they are misunderstood, yet essential, along with authors and composers. This is a precarious profession. In France, unlike producers, they do not have access to tax credits for creative work.

The hazards of the cultural industries lie in the fact that, while consumer demand obviously exists, every new cultural product is, as I have just explained, a prototype that presents a new risk. This is not true of the products for manufacturers and service providers in other industries like cars, agri-business, finance or electronics.

This holds true for all cultural products, even the most expensive to make, like cinema or video games. The European film industry creates few Hollywood-style franchises, and the production of films and audio-visual works requires large, up-front investments, though the chances of success are difficult to evaluate. Amortising the costs of development, production, marketing and distribution often takes several years.

An economy of innovative and atomised individuals

The CCI are first and foremost an "economy of individuals," with the authors at the core of their economic production.

Observation No. 1: These creators, who are at the heart of all cultural commerce, are misunderstood. Significantly, they are rarely recorded in official statistics, and when they are, it is usually done in an incomplete way. For example, in the book publishing sector, the number of authors in Europe is estimated at 150,000, but this figure, which could be a good deal higher, is hard to verify in the absence of a database for writers. On the music, audio-visual and visual arts side of things, the Gesac²⁰, which groups 34 authors' societies, represents more than 1 million European authors.

¹⁹ In France, it dropped from 1.4% to -0.1% in 2016.

²⁰ The Gesac, Groupement Européen des Sociétés d'Auteurs et Compositeurs, comprises 34 authors' societies from the EU plus Norway, Switzerland and Iceland. It represents more than 1 million creators from the domains of music, audio-visual production, literary and graphic arts. Its missions are the promotion and equitable remuneration of creators, notably in the digital domain. It also supports a renewable cultural and creative European ecosystem and underscores the value of collective management as the most effective way to protect creators and their works.

Observation No. 2: creators and artists are the best representatives of an innovative society. Their professions are by nature individual and creative. An increasing number of artists and authors – and they can be both at once – are independent entrepreneurs. Many take this route for lack of a publisher or a producer. For others, it is a choice. In any case, they have chosen a path of autonomy and risk taking that is not unlike that taken by start-up founders.

The words of the plastic artist Laurence Jenkell, who is in the top 500 artists in the Artprice index, cited in the EY-Gesac study, aptly describe the new generation of creators: "It must be recalled that artists are economic players and need to surround themselves with partners. Their work is not simply that of creating, of dreaming: economic reality exists, it cannot be ignored. ... An artist who creates is much like a company with employees, expenses, taxes and turnover."

This "company director" side of the creator's *métier* really surprised me the first time I met the Sacem board director at the time, the composer and conductor Laurent Petitgirard. I discovered through the account he gave me of his daily work that being the conductor of a private ensemble involved all the duties of a company chief executive ... Add to that the art of associative democracy, since he was elected by the musicians.

The third and final point is that creators' economic models are by their very essence precarious. Creators and artists combine the characteristics of intellectual workers and independent entrepreneurs. They often have several jobs, with direct and indirect revenue coming from multiple channels. This can lead to a high level of economic fragility (which is often invisible to the general public, who notice only the massive income of a few stars.)

By way of comparison, Sacem's authors' rights distribution figures show that, to get to the level of annual pay that a footballer at a big French club makes, you would have to add up the 200 largest annual royalty payments distributed by Sacem.

Meanwhile, things are getting even more precarious for creators, whose careers are getting shorter while royalties are spread out among, in music, an increasing number of co-authors, co-composers and even co-publishers.

This precarity leads to poverty, often hidden behind the "living the dream" vibe that, to paraphrase Laurence Jenkell, makes it difficult to speak of all this in a relevant way.

To deal with the constraints that are built in to the creative professions, experts – sometimes the creators themselves – have developed appropriate methods of economic and social management. We can look at these from three complimentary angles: author's right (copyright), collective management and flexicurity.

Authors'Right and Copyright, a European invention and an instrument of liberty

Even in antiquity, the question of the status of the author and his work was debated. In the fourth century BC, Lycurgus passed a law that ordered the transcription of the tragedies of Aeschylus, Sophocles and Euripides so as to preserve the copy that an aedile of the city of Athens was to "give to actors to read while forbidding them from changing the text during the performance."²¹ Moral rights, already!

In the first century AD, Juvenal, in his *Satires*, denounced the vileness of an era that reduced the people of Rome to living on public charity. Even he, the inventor of the expression "bread and circuses," was, like most authors of his era, reduced to "running the sportula," the name of the small basket that carried the gift, in currency or food, that the patron offered his clients in exchange for their

21 Eschyle, *Tragédies complètes*, préface de Pierre Vidal-Naquet, Paris, Gallimard, coll. « Folio », 1982, p. 10.

services or their flattery.

Even the greatest French authors experienced this humiliation and this dreaded dependence. In older volumes one often finds a dedication that sums up the situation. I have an edition of Corneille's plays of in which the author, in the dedication of his *Horace*, a tragedy in five acts published in 1641, expresses his thanks to cardinal Richelieu, who was his protector at the time.

After four pages written in the most servile style, Corneille concludes, and I quote: "begging you to believe that I will be during my whole life, very passionately, LORD, of your Eminence, the very humble, very obedient, very faithful servant, P. Corneille." In this edition, which dates back to the end of the 18th century, each play is accompanied by commentary from Voltaire.

On the subject of this dedication, the author of *Candide* reminds us that the cardinal had given a pension to Corneille but that he had also persecuted him for *Le Cid*. Voltaire then quotes the sonnet that Corneille wrote after the death of Louis XIII, which followed by a few months that of Richelieu, in which he finally lets out all of his resentment for the Grand Cardinal, his "protector":

*Beneath this marble lies a monarch without vice
Whose only goodness displeased the good French
His mistakes, his deviations, came from one bad choice
Of which he was for far too long an innocent accomplice*

*Ambition, pride, hatred, greed,
Armed with his power he gave us laws:
And though he was himself the most just of kings,
His reign was always one of injustice.*

*Proud winner on the outside, vile slave in his court,
His tyrant and ours barely lost the day
That unto his tomb he forces him to follow.*

*And by this ascendancy his plans confused,
After thirty-three years on the throne lost,
When starting to reign, he ceased to live.*

Delicious vengeance of a great mind humiliated²².

The first battles of authors and their heirs were about the recognition of their right to have control over their work. During the eight years when Torquato Tasso, author of *Jerusalem Delivered* (written in 1581), one of the most-read works in Europe up to the 19th century, was locked up by Alphonse II of Ferrare in an asylum, several dozen editions of his work appeared all over Europe, often in the form of versions that were far different than the original text, and he never received a cent for them. In France, one of the first intellectual property lawsuits, at the end of 17th century, pit the heirs of Jean de la Fontaine against a printer who had released unpublished fables without permission.

Here comes one of Europe's great invention : Copyright, followed by Author's Right.

Copyright status was set by The Statute of Anne that entered into force on April 10, 1710. It granted publishers of books legal protection for 14 years.

The invention of Author's Right by the French Revolution, later on, broke the ties of often absolute dependency that subjected authors to the goodwill of their protectors, whether they be kings, the Church or other powers. It would take until the end of the Enlightenment, after many bitter fights, for authors to

²² The attribution of this sonnet to Corneille has been disputed. Though he did write these famous words in reference to that same cardinal Richelieu: "He did me too much good to speak poorly of him, He did me too much harm to speak well of him."

have their rights recognised. The French Revolution enshrined Author's right into law (in 1791 then 1793), finally allowing authors to have their works protected and make money from them. The law was ahead of its time, since from the moment it was born it was detached from the physical. It was the famous declaration of Le Chapelier, rapporteur of the Constituent Assembly, on the 1791 law on entertainment, according to which: "The most sacred, the most legitimate, the most unassailable ... the most personal of all properties, is the literary work, fruit of the thought of a writer." By giving authors the possibility to make a living from their creative work, Author's Right, far from being the straitjacket denounced by its opponents, is first and foremost the key condition for independence and freedom of expression for those who are often the avant-garde in the battle for liberty²³.

We live in Europe in free countries and during one of those "rare happiness of times, when we may think what we please, and express what we think."²⁴ That is how Tacitus described the era of tolerance and renewal of letters of the Antonines at the end of the first century. We are duty bound to at least be conscious of it because in the 21st century, the question of the independence of creators is more relevant than ever, threatened both by authoritarian regimes and by the crushing weight of the new digital actors.

Author's Right is also the keystone of financing for the cultural industries. Just as the protection of their patents is fundamental to technology companies – who seem strangely shocked when we remind them of this to counter the often ferocious lobbying that they unleash to widen the exceptions to Author's Right & Copyright.

An important clarification, in the European context and at a time when Brexit is going to reduce the English-speaking part of the union to the bare minimum: the English translation of "droit d'auteur" is author's right; conversely, the French translation of copyright must be ... *copyright*. Indeed, if their purpose is in part the same – the protection of a right to intellectual property – the two concepts do not cover the same thing.

Copyright, codified by the English at the beginning of the 18th century with the Statute of Anne, concerns the reproduction of the work and protects above all the right of the publisher or producer. The *droit d'auteur*, codified in 1791, protects the author of a work first. One is concerned with the protection of the work, as a product, the other protects the creator as an individual.

This difference does not bring on the same concrete consequences. For example, in the United States, the filmmaker is not legally considered as the author of the film he made. He has the *director's cut*, but not the *final cut*, reserved for the producer.

It is not just a question of semantics, and the problem does not only concern the French. In the European Union, 24 countries out of 28 (as of this writing) have a judicial model that borrows primarily from that of *author's right*, only the British and the Irish operate exclusively from the *copyright model*.²⁵

The systematic use, in European English, *lingua franca* of the institutions in Brussels, of *copyright*, is thus a technical error. Nevertheless, the unit of the European Commission in charge of author's right is called the *Copyright Unit* and the proposed directive on authors' rights is named the *Copyright Directive*. All the speeches used, in English, the word *copyright*, though they should have systematically employed at least the phrase *Author's Right and Copyright*. This error is not without consequences: the vast offensive against Author's Right is in fact being carried out in the name of the *modernisation of copyright* because it is politically less costly to attack a notion that leaves out the author.

²³ See annex 11, Sacem's monument to the dead.

²⁴ Tacitus, The Histories, MIT Classics, Book I. (<http://classics.mit.edu/Tacitus/histories1.i.html>)

²⁵ Cyprus and Malta have a mixed system which mixes common law and civil law.

Collective management, the numbers that provide the strength

If author's right has allowed artists to win real independence from religious and political powers, collective management is the tool by which they gave themselves economic powers (theatre directors, commercial establishments, etc.), by creating common instruments for the negotiation and the collection of their rights.

Collective management is therefore the keystone of the model for remuneration of authors, and collection societies were in general born of struggle. We are familiar with the efforts of Beaumarchais that led to the creation of the Society of dramatic authors and composers (SACD) in 1776, the first authors' society in history. It's also the origin of the Society of people of letters (SGDL) founded by Balzac, Hugo and other writers in 1838. At the time, these authors published their novels in serial form in the Paris papers and, often the following day, the provincial press would reprint the episodes without permission or payment. So they created a society to collect the rights payments from these papers and redistribute them to the authors. Sacem was also born of a struggle a few years later, following an incident on the Champs-Élysées, about which you'll find a description in the annex.²⁶ SACD, SGDL and Sacem are thus the first three authors' societies in history, each created for one category of authors. The model spread over the whole world starting from the end of the 19th century.

How an authors' society works is often misunderstood, so it is worth explaining. When I was approached at the end of 2011 to run Sacem, I confess that at first I declined, persuaded that it was some kind of parafiscal administration, very distant from my professional experience. I then found out, to my surprise, that Sacem, like most authors' societies, was a private company.

Its principle is the same as that of an agricultural cooperative: to lower the costs of production and better negotiate prices, farmers join forces. Through a common platform, they pool agricultural equipment, distribute their produce, sell to big supermarket chains or agri-businesses. By joining forces, they establish a balance of power in relation to buyers in order to ensure fair prices for their production. Nothing is stopping a dairy farmer from negotiating alone with supermarket chains or the agribusiness industry, but there is strength in numbers.

In the same manner, authors, composers and music publishers band together to negotiate fees with those who use their works and to finance the human and technical resources their society needs. The analogy continues in terms of management method: the farmers run their cooperative. The members manage Sacem; it is co-owned by its members, who acquire a share through joining, and who elect the board of directors and the supervisory board, both of which are made up of authors, composers and music publishers.

Sacem includes authors of texts, songs but also poetry, sketches or dubbing and subtitling, composers, producers and publishers of music. Their creations make up our repertoire of millions of works. There is something for every taste and from every genre.

Our clients are the users of these works, which they play to make people dance in clubs, to attract audiences to their theatres or festivals, to retain regular listeners to their radio stations or viewers to their TV channels and thus attract advertisers, to amuse the clients of their hair salon or their restaurant, or even to sell subscriptions or ads on their Internet platforms. These broadcasters turn to the "cooperative" of music artisans, Sacem, which authorises them to use the immense repertoire made up of its members' works and those of other authors' societies from around the world with which Sacem has signed reciprocal repre-

²⁶ See annex 2, the history of the founding of Sacem.

sentation deals. We negotiate with organisations from UMIH²⁷ to YouTube. In any case, the idea is to agree on an amount of remuneration that allows the client to use our repertoire and the holders of the rights to the works to be paid.

Sacem has 165,000 members and, in France alone, more than 500,000 users of all sizes and types with licenses to tap into the repertoire of more than 100 million works. It would be practically impossible for them to negotiate a license with each member – or the other way around. Collective management therefore provides vital services to its members, but it also provides a service to its users.

Our mission is to promote the diffusion of our members' works. As such, Sacem can take partial credit for the launch of Deezer in 2005. At the time, it was a pirate site operating under another name, but it was seeking to become legal. The record companies did not want to negotiate with the site's management, but my predecessor, Bernard Miyet, was conscious of the importance of legal digital distribution of works at a time when piracy was at its peak. On the strength of its Sacem contract, Deezer became legal and producers agreed to discuss contracts over master rights.²⁸

An authors' society is thus, to sum up, the perfect illustration of *strength in numbers*, something we must remind ourselves of, since authors' rights have always been such a battle. For example, during the Red Bonnets movement in Brittany in 2013, a hairdresser denounced in a radio interview the list of "taxes" that weighed on his business, citing Sacem even though authors' rights has nothing to do with tax.

A few days later, about fifty Breton authors and composers, including Alan Stivell, Jean-Louis Jossic, des Tri Yann, Dan Ar Braz, Da Silva, Alexis H .K. or Miossec, reacted in an open letter published by the newspaper *Ouest France*. In this text headlined "Breton artists defend Sacem," reproduced in the annex²⁹, our authors, while explaining the difference between their "cooperative" and a government administration, underscored how fragile their economic status was: "Sacem is creators' only salary, only a few have other sources of revenue ... We authors, composers, arrangers or publishers, are individual investors, independent workers: we create music, write words, and we are not paid during the writing process.

"Our royalties are a differed payment, our only remuneration: we only get this if our works are played, if they get the ear of an audience. We are not wealthy (nearly half of us get royalty payments that add up to less than the minimum wage) ; this revenue is always uncertain and depends on the appreciation of people."

To take a concrete example, a hair salon can play unlimited music for an average annual fee of about 208 euros. That is 0.2% of the average annual revenue³⁰, or the equivalent of about five women's haircuts. Not something that could make you tear your hair out!

27 Union des métiers et industries de l'hôtellerie, the leading trade group for cafés, hotels, restaurants and discothèques, with whom Sacem signed a protocol defining the pricing conditions applicable to all of the UMIH members.

28 To operate legally, online music broadcasters have to obtain two types of authorisation or licenses: those covering immaterial authors' rights (for writers, composers and publishers), attached to the work, managed and negotiated via collective management with Sacem; and those that cover the neighbouring rights (of record producers and the performers linked by contract to them), managed and negotiated with each record company. These are often called master rights because the record companies hold the physical goods (formerly the "tapes" or "master", which is the main original recording), now digital, on which the works are recorded.

29 See annex 3.

30 The average annual revenue of an independent hair salon is 95,000 euros, according to the trade group Conseil national des entreprises de coiffures et de la fédération des coiffeurs.

The cultural professions are often precarious

While there are no European statistics on the subject, national studies carried out in France and the United Kingdom underscore the instability of creative jobs. The social protection regimes, in terms of health, training and pension rights make cultural workers in general less well off than the average European salaried worker.

The *intermittent du spectacle* (temporary showbusiness worker) statute, often criticised, is the transposition in France of the much-praised Scandinavian flexi-security model. Obviously there are abuses to correct, notably concerning certain companies that use “permittert³¹” workers to lower their social charges. But the system is indispensable economically and socially just.

In fact, these temporary cultural professions anticipated a fundamental evolution in the world of work – incompatibility with the stability of government jobs or with open-ended contracts. A system like the French one for intermittent show business workers takes into account the inevitable precariousness of the work and allows for a minimum social protection floor and access to training.

In this same spirit of social protection, Sacem members implemented at the beginning of the 20th century a mutual system that allows for a type of annuity to give extra income to authors who have reached a certain level of royalties over their careers and have been Sacem members for at least 10 years. This long-term savings plan, funded by a levy on royalties, accounted for nearly 30 million euros paid out in 2017, on top of the royalties distributed for the use of works. Authors and composers, who don't qualify for unemployment benefits or *intermittent* status, often see their revenue drop sharply during the latter part of their careers, so this system serves as an increasingly important social shock absorber.

Eight lessons on the European cultural industries

A sector with jobs for young workers

The CCI attract young workers, contrary to sectors like agriculture, restaurants or the building trades, which have the advantage of being non-outsourcable but struggle to attract young recruits.

In 2013, cultural and creative industries employed more young people between the ages of 15 and 29 on average than any other sector in Europe: 19.1% of the total for the CCI, compared with 18.6% for the other sectors of the economy.³²

In the United Kingdom, the proportion of young people employed in the creative economy represents 22.6% of the total. A European study of *clusters* found, in a 2010 study, that the Île-de-France region (which includes Paris) came in second place behind Greater London for the number of creative jobs. People under 35 in these jobs accounted for 41.4% of the total, compared with 36.7% in all other sectors combined in Île-de-France.

This can be explained by the fact that creativity is linked to youth and the ability to grasp new trends, but also by the fact that companies want to employ people at the beginning of their careers as it is less costly. Several studies show that workers in the cultural industries are willing to accept particularly low pay because of the symbolic value of working in these sectors.

31 This is an expression that describes the permanent nature of certain temporary jobs.

32 Figures from the EY European study.

In France, a 2008 labour-market study by the National Institute of Statistics and Economic Studies (INSEE) determined that average annual pay was 30,500 euros for service-industry jobs in general, but 14,400 euros for jobs in the arts, entertainment and recreation. This compares with 20,300 for hotels, cafés and restaurants, 57,700 euros for finance and insurance, and 99,600 euros for legal professions. So cultural jobs came in at the bottom of the table.

These figures underline the essential role the CCI play in economic growth within the Union and in the fight against massive youth unemployment.

Jobs that cannot really be outsourced

Museums, festivals, cinemas or libraries are by nature anchored in territories, with a strong impact on local employment. What is more, jobs in the CCI cannot, for the most part, be automated, contrary to the service jobs found in, for example, banking or insurance. There still is some pressure to outsource in certain areas like advertising production or video games, where Canada and Australia have invested in fiscal enticements.

An essential role in territorial planning

The cultural industries cover a lot of territory, particularly those in live entertainment or activities linked to cultural heritage. Their contribution to the vitality of certain regions is exceptional. Many French towns have gained fame, even international recognition, thanks to annual cultural events like Bourges, with its spring festival, Cannes with its cultural markets and festivals, Carhaix with the Vieilles Charrues Festival, Avignon, Marciac and so many others. Around Europe, we have Edinburgh's Fringe theatre festival, Sziget in Hungary, Novi Sad in Serbia, Glastonbury in England, Benicassim or le Sonar in Spain, Bayreuth, la Berlinale or the Reeperbahn in Germany, Salzburgh in Austria, Gdynia (cinema) in Poland, and the list goes on.

Cultural infrastructure catalyses urban development. The construction of a single museum can change the image of a city – like the Guggenheim in Bilbao in the Basque Country. The region, hit by high youth unemployment in the 90s, when the museum project was launched, has seen the number of tourists rise eightfold since.

The ratio of local population to festival goers is often spectacular. In 2017, the Vieilles Charrues festival brought 280,000 people to Carhaix, a town of 9,000, and Jazz in Marciac had 240,000 festival goers for 1,350 residents.

A city like Arles is emblematic of not only the importance of the creative and cultural industries but also of the great diversity and compatibility of their economic models. The mayor, Hervé Schiavetti, described for me during a board meeting for the photography festival just how important the cultural economy is for the city: music, with the Arles festival and Harmonia Mundi; graphic arts, with the Rencontres Photographiques (a private association), the National Photography School (public), and the Fondation Luma, financed by donors and opened in 2018; books, with the Actes Sud publishing house, etc.

Sectors that export and contribute to the influence and attraction of Europe

The ICC are one of the rare European economic sectors that include several global leaders.

At the cutting edge of digital innovation you have the France's Deezer and Sweden's Spotify, which invented the subscription streaming model for music and which dominate the global market.

Universal is the top global music producer, and Sacem is the biggest

collective management society, followed by Germany's Gema. We can also mention the Franco-German company Buffet Crampon, the world's leading producer of clarinets; Sixième Son, the top music agency for brands; Cannes, the leading international film festival; Frankfurt, the world's biggest book fair. Seven of the top ten museums in the world are European.

Along with giants like Bertelsmann and Vivendi, Europe has many sector champions. In the book trade, seven of the top ten international publishing houses are European: Hachette Livre, but also the British house Pearson or Spain's Grupo Planeta. In the press we have Germany's Axel Springer or the Swedish group Schibsted, which launched free papers in Europe, but also Reuters and AFP, the two largest press agencies in the world; TF1, RTL, Endemol or the BBC in TV and radio; Gaumont, Pathé and Wild Bunch in cinema; WPP and Publicis are two of the biggest three global advertising groups. In video games, the French publisher Ubisoft and Finland's Rovio, of Angry Birds fame; Christie's for graphic art, etc.

Let's not forget our architects, in demand the world over, like Jean Nouvel, who did the Abu Dhabi Louvre; Rem Koolhaas, who created the headquarters of Chinese national television (CCTV) in Beijing and the Seattle library; Renzo Piano (Whitney Museum in New York); and Zaha Hadid (Guangzhou Opera and Dongdaemun Design Plaza in Seoul.)

The position of our big companies in these sectors should be a strategic priority for the Union, because many of them are under threat. Therein lies a real challenge: the wealth created by our cultural enterprises is at least as important, in terms of growth, sovereignty, and power, as the factories whose divestment or relocation is so often a big issue in Europe.

But the strategic importance of the CCI is not really "on the radar" for Europe's leaders. Here is proof: the [purchase](#) on Sunday, Sept. 23, 2018, of Sky, the leading European pay-TV group, by the American giant Comcast, passed practically unnoticed.

For its part, Canal+ missed out on two big chances to become a global leader. The first happened while I was running Canal+ Overseas. In early 2008, an investment bank introduced us to the managers of the satellite TV group GTV, which covered 22 anglophone and Portuguese-speaking countries in sub-Saharan Africa, a perfect complement to our African business, which was exclusively francophone. The deal to buy GTV was about to go through when the president of Canal+, Bertrand Méheut, backed out at the last minute. If the acquisition had been an error, it would have cost Canal+, with 5 billion euros in annual revenue, a few tens of millions of euros. A successful deal would have made the French TV group the largest pay-TV company on the African continent and given it a foothold in the anglophone and Portuguese markets, where two-thirds of Africa's economic potential is concentrated. It would have given Canal+ a truly international editorial policy.

A few years later, Rodolphe Belmer failed to convince Vivendi that it should buy a promising young company named ... Netflix. Like me, he has since quit Canal+ and is now on the board of directors at Netflix.

Beyond revenue, creative and cultural industries play a role as a "flagship product" that attracts tourism; studies show that heritage and cultural life make up the second-most cited motive for tourists who visit Europe.

Culture contributes just as powerfully to Europe's influence in the world. There is no need to exaggerate the evidence here, perfectly illustrated by the United States from the second part of the 20th century: behind "cultural products" or works of art, there is a societal model, an *art de vivre*, a way of thinking, a language, a vision of the world, so many dimensions of "soft influence," if not to say soft power, that can be exported.

This is why it is important for European actors to spend less time thinking about the evolution of regulations in order to devote more energy to industrial strategies and technologies adapted to our times and to this worldwide, global,

digital sphere. This could take the form of commercial projects, like the Salto video-on-demand platform, announced in June 2018 by TF1, M6 and France Télévisions and presented as an alternative to Netflix.

But it could also come from non-profit actors like Sacem. The Urights platform that we developed in a global partnership with IBM, launched at the end of 2016 and operational since October 2018, is the only platform of its kind, with enough *big data* power to analyse thousands of billions of video and audio streams in order to collect royalties for our members in more than 100 countries of the world.³³

In terms of influence strategy, cultural outreach is often more effective than other political, economic or military tools.

Sectors most exposed to global competition

The happy news is that the CCI are growing rapidly the world over, with their gross revenues already exceeding the GDP of India³⁴; cultural demand is exploding in the developing world as the middle classes grow. The less happy news is that an advantageous situation for the European CCIs, is far from a done deal.

Two factors are playing against Europe: on the one hand, because of the rise of Internet platforms that allow access to cultural content, American dominance could be strengthened in certain sectors, to the point of fundamentally challenging the European model, as we will see in the chapter on cultural influence strategies.

For example, in India, Amazon, Disney and Netflix are fighting local services for dominance in the SVOD market, which is expected to reach 550 million users in 2023³⁵. However, the United States is already dominant, independent of the digital dimension, in certain markets, like art, with 39% of total sales, and cinema, with 37% of revenue, but above all, the overwhelming majority of "international" films in each country are American, with eight films out of 10 in Europe.

The second factor challenging historical positions in the CCIs is due to the growth of developing countries. This is leading on the one hand to strategies for the public promotion of national cultural industries with increasing protectionism, and, on the other hand the emergence of strong companies that are already exporting. We will take a look at this in an upcoming chapter about China.

International competition concerns not only private companies but the individuals themselves – authors and actors. It also affects the major cultural institutions, and the authors' societies. For contrary to popular belief, authors' societies like Sacem do not have monopolies. An author chooses collective management if he wants, signs up where he wants, brings the category or rights that he wants³⁶, and leaves the society when he wants. But unlike Sacem, certain American companies that are competitors function on a for-profit model. They do not hesitate to pay non-refundable "poaching premiums" to important authors that can be as high as several hundred thousand dollars or more. Our statutes do not allow us to do this, so the competition is fierce. The loss of even a small

33 Contrary to other broadcast methods for which a collective management society represents, in a given country, potentially all the repertoires in the world, through reciprocal representation agreements with other societies around the world, streaming has given rise to global agreements for which a single collective management society can only make claims from its own repertoire, at a global scale, to the Internet platform, whether free (YouTube) or paying (Spotify, Deezer). The largest societies, like Sacem, have been able to convince the big multinational music publishers to grant them a management contract: Universal Music Publishing and Warner Chappell, as well as a number of independent Anglophone groups, have entrusted us to negotiate on their behalf and on behalf of their authors and composers who are not Sacem members, for remuneration from the big platforms and to collect royalties thanks to our information technology tools.

34 The CCI take in \$2.25 trillion in annual revenue and account for 29.5 million jobs worldwide, according to Cultural Times – The First Global Map of Cultural and Creative Industries, December 2015, EY-CISAC.

35 In sub-Saharan Africa the potential SVOD audience could rise from 1 million to 10 million households by 2023.

36 Certain members choose, for example, to directly manage (outside of collective management) different types of use of their work, or to sign up with several authors' societies.

number of its most important members can quickly destabilise the economic model of an authors' society like ours, financed solely by the management fees that are levied on the royalties we collect and distribute.

An economic model that closely blends the public with private

Among the characteristics of the cultural economy, the link between the public sector and the private sector is important and deserves a little explanation.

First, in certain domains like visual and graphic arts with the museums, or audio-visual arts with the existence across Europe of large national public or regional groups, the weight of the public economy can be heavy. However, we must fight against the preconceived notion that the cultural sectors weigh heavily on public spending. Quite the contrary, according to Eurostat, the 28 countries of the European Union spent a little more than 60 billion euros in 2012 on the cultural sector, barely 1% of their total public spending. And that number is declining by 1% a year on average. That is all the more worrying in the context of increasing disengagement on the part of local authorities.

The difficult balance between cultural diversity and globalisation

Because of its specificities, the cultural economy has led to the implementation of policies encouraging the protection of cultural diversity. That is the whole point of the 2005 Unesco convention³⁷, which was the first international agreement to have laid out the principal that cultural policies must be considered as important as commercial policies.

The cultural economy is one of supply. The abundance of networks that distribute cultural offerings, whether they be museums, movie theatres, concert halls, festivals or libraries, obviously contributes to the dynamism of the European market. Their preservation is crucial at a time when rising digital consumption feeds the false idea that we could forgo without harm all other forms of access to culture.

Another misconception is that the cultural exception depends on the existence of protectionist regulations that could only exist in this sector. But economic policies of support exist in practically every sector. Certain sectors like defence, transport, or aerospace are much more strongly supported and protected and cost the taxpayer infinitely more money.

To be sure, state regulation is often an essential lever for our cultural industries. The Lang Law, which imposes a fixed price on books in France, is a good example. The law has helped maintain a diversified editorial offering, from a great number of actors, publishers and book shops, as well as a great number of jobs.

Let's look at a second example of regulation: song quotas on the radio. They were invented by the Australians in 1942 and exist in a number of countries, including Canada. In Europe they are quotas in Norway as well as France. They are often criticised, especially by certain commercial radio stations, as being complicated to put in place and damaging to editorial freedom. In France we have seen that in 20 years of existence they have slowed the growth of advertising revenue and have allowed French production and broadcasting of songs to remain in the majority. France is the only market in Europe where most of the music broadcast is sung in the language of the country³⁸.

This type of regulation is sometimes condemned within the cultural sectors as inhibiting the cultural influence of our artists, a false and even dangerous

³⁷ Convention on the Protection and Promotion of the Diversity of Cultural Expressions, 20 October, 2005, Unesco.

³⁸ In France in 2018, 60% of the top 200 musical hits were sung in French.

assertion. Two big hits in the fall of 2018 confirm that this is false: the musical *Mozart, l'Opera Rock*, which was a big success in China even though it was sung entirely in French, and the album *Si*, sung in Italian by Andrea Bocelli, which hit No. 1 in the United States and in the United Kingdom. It's a dangerous assertion because encouraging artists to sing in English locks them into an infinitely larger competition which rarely turns into a real international career. It has to be said that the American market is much more chauvinistic than people would like to admit, whether in music or cinema ...

Culture at the cutting edge of digital technology

The cultural sectors were among the first to adopt technological developments, especially in the digital world.

The Internet has been the greatest invention in favour of the free circulation of works and ideas since the printing press. Vinton Cerf, one of the fathers of the Internet³⁹, told me that the first files exchanged by scientists over Arpanet, the ancestor of the Internet, often contained cultural content, articles, extracts from novels, etc. For artists, the network was immediately understood in its full dimension, as a source of immense new freedom for creators⁴⁰.

Artists, notably in Europe, have often been the first to take innovation on board: from Pierre Henry, Pierre Schaeffer, Stockhausen et Berio, to Jean-Michel Jarre, Kraftwerk and Tangerine Dream, electronic music, the trendiest of all trendy music, was invented by Europeans. Even before Steve Jobs got the Apple II out of his garage, before Bill Gates wrote MS-DOS at the origin of Microsoft, an entire generation of musicians was already adopting electronic music and computers.

Without mentioning video games, the leading cultural and digital industry, plastic artists took on electronics and the Internet as soon as they appeared⁴¹. By the same token, cinema and the audio-visual sectors, born of technological progress, have undergone constant transformation along with technical innovations.

What is true for creation is also true for production. The engineers at the record companies and at the cinema and TV production companies were sampling, digitising and programming early on.

Collective management also got into the digital revolution early on. Computers were brought in to Sacem at the end of the 1960s. Internet use started in 1996, while Sacem was led by Jean-Loup Tournier, a great defender of author's right. The first license Sacem granted to an Internet music service, FranceMp3.com, was negotiated in 1999! Sacem launched in 2017 the first global experiment by an authors' society around blockchain, a major technological breakthrough for the identification and encryption of information, to improve the identification of works on the Internet, and proposed that its British and American counterparts, PRS and Ascap, join the effort. We are already at the heart of big data: In 2005 we processed 5 million **WHAT?** of data in the process of identifying and distributing copyright royalties; in 2018, this figure surged to 2000 billion XX of data.

At the end of the 2000s, the digitalisation of Europe's cultural industries was already more or less complete – music, books, audio-visual and cinema. The break with the physical media model is complete; all creations of the mind can be transformed to a digital version and reproduced or broadcast an infi-

39 Vinton Cerf co-chaired the working group that invented the TCP/IP protocol (Internet Protocol, the technical standard at the foundation of the Internet).

40 The Council of Europe report written in 1996 by the researcher Pierre Lévy is an unbeatable reference still today. Entitled *Cyberculture*, it drew an impressive landscape of the social and cultural movement that emerged from technology, particularly the new modes of artistic creation that the Internet would bring to the fore. It described, through the idea of a "collective intelligence," the new tendencies of co-creation and the increasing number of creators who were collaborating, thanks to the network, on the emergence of novel forms of expression.

41 The Kinetic Art movement, in the 50s, with artists like Julio Le Parc or François Morellet, comes to mind.

nite number of times, instantly. This no longer includes only work that can be separated from its medium, like text, music or film. With 3D printing, it is now possible to purchase a file containing all the information necessary to reproduce a painting or a sculpture, even with “noble” materials, and not just in synthetic resin.

III

The European Union vs. the cultural industries

The strength of its cultural economy should logically have led the European Union toward an ambitious policy of support for cultural actors, similar to the American or Chinese model.

Unfortunately, to repeat the distinction made by Luuk Van Middelaar, the rejection of a strong policy and the domination of the liberal and consumerist vision in the economic strategy of the Union won out, with dire consequences.

The fact is that a formidable technocratic machine has been rumbling along for 20 years. Whenever it's a question of European regulatory work, through a succession of directives and regulations, or international negotiations, there are few examples of measures that were not hostile to the interests of the cultural policies of the member states, considered to be barriers to the common market, or hostile to the cultural industries.

The question should be taken very seriously: What is the European administration aiming for if it appears only to be hostile or even threatening to cultural policies are vital for European identity?

Of course, there have been times when the Commission has been thwarted by votes in the European Parliament that have been influenced by effective campaigns from various lobbies, like those of digital consumers or the libertarian digital militants. At the same time, certain member states are known to be allergic to the major principles and cultural policies like authors' rights.

The very organisation of the departments of the Commission raises questions: the department in charge of author's right, improperly called the Copyright Unit, is attached to the Directorate-General CONNECT⁴² responsible for the information technology sector. This is upsetting since this directorate is also in charge of the Digital Single Market, a top priority under the Juncker Plan. However, the situation was even worse under the Barroso Commission, because the Copyright Unit was attached at the time to the Directorate General Internal Market and Services, which was responsible for questions relative to the cultural industries, and regularly criticised for a hostile attitude toward author's right and the cultural sectors in general. The attachment to the Directorate-General for Culture, Education, Youth and Sport might seem naturel, but it is a weak directorate, especially following the appointment of a Hungarian commissioner amid the crisis between Hungary and the Union. The marginalisation of the role of this commissioner that has resulted has not made things any easier, especially for

the culture's place within the commission.

It is clear that in recent years each time questions linked to the cultural industries have been addressed in Brussels, the dominant attitude within the European institutions has oscillated between indifference and hostility before, frequently, evolving, notably thanks to a strategy shift on the part of the cultural sectors, which I will get back to.

The rejection of the ACTA treaty

On July 4, 2012, the European Parliament rejected, by an overwhelming vote of 478 to 39, the treaty proposition known as ACTA (Anti-Counterfeiting Trade Agreement), or ACAC (*Accord Commercial Anti-Contrefaçon*). It was an international treaty, negotiated by 37 countries, that aimed to reinforce intellectual property rights.

The proposed agreement aimed to fight counterfeiting, both physical and digital, in all domains. It aimed to tackle not only the sale of counterfeit medicines, for example, but also the improvement of tools to fight illegal downloading. However, the debate crystallised around the question of author's right.

Among the provisions that attracted all the criticism, Article 23 called for "criminal procedures and penalties to be applied at least in cases of wilful trademark counterfeiting or copyright or related rights piracy on a commercial scale." So non-commercial counterfeiting – or "individual piracy" – was not even targeted by this treaty. It did, however, give rise to a campaign during which the spectre of "Internet censorship" was evoked – just as it was six years later for the proposed copyright directive.

The rejection of ACTA sparked cultural stakeholders to realise that a change of strategy was needed. For their part, the forces opposed to intellectual property, still more numerous, were encouraged to press their advantage and to attack the global judicial framework of authors' rights in Europe.

Private copying, the sad case of the Spanish school

The second example of a European threat toward a tool of cultural policy is the private copy levy that compensates for this exception to authors' rights⁴³.

The principle was proposed in Germany, in the post-war period, with the appearance of devices that made it possible for individuals to make recordings on magnetic tapes. It would be difficult indeed to for every owner of a tape recorder to call Deutsche Gramophon to ask permission to copy an album. In France, the exception dates back to the law of 1957, but compensation rules were not put in place until the Lang Law was passed in 1985 – a 28-year wait⁴⁴.

The private copying exception illustrates the plasticity of author's right, which adapts to evolutions in technology and usage. Because private copying reduces the number of official copies of a cultural product that are sold, whether we are talking about old school audio cassettes, VHS tapes, or CDs and DVDs, financial compensation was set up to make up for this exception. It is paid for by those who benefit from the exception, the consumers and the producers of the goods that let you make private copies: USB keys, mobile phones, tablets or hard disks. It is often a ridiculously small sum compared to the price of the product, a

43 Recall that this is an exception to author's right that recognises consumers' right to make private copies of works of music, literature or audio-visual content, as an exception to the general principle that reserves for the author or his representatives the right to copy his work.

44 See annex 13 on the fight for mechanical rights.

few cents or euros. In response to the demands of consumer groups, for the past few years price tags have displayed the amount of the levy.

Implemented in more than 40 countries, of which 26 are in the EU, the private copy levies make collective management obligatory.⁴⁵ This is not a tax, it's a levy managed by private stakeholders. The system helps finance cultural life through the legal obligation the collective management societies in a number of countries are under to reinvest part of what is collected for the general interest. In France, 25 percent of the sum collected is, under law, to be used for four types of artistic and cultural activity: aid for creators, the broadcast of live entertainment, training for artists, and cultural and artistic education for young people.⁴⁶

In certain countries like Algeria or Burkina Faso⁴⁷, the levy is an essential contribution to the financing of authors' rights. It's clearly justified since the materials for private copying, CDs or DVDs, imported from Asia, are sold for more in these countries than in developed countries.

The levy is effective and harmless and does not weigh on European employment since nearly all storage devices and media are made in Asia. The margins of Asian manufacturers and Apple are – modestly – put into play, but these margins can already be as high as 60 percent for a smartphone.

When I was an advisor to Prime Minister Lionel Jospin, conscious of the fact that electronic recording material came almost entirely from Asia and that it would not affect French employment, I supported the extension of the private copy levy from analogue materials like cassettes and VHS tapes to include digital media. This was done in 2001, despite the persistence of lobbyists for the importers of electronic gear, who asked that I propose the elimination of the levy in the name of "modernity."

It was this same lobby, organised in Europe under the deceptive name of Digital Europe, that fought hard for years against the concept of private copying levies. At first the lobby was supported by the European Commission and by consumer pressure groups in Parliament.

In 2011, they scored a major victory amid a political change in Spain. At the end of a campaign that united manufacturers and consumer associations and promised lower prices and new factories, the new government eliminated the system. The Spanish had put in place a system equivalent to the French one dedicating 25 percent of the funds to cultural action, raised from the rights paid for private copying. The elimination of the system led to an annual net loss to the Spanish cultural economy exceeding 110 million euros per year; 30 million euros that directly financed opening acts, artists' residencies, writing workshops, first-film subsidies, etc., disappeared at the same time.

Of course, once the levy system was eliminated, not a single job nor factory was created by the importers of the electronic recording media, which are manufactured outside of Europe anyway.

Better yet: When Prime Minister Manuel Valls came to lunch at Sacem in July 2014, we showed him, backed by proof in the form of paper copies of the FNAC websites for Paris and Madrid, that the latest mobile phones out in Spain were more expensive than in France, where the private copying levy still existed. The manufacturers had simply raised their margins on the backs of the consumers.

After this first success in Spain, a new, very active, campaign against private copying levies began in Europe, particularly in the European Parliament. Particularly biased public hearings were held during which the makers and

45 It is in fact not possible, because of obvious privacy concerns, to know what consumers are copying privately, whether it be music, films, books, etc.

46 In the interest of transparency, French law requires collective management societies to publish all efforts, amounts and beneficiaries, accessible on the site <http://www.aidescreation.org/>. In 2017, 21,053 artistic projects were supported this way.

importers of electronics denounced the system as an unfair tax that threatened jobs and consumers. This led the Commission's General Directorate in charge of the digital sectors to put together a proposal for a private copying regulation that sparked fears of harmonisation toward the lower end, or even a short-term elimination of the levies.

This combination of a consumerist outlook, submission to lobbies from the digital sector, and a myopic strategy came together to negate the obvious: that remuneration for private copying is just the logical and necessary consequence of a change in consumer behaviour.

The continued growth of individual copies in digital format has led to two consequences: Firstly, the impoverishment of the cultural sectors because the massive move of works to cloud-based streaming services caused the drop in sales of physical DVDs or CDs, which is the cause of the continued erosion of remuneration for creators, artists, publishers and producers. Next, the explosion in sales of increasingly expensive digital terminals – smartphones, tablets, etc. – equipped with ever-growing storage capacities.

The value to consumers of these devices is increasingly linked to the cultural content they enable them to consume, so it is perfectly natural that the industries that manufacture and sell the devices contribute to the financing of creativity.

Look at the example of Apple, the iTunes or Apple Music streaming and downloading services contribute only marginally to the Cupertino giant's revenues. The bulk of its market capitalization, which reached \$1 trillion in July 2018, is linked to sales of gear, particularly iPhones⁴⁸.

For the European Union, a mechanism like the levy for private copying should be obvious, strategically: It allows Europe to recoup a tiny part of the value created and transfer it to the cultural industries, in a way that is painless for the consumer and has no effect on jobs, since nearly 100% of the factories are in Asia. Private copying levies represented 500 million euros in financing across the European Union. This is a modest sum compared with the Asian and American manufacturers' tens of billions of euros in revenue. But it is also important, as much for its direct benefit to cultural creation as for its value relative to the existing private mechanisms for financing culture in France, Italy or Austria.

Still, the system barely escaped a battering by the European Commission. The first blow came in 2014, when the European Court of Justice ruled against Amazon, which was contesting the Austrian system, the most generous in Europe when it comes to the proportion of the private copying levy reserved for cultural activity (50%). Even more decisive, the end of the "Barroso Commission" prevented the proposed regulation of private copying from thriving, notably thanks to a very stern report from the European Parliament, written by the French MEP Françoise Castex. Proof, if any is possible, that while one can be critical of the negative actions of the European institutions, one must recognise that the fight can be successfully waged in Brussels, and even find positive feedback and determined support.

Negotiations for a free-trade treaty with the United States: a threat hangs over audio-visual regulation

One year after the failure of the proposed Acta treaty, a new crisis broke out within the European Union, over the negotiation of a trade deal with the United States. Initially named Tafta, for Transatlantic Free Trade Area, the project was renamed TTIP – Transatlantic Trade and Investment Partnership – so as not to remind people of ACTA.

48 Revenue from Apple's sale of iPhones reached \$167 billion in 2017.

In June 2013, the Commission sought to obtain as large a mandate as possible from the member states to negotiate a free-trade treaty. The risk that Europe's protective provisions for the audio-visual sector would be weakened by the deal led several member states, including France, to demand that the Commission's mandate exclude the audio-visual sector.

The Commission, and in particular the commissioner for trade, Karel De Gucht, sensitive to the strong pressure from the U.S. administration to reopen discussions on the audio-visual sector, used the classic jobs blackmail ploy: 1 million jobs are in play, he claimed. Really?

To isolate France, a campaign was launched blaming the "cultural exception" for being a French fad that would handicap the Union. Yet the Americans demanded, and obtained from Brussels, that banking and insurance, a sector where European companies are often more dynamic than their American counterpart, be excluded from the talks, and nobody denounced this "banking exception."

Even if the term "cultural exception" sometimes led to confusion, and often served as a red flag to Brussels as well as to a number of our European partners, it should be obvious that without even invoking the vital question of our cultural identity, the difference in size between European and American⁴⁹ linguistic pools is enough of a reason to explain why it is impossible to treat the trade in films like any other product.

The clash between France in the United States over audio-visual content and cinema often seemed like a sort of compulsory exercise, and this time again, those who wanted to give in to the American demands tried to isolate France. But here again, things were evolving. As the battle over ACTA had illustrated, when confronted with the powerful digital lobbies, the American and French cultural industries united.

The executive director of the DGA⁵⁰, Jay Roth, who I saw in Los Angeles at the beginning of April, 2013, during the film festival we organised together, confirmed to me that, contrary to what happened in 1993, Hollywood was not behind the pressure the American administration was exerting. And a few days later, during the Cannes Film Festival, leading American personalities like Steven Spielberg, took the side of European cinema, against the wishes of the Commission.

In May 2013, the European Parliament voted for a negotiating mandate that excluded the audio-visual sectors, thanks, notably, to the French minister Aurélie Filippetti, who gathered 14 of her counterparts to write an open letter demanding that the audio-visual sectors be excluded from the mandate. Five thousand directors signed a petition sent to the European Commission for culture, Androulla Vassiliou.

In the cultural industries, the solidarity reflex comes into play. At Sacem, we took the initiative to organise a call-out that mobilised, in less than a month, 4000 music personalities from more than 20 countries. Thanks to my friendship with Paul McGuinness, their manager, U2 and Bono signed the petition for the cultural exception. Nicole Bricq, the French foreign trade minister who represented France in the meeting over the negotiation mandate, described to me the surprise of the representative from Ireland, which then held the European presidency, upon hearing about the engagement of U2, the biggest Irish cultural success since James Joyce.

In a column published by *Le Figaro*, I explained that it was "time for Europe to stop playing against its own side"⁵¹

49 Taken together, the United States and Canada have 350 million anglophones; Europe has 90 million German speakers and 73 million francophones.

50 Directors' Guild of America, an organisation for the defense of directors' professional interests, like a union, but that also manages its members' pensions.

51 See Annex 4, the column, "Les industries culturelles sont l'avenir de l'Europe", or "Cultural industries are the future of Europe."

The conflict heated up to the point where Karel De Gucht, the trade commissioner, publicly criticised France, an attitude all the more unacceptable as it played into the hands of the Americans. During a video conference among the main European heads of state and the American president ahead of the G8 of 17-18 June 2013, Barack Obama explicitly threatened François Hollande with “reprisals” in the event of French obstruction.

In the end, France obtained *in extremis* the necessary minority to block the Commission’s attempt. Furious, the Commission’s president, José Manuel Barroso, publicly criticised France. In the middle of the G8, he said in an interview published in the International *Herald Tribune*, that the limitation of the mandate was “part of this anti-globalisation agenda that I consider completely reactionary.” Then, of the directors who came to Brussels to ask for his support, he said that some of those who defend the cultural exception “say they belong to the left, but in fact they are culturally extremely reactionary.”

Incredible comments when you think about the stakes, and when you see the unilateralism with which the current American administration deals with trade negotiations. The TTIP was, by the way, ditched in January 2017 by President Trump.

The battle for the press to gain the right to equitable remuneration

On Wednesday, August 29, 2012, the German government adopted a bill that provides for a right to remuneration for the press, paid by search engines and news aggregators, on the grounds that these services capture content produced by the press without remunerating it. The German Culture minister, Bernd Naumann, explained that the “German government was sending an important message about the protection of intellectual property in the digital era.” In fact, the economic damage is obvious since readers can just read the summary on the aggregator’s site without clicking on the source.

This bill, quickly named “Lex Google” because it mainly targets the Google News service, was championed by Chancellor Merkel. Rapidly adopted by Parliament, it came into force in the summer of 2013. This German initiative was courageous and visionary because it anticipated what should be the adaptation of the European legal framework to the economic and technological reality of the web, while at the same time frontally opposing the European framework that irresponsibly protects the giant Internet platforms.

In so doing, the government of Europe’s leading economic power, though known for clinging to economic orthodoxy and for its respect for treaties, took it upon itself to stir the debate in Europe with the intention of bringing other countries along with it – starting with France.

The economic reasoning behind this is simple and had been demonstrated by a 2012 study, unfortunately unpublished, by the Franco-German consulting firm Roland Berger on the transfer of value between Google and the press. In short: the search engine pretends to help the press by sending it Internet traffic, and thus advertising revenue, each time a web user ends upon a news site after a Google search.

The Roland Berger study showed that the inverse of that reasoning also holds: journalists’ work represents the major part of the cost of doing business for the press, and that is what is behind the high-quality information used for free by Google. But Google News is happy to just suck up snippets from news articles without paying for them. What is more, the digest the site puts out, with short extracts of articles and photos scraped from news sites, is diverting an increasing number of web users: according to a 2018 study, 46 percent of French web readers do not click through beyond Google News.

The press also contributes to Google's revenue in a broader sense: readers are getting out of the habit of visiting their daily news sites directly, via the address bar in their web browsers, and are instead using the search engine, since they know they are going to get to the same thing. In so doing, they increase traffic for Google, which already has a market share of more than 90 percent of search traffic globally, and so it follows that Google's ad network is also ultra-dominant.

Unfortunately, the German law was a failure, for two reasons: the first was the result of blackmail on Google's part; the other was because of France's attitude.

Faced with threats from Google News that it would simply stop referencing all news articles, German publishers declined to exercise their new right to remuneration, provoking the ire of the German chancellor. The law had nonetheless been approved by the "great majority" of the government coalition, CDU-CSU and SPD.

A similar threat to stop referencing news websites made the Spanish government backtrack in 2014 after it tried to create a law giving news organisations the right to be paid by search engines.

But there was another reason Germany renounced the pursuit of its "Lex Google." This one does not cover France in glory, and it has to be explained in detail if we want to understand just how much European sovereignty is in question.

In France, in the autumn of 2012, the new government assigned Marc Schwartz, of the Cour des Comptes, a mission to mediate between the press and Google. It was clear that France should have considered the same solution as Germany since the French press had held three years of futile talks with the search engine about sharing revenue that Google makes from indexing news content.

At the end of December, Marc Schwartz understood that the French government was not yet ready to follow the German example. Then on Friday, Feb. 1, 2013, one of the most shocking moments of François Holland's tenure took place: Eric Schmidt, then Google's executive chairman, sat beside the French president in the Elysée to sign an accord with the French press. To maintain Eric Schmidt's schedule, a presidential trip had been cut short.

Standing behind the two men were two ministers: Fleur Pellerin, innovation minister, and Aurélie Filippetti, culture minister. What a sad and humiliating picture. The French state publicly backed a deal that effectively puts the French press in a state of submission to Google, while at the same time giving up its legislative weapon.

The practical scope of that agreement is two-fold: on the one hand, an optional five-year agreement that "allows" news publishers to use all of Google's digital platforms under conditions described as "attractive." The second part was the creation of a fund "for digital innovation for the press" backed by 60 million euros from Google to "finance projects destined to ease the digital transformation for political and general news organisations."

It was a drop of water in Google's ocean of revenue. At the same time, the American company bought peace and a way to put pressure on all of the French press. A paltry sum compared to what the French taxpayer pays to support the press through different mechanisms inherited from the Liberation and which are indispensable if we want to preserve the vital tool of democracy that is our general-interest press⁵².

The political significance of this deal has to be reckoned with: we sometimes denounce the fact that French industrialists control titles like *Le Figaro*, *Le Monde* or *Les Echos*. But at least we are talking about French companies that

⁵² The Cour des Comptes, in its February 2018 report, estimated press subsidies at between 580 million and 1.8 billion euros in 2018.

pay their taxes in our country.

The observers stunned by the enormity of this gift given, in reality, to Google, got this explanation: the legislative route was a dead end. It is true that the German initiative did not conform with EU texts and was aimed precisely at creating a power play that would force the Commission into action.

What a price to pay! Nothing less than a Europe-wide triumph for Google. If the two largest countries, comprising a market of more than 150 million people, had both adopted the same legislation, it would have been difficult for Google to resist. And it would have been impossible for the European Commission not to follow along.

As soon as the German proposal was announced, publishers in Switzerland, Italy and Belgium had said they would like to follow along. But for a mere 60 million euros – about six hours' worth of ad revenue for Google – the European fire was put out⁵³.

We lost at least six years. Over those years, the situation for the press just kept getting worse. Dependence on Google, then social networks like Facebook, increased. Between 2000 and 2017, total press revenue fell from 10 billion euros to 7.5 billion euros. The Internet had much to do with this structural evolution, and Google controlled nearly 90 percent of online search revenue.

The 2014 directive on collective management

In February 2014, the European Union adopted a directive dedicated to authors' societies and to the collective management of rights⁵⁴.

This text marked the culmination of years of discussion and aimed, on the one hand, to create common rules for all collective management societies in Europe, and on the other to organise the online music market for download services like iTunes, paid streaming services like Deezer or Spotify, or free services like YouTube.

This was a typical example of hyper-regulation, excessive and at the same time ill-suited for the regulation of music on the Internet because at the moment of the directive's adoption, the framework outlined in the directive was already outdated.

When the directive was adopted, the online music services had already been signing deals for years with the major authors' societies. The directive was also asymmetrical: It obliged the authors' societies to grant licenses for their musical repertoires – which is, by the way, their reason for being. But on the other hand, it did not create any obligation for the music services. This led to a situation where certain types of repertoires, notably those of the smallest countries, or those with the most fragile aesthetics, could not get a presence on the online platforms. The more streaming developed, the more obvious it became that this directive did not deal with the real issue in online music: the protection of cultural diversity.

Above all, it was a regulation conceived in a climate of suspicion, even outright hostility, toward collective management societies. Many clearly stated the intention to reduce as much as possible the autonomy or even the role of the societies in the cultural economy, largely denying their role in preserving the independence of creators and the model of author's right.

When I started as head of Sacem in 2012, the proposal for the directive was already well underway and there was little left to negotiate. Some of the

⁵³ Google targeted 100 billion in ad revenue in 2018, following a 26 percent jump in ad sales for the first quarter of that year.

⁵⁴ The Directive on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market. Remember that "neighboring rights" concern producers and performers or actors.

proposals being debated in the European Parliament posed a mortal threat to the model itself. Some MEPs wanted to authorise member states to nationalise certain types of rights.

Others proposed to end the model known as “exclusive assignment”, in other words, they wanted to deprive authors’ societies of their exclusive negotiating power for the rights that had been entrusted to them. Remember that there is no obligation on the part of an author or publisher to go through collective management, as he or she could favour direct management of rights with the users. This alternative – direct rights management – is the main threat to authors’ societies. Depriving collective management societies of the power of exclusive negotiation would take away their ability to provide authors, who are weaker as individuals, with the means to negotiate collectively with economically powerful actors⁵⁵ and get an acceptable rate of remuneration for their works.

For its part, the Commission’s main idea was to introduce a maximum of competition into collective management. But it completely ignored the particularities of the not-for-profit societies and the importance, for cultural diversity, of preserving the national authors’ societies that want to protect rich and fragile repertoires in all sectors – theatre or music as well as cinema, books and other arts. The liberal consumerist approach prevailed.

Certain MEPs, like France’s Marielle Gallo, fought in isolation to make people realise that the very negative clichés about authors’ societies that were making the rounds at the European Parliament were far from reality. She highlighted several important points: The economic position of authors is by nature very fragile; they are free to choose their society (which they then may manage and co-own); competition is already fierce from other rights-management models – direct licensing or the for-profit collective management model that was growing in the United States.

The ideological vision carried the day, however, in the writing of the directive, which raised a real question of principle. The fact that some of Europe’s approximately 100 collective management societies are poorly run goes without saying. The same goes for the 20 million or so European enterprises of all kinds, profit or non-profit – there are a lot of examples of bad management. That does not mean there has to be a European directive for every economic sector.

Only banks and insurance companies have been subject to a dedicated European directive for a regulatory framework. We’re not really talking about the same thing here: in 2016, French banks alone accounted for 2.176 trillion euros in loans. The authors’ rights and neighbouring rights societies managed less than 2 billion euros in rights. For the collective management societies in France, the transposition of the directive was a heavy burden.

The European copyright reform

A reform that took off in the wrong direction

In 2013, when work on copyright reform really took off in Brussels, Manuel Barroso was Commission president. Since the beginning of the 2000s, the idea had been in the air that the digital boom was not adjusting well to the traditional judicial framework around intellectual property.

The most recent text of general scope adopted at EU level was the

⁵⁵ In the United States, collective management societies do not have exclusive assignment of rights. Any of their members could at any moment decide to negotiate directly with an individual media outlet or show organizer, for example. The result is that they are weak, and have royalty rates as much as ten times lower than those in Europe, because this deprives our counterparts, like Ascap or BMI, of the power to actually negotiate rates.

directive of May 22, 2001, known as DADVSI⁵⁶ in France, was the end result of a long process that put into place, at the EU level, treaties from the WIPO (World Intellectual Property Organisation) on copyright and author's right, the interpretations and executions (in the sense of shows, broadcasts, etc.) and phonograms, signed in 1996, before the arrival of the Web.

The transposition of this directive into national law would not be easy, as in France the DADVSI law, adopted on June 30, 2006, brought controversy, particularly on the fight against piracy via peer-to-peer software. A short time later, France was torn apart by a violent public and parliamentary debate over the creation of the HADOPI⁵⁷, which marked the first deep rupture between the left in France and the cultural industries, over the question of the remuneration of authors. Jack Lang was the lone Socialist deputy to vote in favour of the creation of HADOPI in 2007, a project whose success was due to the personal commitment of President Nicolas Sarkozy, and to a young parliamentarian, Franck Riester, the current minister of Culture.

If the struggle that this book describes had at least the merit of raising awareness, throughout Europe, of the vital importance of author's right, in 2012, even in France, consensus on the subject was severely weakened. During the primaries for the French presidential elections of 2012, most of the Socialist candidates were demanding the elimination of the HADOPI.⁵⁸

As a result, when the European Commission took hold of the dossier, it must have thought that with the French evolution and the dismal failure of the ACTA treaty, the situation was "ripe." In the halls of Brussels, anti-copyright sentiment was very prevalent. In a true provocation, the dossier was given to the directorate general in charge of digital affairs, which started with the idea, then largely dominant in Europe at the time, that copyright was an obstacle to the development of the Internet and therefore the 2001 directive should be revised.

However, from the end of the 2000s, it appeared obvious that with the rise of the commercial Internet, a different directive was starting to cause trouble, the June 8, 2000, "electronic commerce directive."

Interestingly, this directive created a statute of non-responsibility for companies hosting online content. Having participated in the negotiation on the project at the time, I can testify that the intention was to protect non-profit hosting organisations, what we would call today "the free and open Internet," and obviously not economic giants like today's "GAFA"⁵⁹. At the end of the 2000s, these giants had already started to accumulate, thanks to the "Safe Harbour" principle contained in the directive adopted 10 years earlier and that literally sheltered them from any liability, an undue competitive advantage over the "traditional" economic models they were replacing.

As with the phenomenon of "Uberisation," we quickly forget that innovation is not the only reason for the spectacular success of the new models. The absence of fair regulation, which gives them an advantage over their competitors, is another, often essential, explanation. However, the power of fascination they wielded and the strength of their lobbying made people deaf to the idea of regulation back then.

Yet the situation was obvious: the simultaneous explosion of electronic

56 Directive sur l'harmonisation de certains aspects du droit d'auteur et des droits voisins dans la société de l'information. English: "law on authors' rights and neighboring rights in the information society."

57 Haute Autorité pour la diffusion des oeuvres et la protection des droits sur Internet, created by a law of 12 juin 2009. In English: High Authority for the Distribution and Protection of Intellectual Property on the Internet.

58 Revealing anecdote: I had to intervene in January 2012 to have candidate Hollande's programme corrected. Upon finding Fleur Pellerin in Cannes at Midem, I point out to her that the online version of the program says: "We are mobilised to preserve moral rights, pillar of author's right." Read, and not patrimonial right, which underpins the right to remuneration, an omission that obviously came from the anti-Hadopi obsession and pro-piracy ideology of certain members of the campaign team. For France, and from a "party of government", it was a legal and economic monstrosity, but also and above all a political one. Fleur Pellerin intervened and the programme was corrected to carry a simpler sentence: "We are mobilised to protect author's right." Ten years earlier, such a slip-up would have been unthinkable.

59 The technology giants Google, Amazon, Facebook, and Apple are often collectively referred to as the "GAFA" in France.

commerce and piracy demonstrated that copyright was in no way an impediment to the growth of the Internet. On the other hand, the lack of liability guaranteed to the platforms under the 2000 e-commerce directive rendered some of the protections given to rights holders by the copyright directive of 2001 legally inoperative. A kind of “digital exception” became increasingly threatening to the interests of the European economy, and this did not only concern the cultural sectors – far from it. I co-wrote a column on this theme with Roland Héguy, president of the UMIH, in *Les Echos* in 2013⁶⁰.

It would have made sense then to have revised the e-commerce directive to ensure compliance with the copyright directive and, more globally, to create a legal framework adapted to the real needs of Europe’s economy and society –by defining normal obligations that should be imposed on the tech giants whose profits had already, in 2012, reached impressive levels. Especially since the Treaty of Rome had been conceived above all else to create an internal market that guaranteed the conditions for fair competition.

However, the Commission, because of its distorted view of the reality of the European market and of the real stakes of the digital economy, made the e-commerce directive into some kind of untouchable totem. It decided instead, in 2013, that it urgently needed to revise the DADVSI directive.

Opening up the debate under these conditions necessarily leads to the examination of the “dependent” copyright case. At first, the Commission departments worked without linking the most relevant sectors, with no public debate, no impact study. Some let it be understood that “this time we’re really going to reform everything.” But what? Where’s the motive? What’s the goal? No clear response was forthcoming though the threat of a “big night” for copyright in Europe was clearly bandied about in the Commission as well as among certain MEPs.

The Commission then launched a public consultation on the situation of copyright in Europe, at the end of December 2013. It published a long, quite biased questionnaire since it was all about identifying the supposed “limits” of copyright in the digital era. The document was accompanied by two thick “independent” reports on these supposed limits, presented as the work of experts chosen by the Commission, and which proposed ready-made solutions, all of which went in the same direction: lower the time limit for the protection of works, create new exceptions to copyright, etc.

Nothing was said of the insufficient protection of authors in the digital environment, nor of the obstacles created by the “electronic commerce” directive to the negotiation of their remuneration with the Internet giants. The European Commission acted a bit like a doctor who, before even examining the patient, asks him which of his limbs he would prefer to be amputated⁶¹.

A public hearing was organised on Nov. 11, 2014 in the European Parliament – a holiday both in Paris and Brussels. Upon my arrival in the auditorium where a vast audience was seated, along with a number of MEPs, I realised the problem. There were only two of us there to defend authors’ rights, both of us French – the lawyer Isabelle Feldman and myself, as if the 27 other member countries were not concerned.

Making copyright look like a “French hobby” revealed a lot about the tactics its enemies in Brussels would use. We were faced with two “independent experts,” one British the other German, neither of whom anyone concerned had heard of. When their bios were read, we discovered that one of them worked for an institution financed principally by the digital lobby in Brussels. The other had been recommended by the Pirate Party, a determined adversary of intellectual property.

60 See annex 5. UMIH is the main French trade group for the hospitality industry.

61 It should be noted that all of these documents were distributed exclusively in English, which seriously limited the possibility that interested citizens, particularly from artistic milieux, could truly participate in the public consultation.

I focused on describing the concrete difficulties we encountered negotiating the conditions for proper remuneration for our members, who, contrary to what our adversaries claimed, wanted above all that their work be spread as far as possible, to the point of occasionally closing their eyes to the piracy they were victims of. Isabelle Feldman described the legal obstacles that “safe harbour” placed in the way of fair remuneration for creators.

Then the two “experts” took their turn. The first, from the Pirate Party, based his whole exposé, dedicated to “what Europeans think of copyright,” on the analysis of emails the Commission received during its public consultation. His message was simple: European citizens overwhelmingly and urgently demand a complete reform of copyright and complain that copyright is the cause of countless barriers to access to culture. I am not at all exaggerating this incredible assertion, which was hammered home with equally incredible poise.

The citizens of Europe, and indeed most MEPs at the time, would have been very surprised to learn that copyright reform was supposed to amount to an emergency for them. Especially because since the beginning of the 2000s, thanks to the Internet, the supply of cultural products had exploded and their availability through tens of millions of references, thanks to electronic commerce, had expanded to nearly every corner of Europe.

Soon after this appalling hearing, we learned from very embarrassed Commission officials that a large portion of these “citizen contribution” emails were in fact canned responses, sent in bulk at the instigation of the Pirate Party, which with its one MEP out of 750 was not very representative of public opinion, even if it was remarkably effective at lobbying.

As for the second expert, he tried to demonstrate that when it came to copyright, nothing was working. Here are some examples of the anecdotes he recounted with gravitas: one book had its publication complicated by the choice of cover art that was protected by copyright; a tourist worried about taking photos of sculpture in a public space (which is obviously allowed as long as it is not for commercial purposes).

The conclusion was apocalyptic: scientific research, innovation, the unfettered development of the Internet, and at last, freedom itself – all were under threat from copyright.

The goal of “modernisation” of copyright⁶² proposed by the two experts was articulated directly: switch to a model where the exceptions to copyright become the rule, and authors’ rights the exception. Quite simply.

Given the outrageousness of what was said, certain MEPs did react, it must be said. I managed to get a few laughs when I observed that, if one were to erase an entire legal framework just because the inventions it protects are not flawless, then nothing should be more urgent than deleting all information technology patents because there is not a software program or an electronic device anywhere that really works without bugs...

But more than anything I was disgusted by this charade. Many authors in Europe have nothing but their royalties to live on. No salary, no stable or predictable revenue at all. How many Europeans, whether salaried in the public sector or private, would accept such precariousness? And, by citing two or three exceptional cases of great success, can we really pretend that all artists and authors are wealthy people whose legal framework needs to be weakened?

In December 2014, the European Parliament decided to put one of its members in charge of creating a status report on the functioning of the 2001 copyright directive and named Julia Reda, the sole representative of the Pirate Party. Fresh scandal.

This party, which received just 0.4% of the vote in the 2015 European elections, is the only party that prides itself on being hostile to the basic principle

⁶² All the speeches were made in English, and obviously both of us spoke of “author’s rights” while the two experts spoke only of “copyright.”

of intellectual property. Imagine the reaction if they had named, for example, Nigel Farage, chief of the UK Independence Party, to write a parliamentary report on the performance of the European institutions.

Naming Julia Reda to write the report on copyright was really putting the Fox in charge of the hen house. In cultural circles, incredulity was followed by anger. For many of the European parliamentarians with a favourable view of copyright, it was a reason for consternation.

The fantasy of the single digital market

It is important to understand where this strange idea that the “modernisation” of copyright should be a European political priority came from.

To hear it from the bureaucracy in Brussels, Europe was lacking in dynamism in the digital realm because it was lacking a *digital single market* like the market that more or less exists for goods and services – and copyright presented an obstacle to the construction of this digital market.

Obviously, a pragmatic mind would point out that the Internet, where borders don’t exist, is already a digital single market, and one would have to be blind not to see that it is more the absence of regulation that is the urgent problem, both economically and democratically.

But the liberal ideology that prevailed in Brussels was driving away reality. At the beginning of July 2014, the newly invested president of the European Commission, Jean-Claude Juncker laid out for the new Parliament his priorities for Europe. Among these was the creation of a digital single market he said, announcing his wish to “break down national silos” in the area of copyright⁶³.

The statement was striking for its violence because it did not stop at describing silos to break down. It likened copyright to something that must be broken down.

Certainly, there are legal or contractual rules that can limit certain types of distribution, including on the Internet. For example, when it comes to cinema, TV series, or football matches, the rights can be bought by a broadcaster for country x, but not for country y. This is what we call the territoriality of rights, an economic model that is essential for pay-TV and for the financing of professional sport, an important sector of the European economy.

On this question, the Brussels exile syndrome is a factor we’ve unfortunately underestimated. Like Ovid expressing his despair at being far from civilisation, meaning Rome, in *Lamentations*, written on the shores of the Black Sea where Augustus exiled him, some bureaucrats or elected European officials resent the isolation they feel in Brussels. They suffer from homesickness, and from not being able to access their TV shows or national team football matches in Belgium.

This is what we noticed in December 2014, with the delegation of about 15 artists and representatives from culture from around Europe, when we came to present the first EY study on the economic weight of culture in the Union.

We were received by the vice president of the Commission, and commissioner for the Digital Single Market, the former Estonian Prime Minister Andrus Ansip. During the meeting we were confronted with an interlocuter who pounded his digital tablet while explaining that it was not normal that his wife could not access TV series from her native country from Brussels. The meeting was tense, and we had trouble calming down the German director who was with us.

Not long after, in January 2015, Andrus Ansip declared: “There are too

63 “We will need to have the courage to break down national silos in telecoms regulation, in copyright and data protection legislation, in the management of radio waves and in the application of competition law.” https://ec.europa.eu/commission/sites/beta-political/files/juncker-political-guidelines-speech_en.pdf

many national exceptions, differences and limitations that have made this system inefficient for a pan-European market. Copyright is just one example of the restrictions that slow the full development of the single digital market." He still had this negative reading of author's right, but Ansip's view would eventually evolve considerably.

The worst is that the reality is exactly the inverse: thanks to the Internet, never before have cultural works been so plentiful and easy to access in Europe. The supply has been multiplied by 1000 and even up to 10,000, depending on where in Europe you live. In fact, outside of the big cities, where most Europeans live, it had never been possible before the Internet to find but a hundred of cultural products near where you lived, in local shops or press outlets for example.

In 2018, Internet access for 500 million Europeans is practically universal. With electronic commerce, from any place in the European Union people can order millions of books, albums, pieces of music, films or television series. Streaming services are largely accessible for audio-visual content like music and cinema.

The battle for author's right

Things started to change in 2015, notably because we extended our strategy to a Europe-wide level, led by France Créative, an association of cultural sectors and enterprises that commissioned in 2013 the EY studies on the economic weight of culture. The studies aimed to "explain" (the economic importance of culture, for example), "rally" cultural sectors that were not used to working together and "propose," by mobilising artists rather than lobbyists to explain the real issues of author's right and culture.

The selection of Julia Reda provoked the indignation of a number of MEPs. Jean-Marie Cavada, an MEP from a centrist, liberal group, who, along with MEPs Pervenche Bérès et Virginie Rozière, played a remarkable role in the defence of the Europe of culture and author's rights, led the charge against the draft of Reda's report, which had more than 500 amendments tabled, a number rarely attained and a sign of trouble.

The final version of the European Parliament report adopted in July 2015 did not, in fact, have much in common with the original document, since the most hostile measures toward copyright had been taken out.

The pedagogical approach made progress in the Commission, too. In a report presented in May 2015 that was to serve as a road map for the single European market, there was no more language about putting intellectual property protection into question.

Even better, our efforts succeeded because the report brought up for the first time the theme of "transfer of value" introduced in particular by Sacem. The Commission recognised the imbalance that benefited the big Internet platforms, and above all that this imbalance was aided by European law through the electronic commerce directive of 2000.

In June 2015, as I met for an hour and a half with the vice president of the Commission, Andrus Ansip, I was able to measure the progress made. He held in his hands the EY report on the economic weight of culture and explained to me that the publication of these figures had changed minds within the Commission. This was confirmed to me by the French commissioner Pierre Moscovici. There was no point, in a Europe that seemed to be disintegrating, to pile on and to break what was functioning.

In the beginning of September 2016, the Commission published its proposed directive on copyright, and the text was less unbalanced than we could have hoped. Side by side with new exceptions to copyright, for example for teaching or research purposes, there were important advances concerning

the sharing of value between the Internet giants and cultural actors.

On one hand, for the use of press articles by Internet platforms, the Commission proposed, in article 11 of the directive, the creation of a neighbouring right for news publishers. In a way, Germany's "Lex Google" had been validated at the European level.

Also, regarding the use of content by Internet platforms, the Commission proposed in article 13 to give more weight to rights holders in their negotiations with the platforms "that store and provide to the public works or other subject matter protected by copyright." These platforms would be obliged to negotiate "licensing contracts with the rights holders."

Concretely, streaming platforms like Deezer or Spotify, for example, sign license agreements with authors societies like Sacem in order to broadcast music to their members. The agreement allows them to broadcast all the works represented by the society in exchange for remuneration for creators, which is shared, in the case of music, with publishers. These licenses represented in 2018 between 13% and 15% of the revenues earned by the platforms in question. This is considerably less than they pay to the record companies, but it is a good level of remuneration compared with the royalty rates earned from other ways of broadcasting music.

Conversely, a platform like YouTube does not consider itself responsible for the content posted by its users. However, YouTube generates, thanks to this content, considerable advertising revenue, much more and at a faster growth rate than streaming services like Deezer. Currently the sums YouTube pays to rights holders are, by comparison, paltry.

The idea of article 13 is also that the platforms must put into place technical tools that are more effective than the existing ones to help recognise which content is protected and covered by licenses that allow for its creators and publishers to be paid. Generalised filtering of the Internet was obviously never under consideration; it was more about making the platforms do more to provide more transparency.

The European Parliament and its different commissions spent 2017 working from the Commission's version, as did groups within the governments of member states. As for us, we ramped up in 2016 and 2017 our efforts to teach and convince, notably through regular meetings with European leaders in Brussels and Strasbourg.

Picking up where their predecessors left off⁶⁴, the new French administration carried the torch, with Emmanuel Macron twice expressing strong support for authors' rights. First in his speech on Europe at the Sorbonne in December 2017, in which he brought up the topic in detail, and, importantly, linked the subject to the digitisation of the economy.

His words bear repeating: "What I want for Europe is not to simply succeed in the digital transformation, but to construct a fair framework for it, a framework that will allow us to defend our values, the fundamentals of civilisation that we hold and the necessary economic balances.

"This is why in this digital Europe we must also defend our authors' rights, everywhere it exists, we must defend the value created by the person who truly created it. This is not a debate from another era, author's right is not, excuse the familiar expression, a lame debate.

"... Is digital really going to become the only realm where the value created comes not from the person who really created it but by the person who transports it, by the person who brings it to the end user?

"Authors' rights must therefore be defended in this contemporary digital space. And it is European dignity, its capacity to even exist and not dissolve into

64 We should underscore that for the most part, the support of the French public authorities was constant: from François Hollande to Emmanuel Macron, from Aurélie Filippetti to Franck Riester, as well as Fleur Pellerin, Audrey Azoulay and Françoise Nyssen, all of the French Presidents and Culture ministers mobilised to defend a positive and ambitious vision of author's right in Europe.

a continent of sameness, that compels us, in order to succeed in this transition, to defend the just remuneration of all authors and all forms of digital creation.”

It was a strong speech, whose echo was amplified when the French president repeated these points in April 2018 in Strasbourg in front of the European Parliament.

After the European Commission’s draft of the copyright directive, the second key step of the so-called “trialogue⁶⁵” process was completed in May 2018, during the “Coreper” meeting of the committee of permanent representatives of the 28 member-state governments. During this meeting a version of the proposed copyright directive was approved, not without tensions among the member states.

At the end of June 2018, as the plenary session of the European Parliament was set to vote on the directive, a violent public campaign broke out, on the Internet as well as in the street. On the place du Luxembourg, in front of the Parliament in Brussels, there were advertising trucks, rented by organisations financed by the technology giants, on which messages like this taunted MEPs: “Do you really want to be remembered as the one that censored the Internet?”

The theme of the campaign led by the movements that were against the regulation carried the hashtag *#SaveYourInternet*. It should have been *#SaveOurMargins*, because that was the real issue for the lobbies at work, as Google and others sought to preserve the huge margins that their regulatory impunity enabled.

We would later learn that in Poland, the main political parties were approached directly by the Internet platforms’ local teams who tried to convince them of the role they could play in the local Polish elections.

Nothing was left to chance, and the lobbying took a menacing turn, often on the edge of illegality. The Wikipedia page of a Portuguese MEP was edited to read: “In 2018, he contributed to the adoption of the law that ended freedom on the Internet.” Several MEPs and their assistants would tell us of anonymous physical threats they received by phone, not to mention the tens of thousands of emails coming from “citizens.” We later discovered that the second-largest geographic source of these emails was the United States, and, more precisely, California.

The MEP Jean-Marie Cavada said that in 15 years, over three terms in the European Parliament, he had never seen such a harsh campaign with such extreme lobbying, “even over texts concerning the chemical industry or banking regulations during the crisis.” For her part, the MEP Pervenche Bérès compared the campaign to that of the gun lobby.

The week before the vote, Sacem organised its second “Creation Days” event in Lyon, attended by Françoise Nyssen, the French culture minister, and Jean-Marie Cavada. Cavada warned me that contrary to what the parliamentary rapporteur Axel Voss (European People’s Party) had predicted, he thought the vote would be lost. With my counterpart from SACD and the chief executive of *Les Echos*, we published a column⁶⁶ in *Le Figaro* to warn the members of the European Parliament.

On July 5, 2018, in an electric atmosphere, the vote took place. Its purpose was to provide a negotiating mandate, for the triologue, from the compromise text that had come out of the Parliament’s legal commission. The verdict: 278 MEPs voted in favour, 318 against, the rest abstained or were absent. We were 40 votes short; the negotiating mandate was rejected, and it was back to Square 1. The rapporteurs from the different Parliamentary groups would have to propose another version of the text for a new vote in a plenary session to be held Wednesday, Sept. 12, 2018.

65 The term for the consultations held between the Council, the Parliament and the Commission to agree on compromises among the draft texts.

66 See the column in annex 6, whose title translates as “Copyright directive: defending the press and culture against the Tech Giants’ lobbying”

Six years after ACTA was rejected on July 4, 2012, the anti-copyright lobbying, despite our efforts, proved to be stronger. Many of the MEPs who did not know much about the text itself were heavily influenced by the propaganda that had been unleashed for weeks.

In Warsaw, the week before the vote, news of “demonstrations” in the streets “for the freedom of the web” was circulating heavily on the Internet, even though they counted just a few dozen people. Apparently, the lobbyists for the tech giants had bet heavily on Poland, seen as an exploitable weak link for the vote.

The Polish left, which had been expected to vote in favour of the text, asked its MEPs to stay home, citing, according to authors who got the information from their MEPs, “the fear that Google could weigh on the upcoming local elections”!

Certain Italian MEPs announced that they would vote against the text even though they were in favour of it, just because it was firmly supported by France and they were upset by President Macron’s remarks on Italy’s handling of the refugee crisis. Nice atmosphere ...

The vote confirmed deep divisions between the parliamentary groups and among nationalities. For example 88% of French MEPs voted in favor of the text, with support from all the groups including a portion of the French ecologist MEPs. José Bové turned out to be a strong supporter of creators. On the other hand, for the 51 Polish MEPs, the Dutch and even the Swedes, the “yes” vote gathered 0%.

Those who opposed articles 11 and 13, led by Google and the Pirate Party, were convinced that their victory was complete and that when talks resumed in the beginning of September 2018, the text would either be killed or revived in its original guise: radically weakening author’s right in the name of the digital single market.

The week after the vote, I mobilised my European partners and we decided to organise a public information campaign. On July 20th we held a brainstorming session at Sacem, with representatives from book publishing, music, the visual arts, cinema and the press. Ideas were flowing.

The adversaries of the text did not stand still either. Julia Reda announced a big European movement for Sunday the 26th of August with 26 marches in 11 different countries, all around the theme “1,000,000” – one million European citizens mobilised.

Their “day of glory” arrived, and various artists organisations sent members out to check on the turnout for the Pirate Party events. In total, fewer than 500 people came out into the streets all over Europe – about 100 in Berlin, 40 in Vienna, 25 in Warsaw, 18 in Stockholm (birthplace of the Pirate party), and in Paris, 6 people hit the streets!

Two hundred and fifty organisations of authors and artist-performers from all over Europe launched the “Europe for creators” campaign built around a few simple ideas – explain the reality of the text, denounce the lying, and mobilise the forces of creation.

Journalists were also mobilised. More than 100 reporters and editors-in-chief from 27 of the European Union countries co-signed a column by their colleague Sammy Ketz, AFP’s Bagdad bureau chief and laureate of the Albert-Londres Prize, entitled “Neighboring rights: a question of life or death⁶⁷”

The text underscored what was at stake for democracy: “In more than 40 years of reporting, I have seen the number of journalists on the ground steadily diminish while the dangers relentlessly increase. We have become targets and our reporting missions cost more and more. Gone are the days when I could go to a war in a jacket, or in shirtsleeves, an ID card in my pocket, alongside a

67 See annex 7 for the column in Le Monde dated Aug. 26, 2018. <https://www.afp.com/en/au-fil-de-lafp/tribune>

photographer or video journalist. Now you need bullet-proof jackets, armoured cars, sometimes bodyguards, and insurance. Who pays for these expenses? The media, and it is a heavy cost. Yet, even though they pay for the content and send the journalists who will risk their lives to produce a reliable, complete, trustworthy and diverse news service, it is not they who reap the profits but the internet platforms, which help themselves without paying a cent. It is as if a stranger came along and shamelessly snatched the fruit of your labour. It is morally and democratically unjustifiable”

Sammy Ketz, after reminding us that the 2017 profits made by Facebook and Google reached \$16 billion for one and \$12.7 billion for the other, summed it up simply: “They simply have to pay their dues.”

The column was translated in the press all over Europe. Highly annoyed, Julia Reda had her assistant call Sammy Ketz, and I won't resist the pleasure of retelling the story of the telephone conversation that Ketz himself recounted to me when we met in Strasbourg two days before the vote on the proposed directive. When the parliamentary assistant told him politely that he had “understood nothing about neighboring rights,” Sammy Ketz told him “that he understood nothing about the press.

On Sept. 6, with less than a week to go, more than 600 people responded to Sacem's invitation by gathering in the gardens of the Palais-Royal in Paris. It was at least as many people as the Pirate Party had managed to gather all over Europe. Authors, composers, cinematographers, documentary film makers, writers, publishers – all united around Emilie Loizeau, who read the very beautiful “Appel du Palais-Royal⁶⁸.”

Françoise Nyssen demonstrated her commitment to author's right in a fiery speech. I read the results of a Harris Interactive poll carried out in seven EU countries, which underlined how much the stakes changed: we had gone beyond the simple question of author's right, and now European sovereignty itself was at stake.

The poll revealed in fact that two-thirds of Europeans think that “the tech giants are now more powerful than the institutions of the European Union” and that 61% think these same giants “influence the functioning of democracy⁶⁹.” Our fellow citizens completely understood the stakes: this was about European sovereignty. The poll numbers circulated around Europe and had a strong influence on MEPs.

We were active on every front. I went to Poland at the invitation of our friends from Zaiks, the Polish authors' society, to participate in a much-publicised round table with Polish artists, the minister in charge of copyright reform, and the Google representative for Eastern Europe.

The meeting took place, one week ahead of the European Parliament vote, at the Krynica Economic Forum, the main annual economic gathering for the Eastern European countries. It was a familiar destination for me because, as chairman of the board of Cyfra+, the Polish Canal+, I had made the trip dozens of times. Krynica, the Davos of Poland, is 135 kilometres from Kraców, where I landed via Amsterdam. On the trip I met Jan Kaczmarek, the Polish composer who won an Oscar for the score for *Finding Neverland*, the Marc Forster film. He had come from Los Angeles, where he lives, for our roundtable.

In a series of interviews I did with Polish media, who were characterising the directive as an “Acta 2” (*sic*) I tried to float the idea that the unanimous negative vote from Polish MEPs on July 5, from a nation with rich culture and great authors, could only have been a misunderstanding. I then had a long conversation with the Polish minister Pawel Lewandowski, a young member of the conservative and Eurosceptic P.I.S.

The minister told me straight away that he was well aware of our four-

68 See annex 8 « Appel du Palais-Royal » TKTK -

69 See annex TKTK English version

year effort, mostly because, he told me, "Andrus and Tibor" had spoken to him of the EY study on the economic weight of culture in Europe. It took me a little while to understand that he was talking about the Estonian vice president Andrus Ansip and the Hungarian commissioner Tibor Navracsics. The Eastern Europeans, he helped me understand, talk to each other...

During our roundtable, I brought up the history of Poland and the importance of its cultural identity, often threatened at the same time as its sovereignty, and the example of the censorship Google imposed on the Spanish press in 2014.

At the end of the discussions I convinced our Polish friends to publish an op-ed in the press Monday morning, at the moment the MEPs from Poland were taking off from Warsaw to Strasbourg. The op-ed was not an appeal to vote for authors' rights, but a call to vote "for Poland" ... The op-ed was published in all the press, and its impact had, according to our friends, contributed strongly to the result of the vote.

On Monday September 10th, thanks to the mobilisation of Sacem's Strasbourg employees, each MEP found in his office a gift packet: a book with only blank pages, and a CD and DVD without any content. The message was clear: without remuneration for creators, there's no creation.

The authors had a little more fun, distributing condoms inside Parliament. French writers had come up with the idea, putting them on publishers' stands during a book fair two years earlier to illustrate their wish to be published – on the condition they have "safe relations," meaning, protective contracts. In the face of the tech giants, the idea that creators want to use the platforms while still needing a more protective legal framework was brilliantly illustrated by this – slightly quirky – initiative.

On Tuesday September 11th, the eve of the vote on the directive, we gathered in front of Strasbourg Cathedral, symbol of Europe. The author-composers Jean-Marie Moreau and Serge Perathoner, president and general secretary of Sacem's board of directors; Olivier Delevigne, president of the national authors' and composers' union; Marie Sellier, Carole Salzberg and Edith de Cornulier, writers and leaders of the Société des Gens de Lettres; Juliette Metz, president of the music publishers; along with friends from around Europe, notably the Poles, who danced or stretched out on the ground in front of the cathedral waving European flags and those of the member states, while one of our composers played the bagpipes. Spread by social networks, the images of this "happening" made their way into the European Parliament, where we went next. In front, there was a podium, where authors, artists and MEPs stopped to express their support. An appeal to Europe was read. Murray Head, the British artist who is a Sacem member, stirred up deep emotion explaining how much Brexit tore at him, a European at heart.

The anxiety-provoking and deceptive *#SaveYourInternet* campaign was met with our *#SaveYourDemocracy* appeal. Inside Parliament, YouTube, now "out of the closet" as a force behind the campaign against the directive, put on a concert as part of its lobbying effort...

At the same time, the Syndicat National de l'Edition Française and the Fédération des Editeurs Européens had Sammy Katz give a speech in front of a group of MEPs of all stripes, some of whom announced on the spot that they would change their negative vote from July into a "yes."

This show of unity from across the cultural spectrum would prove essential.

Wednesday, September 12 was, for the European Union, an exceptional day. Jean-Claude Juncker gave his last "state of the Union" speech in front of the MEPs; there was a vote for the so-called "Article 7" censure procedure against Hungary, accused of eroding democracy and failing to uphold fundamental European Union values; and at last, the proposed copyright directive was taken up again.

The tensions between Europeans had only got worse, and it was difficult to determine whether our efforts over the summer and the media operations over the past three weeks would bear fruit.

First the vote would be carried out article by article, then Parliament would vote on the text as a whole, like on July 5, 2018, to grant (or not) the rapporteurs (one from each political group) a negotiating mandate on the text for the dialog with the Commission and the European council.

When the results came in, the magnitude of the reversal from July 5 was surprising: out of 703 MEPs present, 438 voted "yes," 226 "no" and 39 abstained. For most of the member countries, 60% of their MEPs voted yes.

For Poland, which was targeted in particular by Google's lobbying campaign, 19 out of 51 MEPs voted yes, compared with zero on July 5th. In their friendly manner, the Poles sent me a warm thank-you message on the evening of the vote.

I realised after this episode with Poland that we were often not being "European" enough in our approach. Each group stayed focussed on the mobilisation led to convince "their" MEPs, even though every vote carries equal weight. The clearest proof of the importance of getting beyond this inward-looking approach could be found in the effective, completely transnational lobbying carried out by the American tech giants in Brussels.

The vote on Sept. 12, 2018, in its scope, marked a politically significant defeat for the forces that had been unleashed for years against author's right. The clarity of the result was a strong signal that Europeans, conscious that a piece of their sovereignty was in play, were waking up.

After this vote the probability grew that a copyright directive would be adopted. As I finish writing this book, at the beginning of January 2019, the battle to reform author's right in Europe is heating up yet again. The rising tensions among member states and the weakening of the German chancellor have created uncertainty as to the final outcome. What is more, in mid-November 2018, YouTube launched a vast campaign against Article 13. Its executives began issuing an increasing number of alarmist and threatening statements. There were messages going out to YouTubers explaining that their channels would have to be shut down. For its part, the mothership, Google, said it would close Google News, "an unprofitable service" (*sic*), if Article 11 were adopted. A lot of Internet users were alarmed. On Dec. 11 2018, we were in Strasbourg again, meeting at the European Parliament with authors from all over Europe to exchange information. The vice president of Parliament, Sylvie Guillaume, said her son had asked if it was true that the "Internet would have to close because of the directive!"

The same mechanism as the one that worked in Spain in 2013, leading to the failure to adopt the proposed directive in July 2018, snapped into place.

Nothing could be simpler for these new "super-media," which control an increasing portion of the information channels of modern democracy yet manage to free themselves from normal ethical considerations when it comes to using their tools to defend their interests: on YouTube, a search using the key words "copyright directive" would result in a few videos with eloquent titles such as: "Copyright Directive: the end of social networks in Europe?" or even better: "The copyright law: MEPs unconscious (or stupid)?"

The European Commission came out publicly against this campaign and tried to re-establish the truth. When I met at the end of November with the Commission vice president Andrus Ansip, who had just received a visit from Susan Wojcicki, the CEO of YouTube, I could tell that the aggressive lobbying by Google and YouTube bothered him, as it bothered the commissioner Mariya Gabriel, who paid close attention to cultural issues. But what about the MEPs and the member-state governments?

Risks remained, for example, that the trialogue negotiation would end up weakening the scope of articles 11, 13 and 14, as well as other articles that concerned the rights of authors and artists. Another risk was the enlargement of

exceptions to copyright that were already in the proposition.

As I had warned in a column published by *Le Monde* on the eve of the vote⁷⁰, one of the worst scenarios would be that the text, originally conceived to weaken author's right, would end up fulfilling this original intention.

How it ends ? An addition to the french edition following the adoption of the Copyright Directive in April 2019.

Addition to chapter 3 for the English edition

Jean-Noël Tronc, March 2022

I'm pleased to have the opportunity, with this new English edition of the book, to explain to readers what happened between January 2019 and the adoption of the directive on Tuesday, March 26, 2019. The events are indeed a striking illustration of how important the fight for European sovereignty is, but they also tell a tale of a fragile Europe facing immense lobbying by non-European actors.

As early as January, we launched new initiatives, aware that our position had been considerably weakened by the manipulation carried out by YouTube on its own platform, combined with the thinly veiled threats Facebook employees were directing against political parties in some Eastern European countries.

So we deployed an information and education campaign around article 13, spreading the word through op-eds signed by hundreds of artists from around the world, as well as more than 270 organisations representing the cultural sectors. In a concrete response to the concerns of start-ups regarding any future increase in their responsibilities, an agreement was signed on February 8, 2019 between the German and French governments specifying that only large platforms like Facebook and YouTube would be fully concerned by all the new obligations.

Meanwhile, opponents of the text did not let up in their pressure. They launched, among other initiatives, the "pledge," which involved media hype around a count of European deputies solemnly committing themselves to vote against the text. Commissioner Maryia Gabriel, whose commitment throughout these weeks was remarkable, told me that during a large forum of start-ups from all over Eastern Europe, gathered in Romania, misinformation was at its peak on the imagined effects of the directive.

Nothing was left to chance: my friend Jean-François Abramatic, who was for a long time the president of the World Wide Web Consortium, the W3C, the global organisation for Internet technical standards, told me that on the anniversary of the invention of the Web at the European Center for Nuclear Research (CERN) in Geneva, he had spoken with Tim Berners-Lee, co-inventor of the Web, who had already been lobbied over the Copyright Directive.

Our side also carried out targeted actions — up until the last minute.

For example, one week before the vote, I convinced the CEO of Qwant, a European search engine with French and German investors, to speak publicly in favour of Article 13. Eric Léandri is a convinced European with a forceful personality, and he courageously decided to put the public interest first. His statement on March 20 sparked a big controversy in the "geek" community, which was being heavily lobbied by the U.S. tech giants and the Pirate Party. Léandri was targeted with a torrent of insults on social networks.

At the same time, I had contacted many friends in the start-up world, many of whom, like Eric Léandri, were worried and even disgusted by the violent and threatening lobbying deployed by some of the biggest American digital players. What we experienced over these weeks was one of the worst campaigns Europe has ever had to endure.

We shouldn't compare the consequences of this lobbying with the attempts to

⁷⁰ See Annex 9, the column, "Un nouvel échec de la directive sur le droit d'auteur serait un jour noir pour l'Europe de la culture", published in *Le Monde* dated Sept. 12, 2018.

destabilise elections that several European countries have experienced in recent years. But there were a lot of similarities, and we felt democracy was severely under threat in the battle for the European directive. Many of us saw the assault on the U.S. Capitol in January 2021 in an eerily familiar light. Indeed, we know that American social networks played a decisive and ambivalent role, and Facebook's late decision to censor Donald Trump, taken without any judicial oversight, raises at least as many democracy-related questions as Facebook's refusal to assume any responsibility for the assault on the U.S. Capitol.

In fact, millions of Europeans, especially young people, were directly manipulated by the smear campaigns and lies that Facebook and YouTube (Google) deployed on their own platforms. It was as if television stations were adding messages to their commercial breaks that were hostile to legislation being debated in a national parliament. What is more, the future campaigns of elected members of the European Parliament were clearly being threatened.

I thought it was important to use my background in the technology sectors to mobilise actors in the start-up and innovation arena. The idea was to prevent the digital lobbies from trotting out caricatures of "anti-modern" cultural actors. On Monday, March 25, the eve of the vote, an op-ed was published, signed by several dozen start-ups, entitled "start-ups speak up: why we support the copyright directive." This was one of the decisive actions carried out to restore the truth in the face of the barrage of lies, in particular the ridiculous accusation that the text of the copyright directive could in any way constitute Internet censorship.

Despite all these efforts, which for some of us meant ten days with little sleep, we still had a lot of good reasons to fear failure in the end.

Without going into too much detail, I'll just say that on the evening of Saturday, March 23, three days before the final vote, some of us thought the situation was almost lost. By "us," I mean a group of personalities that I had gathered in a WhatsApp group. Among them were the French ambassador in Berlin, Anne-Marie Descotes, Clément Beaune, then adviser for European affairs to Emmanuel Macron (Beaune later became a minister), as well as French and German MEPs and a few European cultural-industry leaders.

Tens of thousands of demonstrators had marched that day in the streets of Germany, protesting the "censorship machine" that supposedly would result if the Article 13 draft directive were adopted. This misleading campaign ended up worrying even the SPD, which was holding a congress on that same day. There were some reports that made us fear that Chancellor Angela Merkel herself was getting tired of being constantly approached by supporters of the directive.

Now, without strong support from the Germans, the failure of June 2018 had every chance of being repeated. The European Parliament was only a few weeks away from the end of its term, with European elections coming up in May.

The forces mobilised against the directive had cleverly changed tactics: their goal, in the home stretch, was to have the draft directive amended again, which would lead to the relaunch of the famous "trialogue," the shuttle between the Commission, the Parliament and the member states' governments. Since the process was impossible to conclude in the few weeks remaining, this would amount to the burial of the directive, with the virtual certainty that such a project would not see the light of day again for many years.

Since the beginning of the year, our opponents, and in particular the Google lobbyists, had become aware that their outrageousness had, in the end, helped us make many MEPs understand that this was now a question of sovereignty for the European Union and that, in the end, this text, which is very technical, deserved to be voted on, even if it was only for the sake of democracy.

Meanwhile, a survey I had carried out by Harris Interactive in seven European countries was making a strong impression: more than 65% of European citizens said they considered the technology giants to be more powerful than the institutions of the Union.

On the Friday before the vote, an incident occurred that illustrated this risk, while bringing to mind the adage “Lord, protect me from my friends, I’ll take care of my enemies.” The International Federation of Journalists published a press release asking the MEPs to amend the directive, on the understandable grounds that the sharing of new remuneration that could arise from the neighbouring right of the press, the famous article 15, had not been determined, so journalists had no idea of what to expect in terms of remuneration. The president of this union was French, so the Commission called us for help and, along with the efficient Leïla Derouiche, adviser to Françoise Nyssen, minister of culture, I spent part of the weekend in exchanges with trade unionists and press owners, to smooth things over.

The importance MEPs accorded the journalists could well have led them to fall into a trap: if even a single amendment were adopted in session on March 26, the directive would be buried. In the end, I called the European president of the publishers’ federation, the Italian Fabio Mancone, and we had an interview with him published in *Le Figaro* in which he made a commitment to share future revenues with journalists. That commitment was obviously not set in stone, but the desired result was achieved, and on Monday a new communiqué from the IFJ urged the MEPs to vote for the text in its current state.

The scene on the day of the vote deserves to be briefly described. Determined to pull out all the stops to get this text adopted, I had coordinated the arrival in Strasbourg of a large, effusive delegation of artists and authors who welcomed MEPs and their staff in front of the Parliament building as they came in for the vote. We had organized a proper demonstration in front of the Parliament buildings, complete with live music and unbridled artists.

Jean-Michel Jarre, who was 100% mobilised in the previous days, was behind the move to get dozens of artists from all over the world to record short videos tagged #JustSayYes, and featured images of the most famous ones in a leaflet that circulated all the way to the benches of Parliament as the vote took place. France’s tireless minister of education, Jean-Michel Blanquer, had even sent us his own “#JustSayYes” video on Sunday, recorded from the ministry where was working.

The vote took place in two stages. The first — and most dangerous — consisted of MEPs voting for or against amendments. The second was a vote on the directive as a whole, and this vote could only take place if no amendments were adopted. So, MEPs had to vote “no” in order to vote “yes,” a fact that the president of the Parliament, Mr. Tajani, underscored in person for the deputies, a rare event that underlined the gravity of the moment.

I witnessed some surreal moments as I sat in the gallery with a full Pirate Party delegation behind me. A Polish deputy declared that he would “call down the vengeful hand of God” against those who voted for the text. The Pirate Party representative Julia Reda claimed there was a secret “gas pipeline for copyright directive” agreement between France and Germany, alluding to the burning debate over the Nord Stream project.

In the end, the directive was approved without amendments by 348 votes for, 274 against, and 36 abstentions. It was then endorsed by the EU Council on April 15, with 19 countries voting for it and six against (Italy, Finland, Sweden, Luxembourg, Poland and the Netherlands). Poland tried, but failed, to challenge the legality of the newly adopted directive before the Court of Justice of the European Union on the grounds that the provisions of Article 13, which had become Article 17 during the legislative process, would threaten freedom of expression and information on the Internet. Member states were then given until June 7, 2021 to transpose the

directive's provisions into their national laws.

There is one small detail that has been little noted: though in the final vote we won by 74 votes, the truth is the directive nearly failed during the first vote. Indeed, in this vote on whether to reject hundreds of proposed amendments, the majority was a very slim five votes. Since the adoption of a single amendment would have prevented the final vote, one of the most important texts for the creative economy of the last twenty years was adopted by a mere five votes out of 750. European sovereignty triumphed, but only just.

It should be added that all is not won. Indeed, as we have seen since the adoption of the directive, big platforms like Google are adopting a play-for-time strategy: the more time passes, the more the press weakens and becomes dependent on the search engine.

France was the first country to transpose the neighbouring right for the press in a text adopted as early as July 26, 2019. This happened thanks to the common political will of deputies and senators, including the president of the Modem group in the Assembly, Patrick Mignola, and the personal commitment of both President Macron and his minister of culture, Franck Riester.

This quick transposition did not prevent Google from announcing that it would not apply the French law resulting from the European directive and would therefore not pay French press publishers.

The press publishers went to court, Google challenged the decision, and in the end the Court of Appeal upheld the principle of the directive, stating that Google had to negotiate in good faith with the press publishers to acquire licenses.

For my part, at the end of June 2021 I was able to convince three of the press publishers' unions and the agencies, including AFP, to entrust Sacem with the creation of a new society that would allow the press to collectively manage the new rights. Through exchanges with the main leaders of the press, I have seen how much determination they need to resist the temptation to make direct commercial agreements, selling out cheaply to Google in a sort of "final settlement of accounts." As of this writing in the beginning of 2022, nothing has been settled.

IV

Culture and digital services, the great misunderstanding

For twenty years, attacks on copyright and author's right have been fuelled by a series of misunderstandings between the cultural and digital sectors. Several factors have contributed to this, like the questions of open source software and the public domain, the libertarian ideology associated with computing, the global fascination with Silicon Valley, and the powerful lobbying led by the likes of Google.

It is important to analyse these, because they contributed a lot to the weakening of the cultural sectors and their ability to defend their own interests.

Open source software and the public domain

The open-source software movement caught on as part of the reaction to the domination of Microsoft, which occupied, in the 1990s, the symbolic place that belongs to Google today. This movement, born in the scientific and information-technology world, aimed to promote software free of any intellectual property. The idea was to avoid the de facto monopoly Microsoft had with its Windows operating system and the barriers to innovation that could result.

Open source software is part of a larger concept called public domain, a notion that encompasses all the creations or inventions that are not protected by intellectual property, whether patents or copyright. An often very militant attitude in the open source software movement turned the public domain into an ideological cause, analogous to freedom vs. the all-powerful Microsoft. Just remember how effective Apple's first TV commercial in 1984 was: taking the themes of the eponymous novel in comparing Bill Gates and Microsoft to Big Brother. Steve Jobs, though far from being a philanthropist, and very litigious in the defence of Apple's patents, succeeded in placing himself in the symbolic camp of the defenders of liberty.

On the other hand, author's right, the instrument the fragile use to defend their freedom to create, was accused of blocking freedom at the same time as its defenders were seen as adversaries of the public domain.

It is a paradoxical accusation when you consider that Sacem was reproached by people who blamed it for having let Ravel's Boléro enter the public domain⁷¹. Unfortunately, the worst enemy of author's right copyright can sometimes be the abuse of these very same legal frameworks.

The public domain has always been simultaneously a legal notion – all that is not covered by intellectual property – and a political subject. From the time of the French Revolution, the debate has opposed those who fear that author's right blocks the free circulation of ideas and those who defend the principle of

⁷¹ In November 2018, the related heirs of Maurice Ravel sued Sacem over the fact that its board had unanimously refused in 2016 their request to delay Boléro's entry into the public domain.

remuneration for authors as a guarantee of their freedom of expression.

I often illustrate this statement by asking what the difference is between Mozart and Verdi. One must not look for the answer on an artistic level – Mozart and Verdi were both musical geniuses. Mozart died in misery because his patron had cut off his living. Verdi, on the contrary, a symbol of Italian independence, lived sheltered from the caprices of the powerful, whether it be King or Church – thanks to his author's rights. You can find the proof in [Sacem's online museum](#), where you can view an 1862 logbook with Verdi's signature⁷², from when he went to his authors' society (Sacem, where he was a member) to collect his royalties. The protection he got from his author's rights did not in any way impede the extraordinary influence of his works.

It has always been a recurring debate, but the question of the public domain has been thoroughly modernised in the Internet age. In the "old world" of culture, the dissemination of works had always been limited by how easily they can be reproduced. The Great Library of Alexandria and the copyist monks of the Middle Ages, but also the ateliers that reproduced the most popular sculptures, like the Laocoön, were the ancestors of our current cultural industries in favouring the dissemination of works. With the Internet, for the first time in the history of humanity, technology allows the universal and instantaneous dissemination of all information and thus of any work that can be digitised.

For the creator this is an incredible opportunity, because authors create their work in the hope that it will find the largest audience possible. The fact that a work is protected by author's right or copyright does not in any way interfere with its dissemination.

What is more, the works currently protected by author's right or copyright make up only a tiny portion of the totality of existing works. During my conversation with the European Commission vice president Andrus Ansip, who is very attuned to arguments on the importance of the public domain, I employed an image that seemed to have caught his attention. Pointing to a small bottle of mineral water on the table, I asked him to imagine the bottle floating in the middle of an Olympic-sized pool; that is exactly the ratio that exists between the quantity of works currently protected by author's right, for 70 years after the death of the last creator earning money from a work, and the totality of works available on the Internet.

If the water in the pool represents the public domain, the works covered by author's right are contained in the bottle that is floating. But you also have to imagine that, every second, some water leaks out of the bottle into the pool, as works enter the public domain. It's mostly the little bottle that fills up the pool; destroy the bottle and one day the pool will be dried up.

Take books alone, it is estimated that more than 100 million different works have been printed, in the West alone, since Gutenberg. Instead of seeking to pierce the bottle, I explained, by weakening author's right, let's make sure the pool is well maintained: that the public domain is progressively digitised and correctly indexed so that it is more accessible to everyone, everywhere. Let's make sure it remains accessible and that we not allow private companies to privatise it.

Remember the wildcat operation Google carried out to digitise all of our literature, without consultation and with no guarantee as to the permanent and non-commercial accessibility of this common heritage. The Google effort was denounced in 2004 by Jean-Noël Jeanneney, then president of the national library of France, in his essay, *Google and the Myth of Universal Knowledge*⁷³.

Above all we must ensure that open standards guarantee, over the very long term, that researchers and fans from future centuries have access to the

⁷² See annexe 12, page from the logbook of Giuseppe Verdi (musée Sacem) <https://musee.sacem.fr/>

⁷³ Jean-Noël Jeanneney, *Google and the Myth of Universal Knowledge*, University of Chicago Press, 2007, Translated by Teresa Lavender Fagan.

digitised public domain.

I have, in my library, an edition from 1683 of Pascal's *Pensées*, "Nouvelle édition Augmentée de plusieurs pensées du même Auteur." The *graphie* is a bit dated, but the book remains perfectly readable, 330 years after its printing. On the contrary, 100% of the computer programs I wrote with my first computers, Sinclair ZX81 or Amstrad, less than 40 years ago, are unusable today, as there is no compatible disk reader or operating system.

Author's right is a freedom: if an author wants her work disseminated for free without remuneration, of course that is her right. The detractors of author's right forget that it is only a right, in no way is it an obligation. An author can define the ways her work is disseminated, forbidding commercial exploitation, for example, while authorising use by non-profit enterprises. This is the model called "*of the commons*," or, *creative commons*. This type of rights management has existed, for example, since 2012 at Sacem, and every year a few hundred books are registered under this principle. It is now included in the European Directive of 2014 on collective management and is therefore binding throughout Europe.

The important thing is to preserve the right of the author to maintain control of her work and of the use that is made of it, including the right to obtain remuneration from those who use it. Especially since author's right is one of the rare rights that is limited in time.

When you think about it, it is as if your grandfather leaves you an armoire he made with his own hands, then a city employee comes along 70 years after his death to take away the armoire and make it common property. If your grandfather transfers to you his patrimonial right on the book he wrote, that is what will happen. It's the grandeur and the servitude of author's right.

The debate on the public domain in the digital age has led to sometimes surprising initiatives against author's right and copyright. In France in 2015, the "Digital Republic" bill was sponsored by the secretary of state for digital issues, Axelle Lemaire. It was a legislative proposition that, in the name of creating a "consented public domain," sought to allow an author to formally, irrevocably, renounce their author's right.

One can imagine the consequences: A video sharing Internet platform convinces an author to renounce his right to intellectual property under the new law, in exchange for, why not, a small, one-off sum. If the work is a huge success, the author can claim nothing. The same goes for the painter and the gallery owner, or the author and the publisher.

Over the summer, I warned Prime Minister Manuel Valls himself, having pointed out to him that one could just as easily imagine an employment law that allowed a worker to renounce his salary "freely and irrevocably." Valls demanded the recall of the bill. That such a provision could even be imagined, in the country that invented author's right, and by a leftist government, says a lot about the confusion of certain minds that have been through the mill of digital policy.

The libertarian ideology

A mutual hostility developed between a lot of cultural actors and the information technology community. The success of Silicon Valley had transformed techies from a marginal population into heroes of innovation. Some became rich and powerful, controlling software and networks that irrigate the planet by connecting billions of people. But they impose an ideology that is hard for the cultural sectors to understand, and a dialogue of the deaf often takes the place of real communication. For many of our authors, this antagonism is all the more unacceptable since they are passionate tech fans themselves.

It must also be said that the hostile or condescending attitude, common in cultural circles when the Internet first appeared, and, more generally, with the

rise of digital technology, fuelled the misunderstanding between “geeks” and rights holders.

I have a few choice memories from my time in the prime minister’s office: a top executive of a big private TV channel claiming that DTT (Digital Terrestrial Television) would never work in France; or an eminent personality from the film industry explaining that the size of the Internet pipes would never be big enough for films, so piracy really only concerned the music industry.

The positive side of the Internet was often ignored. For example, in the run-up to the 2002 presidential campaign, Lionel Jospin was about to publish the memoir recounting his term as prime minister, so I suggested that, since political memoirs might not be popular among the young, he should post highlights from the book on his campaign’s website. What that got me was a nice lunch with Monique Nemer, the prime minister’s editor, who had been dispatched on a mission to explain to me that my suggestion might cause offense in literary circles and put the campaign in peril.

It was a typical reaction in the face of the always-unpredictable advances of technology, and in other economic sectors, including telecommunications, the Internet revolution was also met with hostility or indifference.

The consequence of this attitude was that those in the digital community, having tried in vain to explain the tech revolution to the rest of society, and in particular the cultural sectors, started to consider them as belonging to the past.

This is the origin of the disdain expressed by a lot of adversaries of author’s right and copyright over the years, and the root of the basic position that author’s right is outdated and should get into tune with the demands of the digital era. This was also a big misunderstanding, because of all the intellectual property rights, author’s right is the most modern because it is the only one that had never been attached to a format or a material support. It is the work that is protected, not the paper the book was printed on, the plastic for the DVD, or the silicon that holds the music file.

But this is how the misunderstanding grew worse, to the point where certain cultural actors felt they had become whipping boys for the “geeks” and, in turn, a number of militant tech groups grew obsessed with denouncing the “cultural lobbies.”

The Grateful Dead songwriter John Perry Barlow takes credit for one of the most striking expressions of this antagonism. Cofounder of the Electronic Frontier Foundation, an ancestor of the Pirate Party, he distinguished himself in 1995 with a sentence that struck home: “copyright is dead in the digital age.”

In 1996, faced with Bill Clinton’s attempt to regulate pornographic content on the Internet and create an obligation to protect minors through the Communications Decency Act, Barlow wrote a [“A Declaration of the Independence of Cyberspace,”](#) which was read at the World Economic Forum in Davos in February 1996: “Governments of the Industrial World, you weary giants of flesh and steel, I come from Cyberspace, the new home of Mind. On behalf of the future, I ask you of the past to leave us alone. You are not welcome among us. You have no sovereignty where we gather. ... Your legal concepts of property, expression ... do not apply to us.”

With hindsight, it is surprising that so much credit was given to such a naïve thought that, under the cover of technological progress, expresses opposition to the very principles of representative democracy. It is as if, pushed along by the digital fascination and the inferiority complex of the “old world,” we overestimated the level of vision or political and philosophical conscience of certain Internet gurus.

History has stammered in this area for 20 years and democracy has gained nothing, proving once again that the absence of rules always brings us back to the law of the jungle.

As Lacordaire said in 1848, “Between the strong and the weak, between

the rich and the poor, between the lord and the slave, it is freedom which oppresses and the law which sets free." The proof is that the tech giants have always hidden behind libertarian ideology to thwart any effective regulation of their activities, whether it has to do with copyright or author's right, paying taxes or respecting all the rules that democracy imposes on traditional media.

It is certainly true that the Internet's libertarian movement usefully defended the free circulation of ideas and creativity, as well as the revolutionary side of the network as a means to universal access. But by claiming that cyberspace must be rid of all classic regulation, its ideology distanced itself from the values inherited from humanist European thought.

The "silicolonisation" of minds

Renouncing effective and democratic regulation of the Net – and therefore renouncing the prevention of the propagation of racial hatred, antisemitism or the exposure of children to pornography on the Internet – is equivalent to accepting the loss of Europe's ethical and political sovereignty in the face of the American libertarian ideology.

This ideology so particular to a part of the digital economy, hostile to the very idea of regulation imposed on everybody by elected institutions, did not come out of the blue. It is closely linked to the culture of Silicon Valley in which the founders of the tech giants were immersed – a curious and explosive mix of two ideologies: the libertarian thought inherited from the American hippie movement of the 1950s, and the libertarian thought, so completely American, that is distrustful in principle of the State and any public intervention.

I refer to the work of Eric Sadin, *La Silicolonisation du monde, irrésistible expansion du libéralisme numérique*⁷⁴. Without sharing the whole analysis, what he calls "silicolonisation" is, from my own experience, a fair description of reality.

A vast scientific and entrepreneurial community has rallied around an idealised vision of technology as a solution to all that ails humanity. Saint-Simon is not far. But in contrast to Saint-Simon's vision, which glorified the engineer as a force for the transformation of society but also called for the State to mobilise in the service of industry, the "siliconian"⁷⁵ ideology borrows from American liberalism.

This techno-liberalism, tainted with anarcho-capitalism, constitutes a formidable political force. The Silicon Valley model has effectively become an obligatory, planetary, reference. With its virtues, faith in scientific progress, the incredible mobilisation of talent and its permanent sense of innovation, Silicon Valley is also exporting its ideology.

It skilfully mixes a language imbued with "cool," libertarianism, full of "collaboration" and "sharing," with a quasi-millenarian vision of a better future to build, even if it means sweeping away "the inertia of the old world," overwhelmed and incapable of understanding progress as it happens, as John Perry Barlow said in his declaration cited above.

In reality, it is just effective propaganda, driven by oversimplification that strikes the reader of the biographies – sometimes hagiographies – of the founders of the big "siliconian" companies, who are raised to the rank of eman-

74 Éric Sadin, *La Silicolonisation du monde, l'irrésistible expansion du libéralisme numérique*, Paris, L'échappée, 2016.

75 According to the author, the "liberal siliconian dogma mixes individual achievement and the refusal of all regulation deemed coercive" and corresponds to the "fundamental gene of the American spirit: libertarian utilitarianism."

icipating prophets⁷⁶.

Good luck then, to those who wish to oppose the people who have unlimited financial means to fuel their lobbying.

As someone who conceived and directed France's public Internet policy over five years, I have always been struck by the naïveté, even stupefaction, with which a lot of leaders – in business as well as government – approach the subject.

Here is a revealing and apropos anecdote: Dominique Strauss-Kanh, then economy and industry minister, was a solid ally in the government of Lionel Jospin, but we were in conflict once, over a visit to Paris by Bill Gates. DSK absolutely wanted the prime minister to receive the Microsoft president. I won out, insisting that Gates only be received at the Finance Ministry, where I was invited to a lunch that was rather insipid – on both the culinary and intellectual level. As expected, the press mocked the meeting anyway, on the front page, *Libération* wrote "The Republic sold to Microsoft." Those were the days.

Just look at the series "presidential receptions" given in France and elsewhere in Europe for the leaders of the American tech giants. Compare this treatment to that given to the heads of the big European companies, or to our greatest artistic and scientific minds. "Silicolonisation" is also expressed in symbolic attitudes.

Beyond the irritating nature of this propensity to roll out the red carpet to business leaders who, objectively, plunder more than they enrich our countries, the most worrisome thing for democracy is the impunity, and often the impudence, with which their lobbies act. The worst is that the power of their lobbying is reinforced by their objective alliance, on certain matters, like hostility toward author's right, with the Pirate Party – which is opposed to any form of intellectual property, including the patents on which the tech giants' power was built.

The Google example

One of the most worrying aspects of Europeans' loss of sovereignty is how effective a company like Google can be at organising its influence and weighing on minds.

We know that in the United States, Google's influence was a crushing weight on the Obama administration. With President Trump, the situation is less clear, especially since at the end of the summer of 2018, he started a media war against Google and Facebook. On August 28, the Trump administration publicly accused the search engine of bias against Trump and discrimination against Republican and conservative points of view, then announced unspecified "corrective measures." Donald Trump [wrote on Twitter](#) that "96% of results (from a Google search) on "Trump News" are from National Left-Wing Media, very dangerous. (...) They are controlling what we can and cannot see."⁷⁷

We could take some hope from that, but we must instead fear that this superficial reaction, typical of his conspiratorial bent, is just another illustration of his bullying methods.

In essence, the American administration and its president know how important the tech giants' role is for America's global influence, the financing of innovation and thus the maintenance of American economic and scientific leadership.

Trump's reaction, via Twitter of course, the day after the European

⁷⁶ As Eric Sadin puts it: "it is a rhetorical construction that is well developed but relatively poor, coming from a limited catalogue of ideas, which try to address everyone, and which corresponds precisely with what is called propaganda.

⁷⁷ Trump [tweet](#) from Aug. 28, 2018

Commission fined Google 4.34 billion euros in July 2018, was much more telling: "I told you so! The European Union just slapped a Five Billion Dollar fine on one of our great companies, Google. They truly have taken advantage of the U.S., but not for long!"⁷⁸

Certainly, coming from the American president, no outrage should come as a surprise. But to say that by fining Google, Europe "took advantage" of the United States, that is pretty bold. Especially when you consider how much Google has profited from the European Union, while avoiding taxes estimated at several hundred million euros at least, killing European start-ups by the dozen through the abuse of its dominant position, and economically strangling the press by hoarding online advertising profits.

Its lobbying is deployed every which way in Europe, and France is both a target of choice and a prey that's not so shy.

You have to read the compelling story Jean-Noël Jeanneney tells in *Google and the Myth of Universal Knowledge*⁷⁹ about the intense battle that had to be fought between 2005 and 2010 to oppose the privatisation of our great public libraries by Google and which led to the launching in November 2008 of Europeana, the European digital library. The revelation of outrageous contractual clauses⁸⁰ that the American company intended to impose helped dispel the danger, but it was a close call.

Indeed, the company has impressive lobbying power everywhere, particularly in France.

On Monday, Nov. 26, 2012, I was invited to a debate at the economic, social and environmental council, as part of a so-called *Big Tent* that was meant to, over two days "Gather stakeholders on digital themes like growth factors, business competitiveness, and European economic attractiveness." The organizer of the event was none other than Google. At the event there was, among others, a British secretary of state who had come to preach the digital good word, and a nutcase who explained that we didn't need copyright anymore because authors had become redundant thanks to robots. The match of "Ancients vs. Moderns," you see, or the uncool squares of the traditional economy against the radiant future that the search engine embodied.

The name of the two-day event, "Growth: a digital revolution, or nothing – Will Europe make it?" reflected one of the aspects of "silicolonisation": hollow out the debate with categorical injunctions; make Europeans feel guilty.

What was even more shocking was that the organiser of the event was the new director of public policy for Google, a brilliant, high-ranking French technocrat and member of the Conseil d'Etat who had just spent seven years at the Court of Justice of the European Union (CJEU). That was where the future of author's right and copyright would likely be decided. Google, like other technology giants, knew fully well that the battle they had begun fighting with the Europeans would probably end up in front of the CJEU.

And all of this was happening in the headquarters of the institution that calls itself, on its website, the third assembly of the Republic, with the Senate and the National Assembly.

Google actively poaches from the highest offices in government. In the beginning of January 2017, the president of the Senate commission for culture and education, Catherine Morin-Desailly, denounced the hiring of the head of the French telecoms regulator ARCEP by Google.

It was no coincidence that Google opened its "museum" in Paris, the

78 Trump [tweet](#) from July 19, 2018

79 Jean-Noël Jeanneney, *Google and the Myth of Universal Knowledge*, University of Chicago Press, 2007, Translated by Teresa Lavender Fagan.

80 The president of the scientific council of the French national library, Roger Chartier, a renowned specialist in the history of books, from whom I had commissioned a report on the digitisation of books when I was in the Prime Minister's office, wrote in *Le Monde* on Oct. 26, 2009 that "the use by the libraries of their own collections digitalised by Google (...) is subject to completely unacceptable conditions, such as the inability to exploit the digital files for several decades."

heart of the country that is the most mobilised for cultural policy and that takes pride in its demanding regulations.

The inauguration of this cultural "lab" in December 2013 had given rise to some tension within the government: Fleur Pellerin, minister of digital affairs went to the event, while Aurélie Filippetti cancelled her appearance, saying she did not wish to "back an operation that raises more than a few questions."

Google was, at the same time, organising an intense public relations campaign in an effort to influence the elites. I had been invited in 2016 to Zeitgeist, a Google networking and debating event near London that included European decision makers. Much to my surprise, upon my arrival I bumped into the former Commission president Manuel Barroso, who had just joined an American investment bank under conditions that were the subject of much chatter. He began to justify himself immediately. Visibly bothered he explained that he had insisted on paying for his trip himself.

Over two days, a number of personalities took the stage to explain to a partly convinced audience how much Google was participating, as a truly philanthropic enterprise, in the enlightenment of humanity's destiny. Some of the presentations were amazing, like one by the president of Deep Mind, the Artificial Intelligence start-up Google bought that had defeated the world's best Go player.

We were given the opportunity to question Eric Schmidt, the former president of Google and now in charge of diversification at its new Alphabet entity. I stood up and remarked that most of those present were not anglophones and had to make the effort to listen and speak in a foreign language. So I asked Eric Schmidt if it would be possible to develop a tool, like an earpiece, that would simultaneously translate any language. He was visibly surprised by the question and explained to me that Google Translate was making rapid progress. That did not really address my question, but it is true that for a lot of Anglo-Saxons, the idea of cultural diversity is mainly all about facilitating the use of English by the rest of humanity.

I asked that question out of sincere interest, because it is a vital question for the construction of Europe, where, soon less than 1 percent of the citizens of the Union will be native English speakers. Yet there is this systematic use of "poor man's English," which so dominates the world of business, government, and non-profit sectors, every time that translators cannot be made available – which is to say 95% of the time. It is a serious handicap.

I say "poor man's English" because the number of true bilinguals is infinitesimal. It's even a double handicap, because if, as Boileau said, "whatever we conceive well we express clearly," then what is spoken haltingly is poorly understood. When you express yourself orally or in writing in a language that is not yours, you lose 30-90% of your capability; on the other hand, this use of "poor man's English" gives the Anglo-Saxons among us a diminished image of our capacities and harms intercultural understanding.

A few weeks later, all the participants received the book, *Connected World, From Automated Work to Virtual Wars: the Future, by Those Who Are Shaping it*, a series of interviews "organised" by Google's European president in charge of "strategic relationships," Carlo d'Asaro Biondo, who was notably the negotiator for our poor press in the talks for the famous Google press fund put in place in France in 2012. But the author was supposed to be Father Philip Larrey, professor of philosophy and chair of logic and epistemology at the University of Latran, in Rome. When one Church meets another...

Tech giants and libertarians: allies or adversaries?

Even if they have sometimes gone in the same direction as the tech giants, a lot of the militant digital libertarians are increasingly keeping their distance, conscious of the way they are being used.

In the days that followed the Sept. 12 European Parliament vote, we saw cracks develop in relations between the tech giants and certain militants. A [column](#) by one of the principal figures of the Quadrature du Net⁸¹, who writes under the pseudonym Calimaq, was aptly titled: "The Copyright Directive is not a defeat for the free and open Internet!"⁸² The article expresses an important realisation. The author reports the unsurprising reactions of the spokespeople of the campaign against articles 11 and 13, like Julia Reda, who wrote in her [blog](#) that the Sept 12 vote was a "severe blow to the free and open internet" or Cory Doctorow, a member of the Electronic Frontier Foundation, who wrote on the EFF site: "Today, Europe lost the Internet"! Indeed, today, Europe lost the Internet. Quite simply.

Calimaq gave a more nuanced judgement of this "defeat": "When we closely read these articles [...], we realise that they are not taking aim at "the Internet" or "the web" as a whole, but only at a set of determined actors – the centralised for-profit platforms. So, it is not "the free and open Internet" that is going to be hit by this directive, but rather exactly what represents its antithesis! Namely, this layer of deeply toxic intermediaries that have gradually distorted the principles on which the Internet and the web were built to finally tip us into "platformisation." [...] But the great lie underpinning the tech giants – the main culprits in this centralisation – is their effort to make people believe that they alone represent the entire Internet, as though nothing could exist outside their grasp. [...] Why should the defenders of a "free and open Internet" get upset that these centralised platforms stand to lose the benefit of quasi-immunity that they have enjoyed up until now?"

The author notes that the proposed directive excluded non-profit service providers like Wikipedia from Article 13's scope of application.

As for the exception for small enterprises introduced in the proposed directive, he writes: "Personally, I am not the least bit overjoyed about this exception because, on the Internet, "micro-enterprises" often mean "start-ups" and we know that these "young shoots" with sharp teeth like to build extremely toxic business models by capturing users and preying on their personal data. Size is not in itself an important criterion, because all of the digital Leviathans started out small before getting fat."

This analysis is in agreement with a personal conviction of mine: tech giants and militants for Internet freedom are aiming for opposite goals, and their alliance of convenience against author's right and copyright comes from a deep misunderstanding that, I hope, will come to an end. European cultural actors and digital activists share the same interests and must unite to defend European sovereignty together.

81 An association that defends Internet freedoms; it has often demonstrated opposition to author's right.

82 La directive Copyright n'est pas une défaite pour l'Internet libre et ouvert ! https://www.laquadrature.net/fr/directive_auteur_calimaq

V

Europe's loss of digital sovereignty weakens its cultural industries

Europe is the leading global power in many cultural sectors. Paradox: The European Union is nonetheless devoid of any real ambition for its cultural industries. As we have just seen, it has been limited to just two types of action up until now: programmes with increased, but still modest resources to develop intra-community cultural exchanges, and regulatory action that is most often detrimental to the cultural industries.

Cultural influence strategies

In contrast to Europe, most of the major powers develop ambitious cultural influence policies, composed of domestic protectionism and of expansionism into the rest of the world, bolstered by solidly supported national cultural industries.

The European situation is therefore paradoxical and all the more worrying because Europe's loss of digital sovereignty has weakened its positions in the economy as a whole, particularly in culture.

The American strategy: protectionism and expansionism

Observation of the American market reveals three interesting things: a strong ambition for culture, fairly fragmented regulation and strong protection of intellectual property.

In his book, *De la culture en Amérique*⁸³, Frédéric Martel showed that total non-profit cultural spending in America was close, as a percentage of GDP, to total public spending on culture in France. Simply, this cultural policy that dare not say its name is implemented through fiscal advantages and wealthy private foundations, not to mention active political support for American cultural exports, already highlighted in the post-war period by the [Blum-Byrnes agreements](#) that opened the French film market. Secondly, the American market is very fragmented on a regulatory level and often mostly closed to competition, contrary to what people in Europe think. The regulation of telecommunications remains, like taxation, principally the purview of the states, and the same goes for the market for rights, for example sports rights, which is also very fragmented. Americans in one state do not necessarily have access to the programmes broadcast in another state.

83 Frédéric Martel, *De la culture en Amérique*, Paris, Flammarion, 2011.

There is no single American market, even though the United States is one single nation. The United States is a paradox for Europeans, especially those who are very centralising, like the French: Even if it is more integrated culturally than Europe, the United States is much more federalist than we are. On issues as fundamental as the age of majority, drug legalisation or the death penalty, there is no harmonisation among the states.

One last observation: if there is a country where you don't mess around with intellectual property, the United States is definitely it. The big tech companies, which run continuous lobbying campaigns in Europe to prevent any effort to regulate them or to get them to pay out more to content creators, are the first to deploy armies of lawyers to file suit at the slightest hint of a violation of their patents. For the U.S. tech giants, intellectual property is Janus-faced.

The idea that intellectual property rules could account for part of Europe's digital lag is contradicted by the reality in America. Indeed, the giants of Silicon Valley all developed starting from the American market before dominating the commercial Internet on a planetary scale. It never would have occurred to the American political class to make weakening copyright an objective. Protectionism and regulation are the watchwords of the domestic American market. Of course that doesn't prevent the U.S. administration from putting regular pressure on the Europeans to open up their markets. *Do what I say, not what I do.*

Leaning on a domestic market that is solidly locked up, American media companies are pursuing their global expansion. Three acquisitions totalling nearly \$200 billion led to the recent creation of three behemoths: Disney allied with Fox; AT&T bought WarnerMedia, which owns, among others, HBO and CNN; and finally, Comcast, which owns NBC Universal and the DreamWorks studios, bought Sky for \$39 billion in September 2018. That acquisition is going to allow Comcast to expand farther into Europe. Sky is very profitable, with 23 million subscribers to its pay-TV packages in Great Britain, Italy, Germany and Austria. After Amazon and Netflix, another American content giant is stepping into the European market. For its part, Disney already owns two SVOD platforms (ESPN+ and Hulu) and is rolling out its Disney+ service in Europe. These moves are efforts to respond to the new Internet content model where Netflix and Amazon control production, distribution and broadcast simultaneously.

The risk is high that European actors, by remaining "local," will end up being incapable of keeping up in the now-global race for critical mass. Netflix, which has a market capitalisation of more than \$150 billion and 130 million subscribers, is in a position to invest massively to impose its market conditions. In September 2018, Facebook paid \$600 million for the rights to broadcast Indian Premier League cricket matches for five years. What European media company could follow such a bid?

Far be it from me to underestimate America's amazing creativity, particularly in cultural matters. I started my career in an American company and deeply love the country, but I am still struck by how naturally our American friends seem to carry off this feeling – as unconscious as it is powerful – of clear cultural superiority over the rest of the planet. The American historian [Richard Hofstadter](#) found the right words to express his finding that the revolutionary idea has stayed on the margins in the United States: "It has been our fate as a nation not to have ideologies but to be one."

The Chinese strategy: nationalism and gigantism

When it comes to cultural and digital issues, China's strategy is openly protectionist: China has chosen to develop a partially closed network, like an enclave adjacent to the global Internet, but it's an enclave that represents more than a quarter of all Internet users (800 million), and it is strictly regulated.

I remember the phrase used by a Vietnamese deputy prime minister who received me to celebrate the launching of our Canal+ subsidiary, which we called K+. Speaking of the real economic opening of Vietnam, which joined the World Trade Organisation 10 years after China, he explained that "Vietnam joined the WTO under the conditions of the WTO, but China joined under the conditions of China."

Moreover, its ultra-protectionist industrial policy, combined with its economic power, have allowed China to develop national champions like Alibaba and Baidu. With more than 2,000 television channels, 1.3 billion TV viewers and 11 billion euros invested in audio-visual programmes, China is the world's second-largest market. Baidu's new SVOD iQiyi claims 51 million subscribers and its market value is higher than \$17 billion. In the public audio-visual sphere, CCTV has become an international giant, exporting its multilingual news channels everywhere. Just as we talk in France about the "GAFA" (Google, Amazon, Facebook, Apple), we should get used to saying BATX for Baidu, the search engine⁸⁴; Alibaba, the e-commerce platform; Tencent, the social network that owns WeChat; and Xiaomi, the No. 4 maker of mobile phones, even if the telecom equipment maker Huawei has the biggest international presence.

The Chinese are methodically deploying a strategy of cultural power and digital sovereignty, demonstrating and these two assets are not incompatible. The fact that China's large technology companies closely depend on the State, and are actively collaborating with it, opens up worrying prospects.

The Chinese political authorities increasingly use technology as a tool to control the population, while at the same time, the lever technology provides for cultural influence is used actively outside China's borders. In the pay-TV industry around 2009, a mysterious group called Startime started popping up around Africa, methodically buying licenses to provide paid Digital Terrestrial services. Startime became in 2018 the main competitor in African pay-TV for companies like Canal+ or Multichoice, a unit of South Africa's Naspers. Startime counts several million subscribers to its packages in the francophone countries, and, contrary to the French company Canal+, it is careful not to pay for the rights to any of the programmes it broadcasts. So far, the various national authorities have not taken any concrete action on this.

The world's leading cinema chain is now China's Dalian Wanda Group, whose economic power, regularly a subject of caution, would allow it to take over either of the big French cinema chains if it so desired. In cinema production and theatre chains, China let the big American companies in to set up the first multiplexes so they could "learn the business model" before expropriating them and retaking total control of distribution in China. It then set off to conquer the global market. What countermeasures did the Americans take? None. The American cinema industry now has to negotiate every year to get a quota of films that can enter China, and Hollywood is increasing the number of productions made to measure for the Chinese audience.

To understand China's determination in matters of cultural policy and control of the news, I recommend you read the excellent *Rupert's Adventures in China: How Murdoch Lost a Fortune and Found a Wife*,⁸⁵ which tells the tale of how the Australian-American billionaire tried to penetrate the Chinese audio-visual market. In short, the billionaire Lee Ka-Shing, after Hong Kong's return to China, finds himself in a position where his friends from the Chinese mainland are explaining to him that there are more lucrative and less risky things to invest in than media. So he sold his Star group to Murdoch, who then made every effort to ingratiate himself to the authorities, even marrying his Chinese translator.

84 Emerging powers, however, on the international level. For example, of the most used search engines in the world in July 2018, the top three, all American, had a 95.8% share (Google 90.5%, Bing 3.1%, Yahoo 2.2%) and Baidu just 1.9% (source: statcounter.com).

85 Bruce Dover, *Rupert's Adventures in China: How Murdoch Lost a Fortune and Found a Wife*, Edinburgh, Mainstream Publishing, 2008.

Unfortunately for him, during a celebration of the anniversary of the group he founded, he gave a speech in London in which, citing George Orwell's 1984, he explains that, contrary to what the writer described, television had become a tool of freedom. He used the example of satellite, which, he explained, ignored terrestrial borders and this politics. He himself intended to reach hundreds of millions of mainland households from Hong Kong.

Beijing got the message loud and clear. A secret meeting of the Communist Party's Central Committee was held a few weeks later. Mr. Murdoch's speech was distributed, translated into Mandarin, to the participants. At the end of the meeting the decision was taken to outlaw satellite dishes from all of China. This story was recounted to me by an executive of CCTV, the public Chinese audio-visual group, during a trip to Beijing.

In the context of the growing trade war between China and the United States, the Chinese authorities announced their intention to limit foreign programming to 30% of all audio-visual output, including on streaming platforms; a ban on foreign programmes during prime time; and a requirement for official authorisation for any broadcast in China.

Another major development was support for intellectual property, where China had always been the world capital of illegal copying. The electronic music pioneer Jean-Michel Jarre – one of the most well-known French people in the world who remains, after his famous 1981 concert in Beijing, a star in China – told me this juicy anecdote: One of the Chinese people he had been talking to about the importance of respecting copyright told him, on the subject of the widespread practice of illegal copying in Chinese factories: "You Westerners speak to us about *"copyright."* We took it literally; you should have called it *"copywrong!"*" The country, conscious of the advantages of a strong cultural sector, has recently adopted new legislation that is more protective of intellectual property.

The Chinese thus have a coherent strategy that seeks to reinforce their digital and cultural industries simultaneously, within a solidly protectionist framework. Compared with the Chinese "cultural exception," ours is just a friendly joke.

Cultural influence, a universal strategy

What has been a good model for China and the United States is also developing in other countries. On this point I refer the reader to Frédéric Martel's book, *Mainstream*⁸⁶, in which the author describes strategies for supporting national cultural industries, but also for export and influence, that he had observed elsewhere, like in the Middle East, in Latin America or in Africa.

I'll mention a personal experience that involves using the cultural industries as a means of influence. In 2008, we were preparing for the return of Canal+ to the Maghreb in the form of a satellite package and an inexpensive and legal offering, which proved to be a bit of a challenge in countries where piracy was devastating the cultural industries. Like everywhere else in the world, you need football to attract customers. We found that two countries had bought 100% of the rights, for all of the Arab world, to all the biggest and most attractive leagues – the English Premier League, the Italian Calcio, the Liga in Spain, the Bundesliga in Germany, and France's Ligue 1: Qatar, through Al-Jazeera, and Abu Dhabi, through the Abu Dhabi Media Company, controlled, like Al-Jazeera, by the state.

So, we went to Doha, to the Al-Jazeera headquarters, where I discover that the studios for the international version of the channel are 10 times bigger and better equipped than those of our national news channels, public or

86 Frédéric Martel, *Mainstream*, enquête sur cette culture qui plaît à tout le monde, Paris, Flammarion, 2010.

private. The discussion immediately took a geopolitical turn: Our interlocutors were ready to give us the right to broadcast a few matches in our future offering in the Maghreb, but they asked that Al-Jazeera News be given a good place in our African offering, which covered all of francophone Africa, from Dakar to Kinshasa.

When we got back to Paris, we told the administration, which was in the middle of launching its Union for the Mediterranean, announced in July 2008, about the political issue that we had just discovered: The end of analogue TV broadcasting in France, the consequence of the shift to Digital Terrestrial Television (DTT), was set for the end of 2011, including satellite broadcasts. Millions of TV viewers in the Maghreb would no longer get French channels, a serious blow to our cultural and linguistic influence in the region. With the football offering that the Qataris and AMDB were preparing, the dishes would surely turn toward the East. Naturally, the political and religious project would emerge behind the sport: In the same TV packages, the preaching on the religious channels is often done by cool looking young preachers, but the message is definitely that of the Muslim Brotherhood.

Since our TV package was broadcast by the Arabsat satellite, an arm of the Arab League, we were in the same orbital positions. We told the French government that with €5 million we could rent an extra transponder, one of these mirrors that allow the transmission satellites to broadcast packages of channels. This would be enough to offer 15 francophone channels over a coverage zone stretching from Morocco to Afghanistan. The diplomatic advisor to the president seemed very interested, and the ministerial talks got underway.

In January 2009, when we launched the Canal+ package in the Maghreb, nothing had happened yet. It has to be said that in France, external audio-visual strategy is run by France Médias Monde, which deploys, with very limited funding, a remarkable editorial policy through both RFI and France 24. For the administration, the idea that France's private exterior audio-visual arm, which was effectively us, the Canal+ Overseas team, could be a partner, completely escaped the reasoning of our interlocutors.

The project for francophone coverage got lost in the Parisian sands, and our TV package ended up being pulled because of rampant piracy that allowed people to have all of the European pay channels for less money.

Another example on our borders is Russia. The Putin administration is investing massively in a strategy of cultural influence and attractiveness, especially in the news sector. When you travel to other countries, it is striking to see the rise of Russian television outside of Russia, and particularly the national news channel, whose ambition rivals that of the programmes of China's CCTV. In France itself, the coverage of the Gilets Jaunes movement by the public channel RT (Russia Today) caused a controversy.

The cultural question is therefore at the heart of influence and visibility strategies, and all countries, large and small, are concerned.

The loss of Europe's digital sovereignty

Between 2000 and 2001, under the Portuguese EU presidency, the Europeans put together what became known as the "Lisbon Strategy." It was ambitious: to make Europe "the most competitive and dynamic knowledge-based economy in the world" by 2010.

I participated, along with our diplomats, in one of the main meetings to prepare for the adoption of this strategy, held in Lisbon and presided over by the Portuguese minister for research and higher education. We really had the feeling that the enthusiastic talk might crash into the harsh reality of our financial means, in an EU already slowing down in momentum and paralyzed by the prospect of

growing to include 12 new countries in the meantime. But we had a lot of reasons to believe in it.

Twenty years later, the failure of the “Lisbon strategy” still burns. Europe remains a land of innovation and scientific excellence, but it is not catching up. In industrial matters, America’s domination has never been so strong, and China’s growth is menacing.

But we had the means to achieve our ends. What happened? If private actors bear some responsibility for this failure, the errors committed by the member states, above all, but also by the Commission, have been decisive.

The demise of the European telecommunications industry

At the beginning of the 1990s Europeans had a considerable advantage: Thanks to the adoption of the GSM standard, their telecommunications industry was the best in the world, and this domination was total: The services offered to clients were more modern than elsewhere; there was more competition than in the United States or in Asia, allowing for more dynamic marketing; and the industry was powerful and innovative. Networking equipment and handsets were made by European companies, most often in Europe.

This industrial advantage was reinforced by advances in a number of areas in the information and communications technology (ICT) sector: The telephone networks were often digitised, like in France, where an effort in the 1970s put into place a network more sophisticated than that in the United States; an advanced market for electronic payments, with the chip-and-pin system; software and IT consulting companies that were among the best in the world; and even, in the case of France, where 8 million households were equipped with a Minitel, a population already used to electronic commerce and messaging, the ancestors of social networks.

In less than 10 years, the situation had completely changed. An easy example: When I started at Orange in August 2002, we sold between four and five million mobile phones per year. Among the top five brands, only one was not European, Motorola. When I left Orange in 2007, having since become CEO, we still sold the same number of handsets, but only one European brand was still among the leaders, Finland’s Nokia ... bought in 2013 by Microsoft.

Europe’s collapse was due to technical progress and to market conditions. European operators missed out on the mobile Internet and their pretention to want to control the environment for Internet services on mobile was a complete failure⁸⁷. Words like Vodafone Live or Orange World, the names of the walled gardens of services proposed by the two main European operators, may bring an amused smile to readers’ lips. Price competition, and then technology improvements, from Asian equipment makers, also were formidable factors for the European companies.

Above all, as soon as mobile telephony gave way to the mobile Internet, it became obvious that the American companies would benefit from some of the considerable advantages of the American economy: A culture of innovation, protective regulation, considerable capital, the Silicon Valley ecosystem, etc.

But the errors of the European corporations don’t explain everything. The Commission, and above all the member states, carry a heavy part of the responsibility, because of regulatory decisions with catastrophic consequences. In the beginning of the 2000s, a new generation of mobile technology was

87 Having been there for the arrival of the iPhone at Orange, I know what I’m talking about. European operators had a serious advantage, including from the strategic point of view: the founder of Orange, a brilliant and eccentric Englishman called Hans Snook, explained to me once the formula he used in 1995: “mobile will be life’s universal remote control!” Visionary!

announced, the famous “3G”⁸⁸, which required the attribution of additional frequencies to the operators. Until then, this attribution had been done through “beauty contests,” where the recipients are selected according to industry criteria for quality of coverage and services promised to users. The operators pay a moderate price to use the frequencies and, in exchange, they build the networks.

Eager to meet the public-spending criteria laid out in the Maastricht Treaty, the European governments saw an opportunity to fill their coffers and chose to attribute the licenses by auction, which encouraged speculation. The United Kingdom’s attribution of frequencies brought in nearly €40 billion, and Germany got €50 billion for six frequencies, of which several turned out not to be viable. Each operator that got a German license ended up paying €8.4 billion, though the initial price was set at €102 million!

In France, after the Internet bubble burst, France Télécom and Vivendi were weakened and weighed down by debt, and Bouygues Télécom could not afford the price for its license. Lionel Jospin had the courage, despite criticism from his majority and the opposition, to recognise the potential consequences of the situation, and he lowered the prices of the 3G licenses in October 2001.

The operators took on huge debts to pay the amounts the state treasuries demanded immediately, well before any extra revenue would come in from the deployment of the networks. Setting up these 3G networks at this forced-march pace required colossal investments. So the operators put pressure on the European telecom-equipment industry so that these companies would supply the gear while deferring much of the payment. This “vendor financing” would end up making the equipment industry pay for the licenses.

When the 3G launch schedules slipped badly and the absence of convincing new services like video calls or mobile Internet prevented the networks from becoming profitable, the situation became catastrophic. France Télécom became, in 2002, the most indebted corporation in the world. Vivendi nearly collapsed. The speculation encouraged by the states ended up making a major contribution to the downfall of our European telecommunications industry.

In a second stage, the European Commission was the one to blame. Despite the sector’s obvious struggles at the beginning of the 2000s, the European authorities relentlessly pursued the operators in the name of competition and *consumerism*. This *consumerism*, not to be confused with the very necessary protection of consumers, is an ideology that leads to lower prices’ becoming a political priority, even to the detriment of the economy and in particular to industry and employment. Consumerism and industrial policy were at cross purposes, with dreadful effects, even on a political level, since the sacrifice of industrial ambition that consumerism implies inevitably leads to a sacrifice of jobs.

I have already spoken of the Brussels syndrome, where European bureaucrats and elected officials project their personal problems on the 500 million citizens of the Union. Ten years before the November 2014 European Parliament hearing that I recounted in these pages, I went through another, equally distasteful one. As CEO of Orange France, I was participating in a public hearing called by the Commission on the reduction of roaming charges, the extra charges levied for calls made from abroad. Someone had told us that the commissioner in charge of the case, Viviane Reding, of Luxembourg, had very high bills because her children were studying in other EU countries.

The story was probably accurate, and the bills surely were high. But at the same time the European Union, by cutting its roaming charges in half, was destroying its telecom operators margins, the Chinese were increasing their roaming charges by 40%. In a way, we were subsidising Chinese tourists’ trips to Europe.

⁸⁸ For Third Generation, after GSM and GPRS. It was also known by a technical acronym, UMTS, for Universal Mobile Telecommunications System.

It was impossible for the operators present at the hearing to make the Commission understand the medium-term stakes: preserving Europe's industrial strategy and technological sovereignty would have justified higher prices for consumers, like those in the United States, China or Japan at the time. The whole GSM adventure was both the biggest success and the biggest disaster for European industry since the creation of the EEC in 1957. It bears reflection, now that the winds of protectionism are once again blowing in the world.

In the name of consumer protection – but also for want of a more unifying ideal – the European institutions, the Commission, mostly, but also the Parliament, have progressively been sliding toward a consumerist ideology that is harmful to European industry. The graveyard of Europe's technology dreams is littered with brands like Alcatel or Sagem (France), Siemens (Germany), Philips (Netherlands), Ericsson (Sweden), Nokia (Finland) whose disappearance can be at least partly linked to the effects of consumerism.

This is the argument that divided those of us who took part in the Attali Commission on growth⁸⁹. At the moment when the Commission voted on the proposal to attribute a fourth mobile telephony license, I had predicted that such a move would be excellent for the consumer, but in general bad for jobs and the French telecommunications industry. Ten years later, the facts have spoken and the political price to pay is high and lasting: the European consumer, satisfied today with communications costs that are the lowest in the world, is also – thanks to the destruction of our industry – the jobseeker of tomorrow, who the day after tomorrow will become the supporter of Europe's extremist parties.

More generally, thirty years after the eruption of the liberal wave in the European telecommunications industry, reinforced by the wave of consumerism, we have ended up with the ironic result that all of our efforts to weaken the European monopolies have led to an American quasi-monopoly on Internet platforms, and Asian dominance of the markets for handsets and equipment.

How European citizens subsidise the American Internet platforms

Europe currently has the lowest prices in the world for telecommunications and Internet access. Prices are on average a third of what North Americans pay. The collateral effect of this is that Europeans are directly subsidising the global development of the Silicon Valley platforms and corporations.

Indeed, despite these very low prices, European operators continue to invest heavily in their networks, in an effort to increase their capacity amid the continuous explosion of the amount of data circulating on the Internet, notably related to cultural goods and new media like Netflix. The public authorities require them to make unprofitable investments to improve access for all to the fixed and mobile broadband networks. Between 2014 and 2017, investments by telecom operators in France have increased by 35%, going from €7 billion to €9.6 billion. With the upcoming arrival of 5G and the continued deployment of fibre optic cable, while waiting for France finally to switch over to digital radio, a logical complement to HD DTT, this dynamic will continue. The result: European investments subsidise European households' access to the American Internet content platforms.

Let's take the example of a Netflix subscription. It went up by a dollar in the United States in 2018, to \$10.99, compared with €10.99 in France. But the subscription to the Internet or cable operator, essential to access Netflix's "over the top" offer, costs around €30 per month in France. In the United States, even in major cities, these monthly subscriptions often top \$100. In other words, the

⁸⁹ I was a member of this commission set up by President Nicolas Sarkozy in September 2007, with about 20 other business leaders, other personalities ... and a young adjunct rapporteur named Emmanuel Macron.

European consumer, thanks to fierce competition among the operators, which is, by the way, destructive of value in industrial terms, benefits from much lower rates than the American consumer. A European's overall price for the Netflix service (cost of communications + cost of subscription) is two- to three-times less expensive than in the United States, which makes it all the easier for Netflix to penetrate the European market. It is worth noting that Netflix does not pay for distribution (such as the costs of terrestrial broadcasting or satellite), not to mention the other regulatory obligations that weigh on our audio-visual or cinema players.

Any pertinent analysis of the EU markets should start from this kind of objective imbalance. Such analysis is sorely needed since the digital lobbies have managed to cleverly hijack the debate and turn it into one about "net neutrality," or the obligation to transmit in a neutral way all types of information circulating on the Internet.

Net neutrality, the great hijacking

The notion of "net neutrality" initially aimed to protect independent media and marginally profitable cultural content from the risk of having a technological handicap, for example, not having the same bandwidth as the content produced by the telecom operators themselves. In fact, the power that needed regulating was that of the network operators, to guarantee the free circulation of data over the Internet and prevent them from abusing their power vis-à-vis service and content providers.

A few years later, the situation has been turned on its head. Now, videos handled by commercial platforms consume by far the largest amount of bandwidth on the Internet, be it Google (YouTube), Netflix, Amazon (Amazon Prime), Microsoft (Skype), Facebook (WhatsApp) or Apple (FaceTime), and we await the internationalisation of the Chinese giants.

These very same platforms, whose economic power now dwarfs that of the telecom operators, continue to hide behind the notion of Net Neutrality to prevent all economic regulation of the Internet. However, as Pierre Bellanger explains in *La souveraineté numérique*⁹⁰, "the network neutrality the Internet giants are calling for is a sham. Google alone accounts for a quarter of American Internet traffic."

So it would be normal for them to contribute more to the financing of a network built and maintained by the telecom operators. They contribute a lot to the saturation of the networks, forcing the European operators to invest constantly, as we've seen in the case of the French operators. The biggest beneficiaries of "net neutrality" today are the American tech giants.

In a [blog post](#)⁹¹, Google claimed to have invested \$10 billion per year over the past three years in infrastructure improvements around the world. These are very modest figures when you look at Google's annual revenue and its market capitalisation, even more so when you compare them to the investments made by the French operators, which are at the same level for France alone.

Google should invest much more in infrastructure. According to the 2018 Sandvine report⁹² on global Internet traffic, YouTube, which is 100% owned by Google, dominates bandwidth in Europe, the Middle East and Africa with 16% of the traffic generated, closely followed by Netflix, with 13%. These services incur significant costs for European telecom operators, where intense competition

90 Pierre Bellanger, *La Souveraineté numérique*, Paris, Stock, 2014, p. 40.

91 Post by Ben Treynor Sloss, technical vice president, *Expanding our Global Infrastructure with New Regions and Subsea Cables*, published 16 January 2016, consulted on Nov. 6, 2018.

92 Sandvine, *The Global Internet Phenomena Report*, published in Octobre 2018, consulted Nov. 6 2018.

keeps prices down. It is a global problem: The Sandvine report underscores the fact that video streaming now accounts for 58% of global Internet traffic.

In other words, “net neutrality” has been hijacked away from its goal. The American tech giants’ lobbying has managed to bring on board a lot of Internet freedom activists by suggesting that there is a risk of censorship or discrimination among Internet users on the part of the operators. In reality, for them it is a matter of maximising their margins by blocking economic measures that would cause them to pay more – the tech giants, not Internet users – for their overconsumption of bandwidth. Here again, #SaveYourInternet hides a more prosaic #SaveOurMargins.

In the United States, the Federal Communications Commission called into question the principle of net neutrality in a decision made in December 2017. A number of proposals

have also emerged in Europe to preserve the principle of non-discrimination for “basic” users and uses of the Internet, but charging the biggest platforms more. In a report given to Aurélie Filippetti when she was minister of culture under Manuel Valls, *La Culture à l’heure de la transition numérique*, [Culture in the era of the digital transition] the researcher Frédéric Martel had proposed as early as 2014 a mechanism for charging the big video platforms more in exchange for access to faster infrastructure. The idea was to contribute more to the telecom operators’ investments and to put into place a system to deduct part of the funds collected to finance culture and enforcement of the audio-visual regulations⁹³.

The hijacking of the idea of net neutrality is all the more flagrant since – and this is regularly backed up in the news – if anyone is really threatening our freedoms on the Internet, and in particular our life secrets, and not only our e-mails, it is first and foremost the giants of online services, even before the telecom operators.

In this regard, the very pessimistic remarks made by Tim Berners-Lee (co-inventor in 1992 with the Belgian Robert Cailliau, of the Web, at CERN in Geneva⁹⁴) in a long [interview with Vanity Fair](#) in August 2018, are worth thinking about: “We demonstrated that the Web had failed instead of served humanity, as it was supposed to have done, and failed in many places. [The increasing centralisation of the Web has] “ended up producing — with no deliberate action of the people who designed the platform — a large-scale emergent phenomenon which is anti-human.”

We face the risk of “soft” totalitarianism in a hyper-connected society of consumption, dominated by a few all-powerful private companies, with which certain political authorities can be tempted to sign deals that are dangerous for our democracies, and where individuals are increasingly reticent about any collective norm imposed from above. And culture, brought to everyone first through education, is probably the only real weapon that can give citizens the necessary critical thinking and hindsight to fight back. Literature, poetry, history, cinema, music, theatre – all of forms of creation – confront us with difference, feed and arm us, as human beings. The issue of effective regulation of major platforms therefore goes far beyond the mere technical or even economic dimension. It is a profoundly political issue.

93 The philosophy of this idea was to give preferential treatment in terms of speed and access to content to those who respect the cultural exception and finance content. At the same time, this operation would amount to a de-neutralisation of the Net in a virtuous way to get back to the sources of “net neutrality.”

94 In a book that advocates for Europe, it is worth underlining the fact that, if the working group that invented the technical protocol that underlies the Internet, IP, in 1973, was led by two Americans, Vinton Cerf and Robert Kahn, with some Europeans like the Frenchman Louis Pouzin, it was in Europe that two Europeans invented, along with hypertext, the web. I arranged for Robert Cailliau and Louis Pouzin to be given awards at the Prime Minister’s office. What is more, my friend Jean-François Abramatic, another European, presided for years over the World Wide Web Consortium (W3C), the global body for Internet standards.

The “value gap,” or when the platforms get rich thanks to culture

Recent European debates on possible strategies to put an end to the fiscal optimisation of the American tech giants highlight an increasingly shared awareness about their phenomenal enrichment and the absence of any proportional contribution to the public coffers, which as European citizens we cannot be happy about.

The fiscal optimisation issue should not make us forget another phenomenon that directly contributes to the “digital exception,” and to the constantly rising market capitalisation and profits of the tech giants: the *value gap*, which describes the economic phenomenon through which a big part of the economic value created by the Internet platforms is due to the exploitation of cultural products – for which they do not provide any real financing.

To better illustrate this value gap, let’s take mobile phones as an example. Apple has a profit margin of more than 60% on the price of an iPhone. But what is it that makes us willing to pay between €530 and €1,255⁹⁵ for a smartphone? Certainly not its functionality as a telephone: Compared with the handsets from the early 2000s, that has likely regressed. The current models are bigger, more fragile and, above all, don’t last nearly as long without recharging. My daughters are incredulous when I tell them the mobile phone I was using in 2000 could go for a week on a single charge. For a smartphone that runs out of juice after half a day, the telephone function has lost some of its “mobile” attributes. The innovation these products bring is not about making calls, it’s all about the mobile Internet. What creates the biggest value in a smartphone is the possibility to consume all sorts of cultural products and audio-visual services at any moment. As I said during my European Parliament hearing in 2014, “in *smartphone*, the smart is us (the cultural sectors.)”

Yet no study had ever really measured the precise economic reality of the transfer of value from the cultural sectors toward the electronics industry and the big Internet platforms until the one carried out by the Franco-German firm Roland Berger and published in 2016⁹⁶. Entitled “Cultural content in the online environment: analysing the value transfer,” the [study](#) was based on usage studies that showed that, in 2014, the revenues of online intermediaries, search engines and social media platforms, had already reached €22 billion in Europe⁹⁷.

Of that sum, 88% went to search engines (notably Google, with €15.5 billion in revenue⁹⁸) and social networks (Facebook with €2.5 billion); video platforms were far behind (YouTube represented €700 million).

On the search engines, usage studies showed that about 30% of Internet sites consulted after a search are devoted to cultural goods and services. Half of those sites provided direct access to cultural works (online press, music, books, films, works of plastic art, video games ...) and more than a third offered information about these cultural goods (like Wikipedia or the websites of TV or radio channels. On Facebook, more than 40% of the user interactions in France (and nearly 60% in Italy) were linked to cultural goods. About two-thirds of these interactions concerned direct links to cultural works, and 20% of publications from groups or pages are dedicated either to cultural content or to sharing video game scores...

95 These prices were taken in October 2018 from the Apple France site for an iPhone 7 with a 4.7 inch screen and an iPhone Xs Max with a 6.5 inch screen.

96 Cabinet Roland Berger, study titled “Contenus culturels dans un environnement en ligne : analyse du transfert de valeur” September 2016.

97 This figure did not include piracy, nor revenue from services like Spotify or Deezer, which are subscription services devoted only to culture, like cinema chains or magazines.

98 Underscoring Google’s ultra-dominant position, its revenue represented 96.3 % of the total for all search engines in Europe (€16.1 billion).

The essential conclusion of the study is that in Europe, the direct contribution of cultural goods represents nearly a quarter of the economic value of intermediaries (23% or €4.9 billion in 2014) of which 18% for Google and 43% for Facebook.

This study played an important role in underpinning the final, more open, position the European Commission took on the proposed copyright directive. By showing that a few platforms monopolise most of the growth in Internet advertising, the study highlighted the need to reopen the question of the economic regulation of these actors, which is currently blocked by the wording of the e-commerce directive of 2000.

In France, Google and Facebook took in 66% of the €4 billion in total digital advertising revenue in 2017. And Google's market share is underestimated because you would have to add YouTube for videos. That same year, digital media surpassed television (€3.2 billion) in ad revenue, followed by the press (€2.1 billion) outdoor (€1.2 billion), and radio (€700 million)⁹⁹.

The question of European sovereignty is at the heart of these issues. As Sébastien Soriano, the president of the French telecommunications regulator (Arcep), [noted in an interview](#) with *Concurrences* magazine: "There is a domination model that is at work. Now the question is how to react to this situation where these actors have an increasing stranglehold on our companies and our economies."

Challenging the European model for financing creation

One of the consequences of our loss of digital sovereignty is that it offers the cultural industries of other countries – notably the Americans – the means to penetrate the European market with new effectiveness, as we have seen with Netflix.

Apart from the *soft* cultural influence these platforms convey¹⁰⁰, they also promote a direct destabilisation of our methods of cultural regulation and of the models that have been in place for decades to preserve diversity. We are witnessing a return to cultural hegemony that is all the more worrying because it is carried by digital tools that are as "cool" as they are invasive.

This is one of the major effects of the data economy. In a world of cultural prescription based on algorithms, the control over all of the data from Internet users¹⁰¹ offers an enormous advantage for developing tailor-made offerings that are as close as possible to the tastes of each user. In terms of freedom of choice and discovery – thus cultural diversity – the great danger is that of finding yourself enclosed in a "cultural bubble," where the algorithm always proposes things that are "similar." From an economic point of view, this could force the "traditional" cultural industries into a growing dependence on the giants of technology. The growing success of personal gear that is "connected" – in the car or at home, like personal assistants from Google (Google Home) or Amazon (Echo) is bound to reinforce individuals' dependence on these new models.

Let's take the example of Netflix, which is perceived as a new actor in the audio-visual and cinema sector, though the company established its position above all through a remarkable mastery of technological innovation and the data economy. Netflix announced that it wanted to invest between \$8 billion and

⁹⁹ TF1 Strategy Department, sources : IREP (TV) and SRI (Digital), 2018.

¹⁰⁰ This preoccupation does not only apply to Europeans. In Australia, a study carried out by the university of Melbourne raised alarm: the share of local content fell from 2.5% in 2017 to 1.6% in 2018, or 82 Australian films or series in a pool of 4,959.

¹⁰¹ Searches done online, the data from Google's other services, but also the data from social networks like Facebook.

\$10 billion in programming in 2018. A third of that would be invested in Netflix productions, with the rest subcontracted to other producers or spent purchasing existing programs. Like Amazon, Netflix is becoming the equivalent of a major Hollywood studio¹⁰². But it is more than that. There are at least three important differences between Netflix and other actors in the audio-visual and cinema sectors: Two of them concern the relationship with the audience; the third concerns relationships with creators.

The first difference is total control of distribution. Even the biggest studios, Disney and Fox, now merged, depend on the networks of others – cinema chains, television channels, DVD distributors – in order to reach their audiences. Netflix reaches its clients directly, passing “over-the-top” of the telecommunications operators, who, by the way, are the ones financing the broadband infrastructure that allows these films and series to get to the operators’ customers. People often forget the essential – and expensive – role of the “top.”

The second difference is the ability to use personal data, which makes it much easier to “target” customers. Even the most powerful studios often only have a vague idea of the profiles of their audiences. Amazon and Netflix know your exact tastes by tracing your every act of consumption.

The third difference, the one that has the most impact on the European cultural model, concerns the relationship with creators. From the beginning, Netflix and Amazon let it be known that they would not respect the compensation model where authors are paid in proportion to the success of their works¹⁰³; they had decided to apply flat-rate fees.

In the film world, even in the United States, the big studios had to accept, thanks to the negotiating power of the great guilds of filmmakers and writers, the basic principle of the copyright model: adding to the remuneration paid to the creator in the form of salary, a remuneration proportional to the success of the work, often called “residual fees” or “residuals.” Thus, the dominant model was, as in video games, the *buyout*, which amounts to considering the author primarily as an employee (hence the other, frequently used, expression, “work for hire”), but combined with a method of remuneration inspired by copyright and author’s right.

Netflix and Amazon intend to impose the most author-unfriendly American model available – the buy-out – exclusively and without residuals, everywhere. In other words, there’s an economic and cultural model entirely different from ours spreading rapidly throughout the world – via Internet.

This approach is starting to be met with reactions from European creators. In November 2018, the Danish actors, writers, and directors unions publicly confronted Netflix and HBO on the subject. Benjamin Boe Rasmussen, the president of the actors’ union, explained that there had to be a future for the Danish model of remuneration in cinema and television, as it is defined in collective-bargaining agreements. He criticised the two American giants’ refusal to respect the European model of remuneration, which combines salary and proportional pay. “In Denmark, our wages are relatively low,” Rasmussen explained. “But they are compensated by the rights we then receive on every broadcast.” For their part, Netflix and HBO demanded the application of a lump-sum remuneration.

The challenge facing cultural diversity is obvious. As Rasmussen explained: “Producers do not have to advance huge sums of money up front, which gives small projects a chance, which otherwise would not have happened.” The

102 During the American cinema festival in Deauville in September 2018, while we were awarding the Ornano-Valenti prize together, Charles Rivkin, president of the Motion Picture Association of America (MPAA), the trade organisation for Hollywood studios, hinted that Netflix could soon join the MPAA.

103 Author’s right, or copyright, the most-used model in Europe, is based on proportional remuneration for the author, who receives a percentage of the revenue generated by the commercial exploitation of his work. The creator, who supplied the “raw material”, is thus interested in the economic future of his work. Pay will be low if the work does not “work”; pay will be higher if it finds an audience. This avoids the scenario where the creator is the only one in the economic chain who does not benefit from the success of a work, a scenario that would happen under a flat-rate system.

fight has only just begun, and it promises to be difficult. A Danish producer explained: "An American colleague wished me good luck and promised me blood, threats, and intimidation, and a lot of expenses."

Several American directors from the DGA (Directors Guild of America) explained to me the reason why the guild, usually worried about the consequences of mergers between studios, did not raise its voice over the Disney-Fox deal. The two big studios had said at the time that they wanted to respect the traditional agreements in favour of authors. The danger is elsewhere – all the more so because it mixes threat with seduction. Creators are legitimately attracted by the editorial freedom and the level of fixed-rate pay that Netflix proposes. For a market that has been hard hit by piracy, the rise of a legal SVOD model that appeals to consumers and invests heavily in content is objectively good news. What is more, Netflix encourages different formats and pays particular attention to themes of gender and diversity, which are too often absent from our national productions.

Nevertheless, if Europe wants to preserve the model that it invented, and with it one of the cornerstones of the strength and good health of its cultural industries, it must react, and not only through the imposition of quotas for European audio-visual works in the SVOD offerings.

This response should be based on a cultural action plan for the 2019-2024 period, with concrete measures relying on the European Union's financial means and legal framework. But this time it must be conceived to reinforce, not weaken, European powers of creation and distribution in every form: audio-visual enterprises, physical distributors of cultural products, authors' societies, producers and publishers, public cultural entities, authors and performing artists and actors, workers in the cultural industries, etc.

But it is also essential that the Union and its members admit that such a reaction can only bear fruit amid much improved coordination with member states and their own national policies, which often prove to be a better level at which to intervene in cultural matters and audio-visual policy.

In conclusion, I would like to point out that European actors in the cultural and digital spheres face a stark choice: entropy or harmony. Faced with the growing power of the American and Chinese digital and cultural actors, member states can each look out for themselves, continuing the confrontations that have been happening around several European initiatives, with everyone ending up losing. Alternatively, a true gathering of common cultural and digital interests could happen, and we could all throw our weight into an effort to really improve the legal and regulatory framework we're operating in. Organise the single market in a truly equitable way; re-establish regulation that is not heavily imbalanced; adopt industrial and cultural policies that favour European actors – these are important items in a long list of policies European actors should rally around.

VI

Proposals for Europe

The last thing the Union would want to do for its next five years is more of the same: institutional reforms that add complexity, an avalanche of technical or legal regulations that do not motivate citizens, and efforts to harmonise that actually worry or threaten the sectors concerned.

The focus has to be on protecting the essential interests of key European sectors, like the cultural and digital sectors. We also need to find ways to talk directly to the citizens of Europe. Apart from the euro, a communitarian construct, Erasmus is, without a doubt, along with Airbus and Arianespace, among the only positive achievements in the last 30 years that most European citizens can identify. Eureka is fading in the collective memory, just like other popular initiatives like the Franco-German Brigade. Nothing has come along since to continue the “European narrative.” And the denial of the cultural, historical and identity issue is corroding the European construction like acid.

We need symbolic measures that can help bring Europe closer to its citizens.

So in concluding this book, I am going to describe a number of proposals for a cultural Europe that is more ambitious and better able to directly involve our fellow citizens. Some of them are about the digital and cultural sovereignty of Europe; others have to do with the strengthening of our common identity.

Which way forward for Europe’s digital sovereignty?

Adapting the tools to fight against the abuse of dominant positions on the Internet

It’s amazing to see how much the primary logic of the single market, based on vigilant action against the abuse of dominant positions, has been turned on its head today: The big American platforms invoke the freedom of the Internet as they defend non-intervention in the face of what often approaches monopoly.

Google’s case is the most striking. The company has a market share of more than 90% in each of the 28 countries of the European Union. Never, since the adoption of the Treaty of Rome in 1957, has a European company approached, even remotely, such a level. Not even major public or private companies like Deutsche Telekom, Vodafone, EDF, Volkswagen, SNCF or Carrefour. The former public monopolies for transport, energy, or telecommunications never even came close to surpassing 20 to 30% of the market on an EU-wide level.

From the point of view of competition law, Google’s relevant market, Internet search, is easy to define. Google is completely integrated across the whole of Europe, because it does everything on the Internet, and linguistic barriers and geofencing don’t really exist there. Google’s homepage only contains a

few words, which do not even matter if you just want to use the search function.

Today we must avoid getting our priorities wrong and above all not try to read Europe's industrial future with our eyes glued to the rear-view mirror. We have let our telecommunications, IT and consumer electronics industries fall apart, piece by piece, over the last 20 years. It is highly unlikely that a European Google, Samsung or Apple will emerge over the short term. The positions achieved by Facebook, YouTube, Amazon or Netflix are such that they will be difficult to challenge.

In an [article](#) entitled "America Has a Monopoly Problem – and It's Huge"¹⁰⁴, the Nobel Prize-winning economist Joseph Stiglitz denounces the dangerous excesses of technology markets that have become oligopolistic. It is also possible that the United States is moving toward new antitrust regulation in this area, as evoked by a New York Times [column](#) titled The Monopolization of America¹⁰⁵.

In Europe, where the fabric of innovation and start-up culture has never been so rich¹⁰⁶, we need, as with the regulatory environment around copyright, European institutions that can get that wake-up call and react.

What are the solutions? In their [book](#), *L'Avenir de notre liberté, faut-il démanteler Google... et quelques autres ?*¹⁰⁷ Jean-Hervé Lorenzi et Mickaël Berrebi lean toward dismantling the search engine, because with a resource like data, and given the past actions of the European Commission, the rules issued by the competition authorities are obviously futile.

The debate over Google's dominant position is already old. In April 2015, the Commission had opened up a case targeting both the functioning of the search engine and the Android operating system that runs about 75% of the world's mobile phones. The European Parliament had adopted a symbolic resolution demanding the separation of the quasi-monopolistic search-engine business from the rest of the company in 2014.

One must understand that Google's telecommunications strategy has been built up step by step, and that its most recent development will probably reinforce its dominant position. At the GSM World Congress in Cannes in 2006, the world's leading event for the telecom industry, the rumour of the launch of a "Google Phone" had caused a great stir. As CEO of Orange France, and thus in charge of the group's mobile phone business in France, I travelled for the first time to Google's headquarters in Mountain View, California, a few weeks later. I found out that in reality, Google was getting ready to launch a mobile phone operating system based on the technology of a little Palo Alto start-up that Google had bought in July 2005 for \$130 million called ... Android.

Through this intelligent strategy, Google, instead of exposing itself to the industrial risk that manufacturing mobile phones represents, planned to progressively introduce itself into the core of the mobile Internet ecosystem as smartphone makers gradually abandoned their own operating systems.

This amounted to a postponement, however, because ten years later, in October 2016, Google finally jumped into the handset market with its Pixel line, whose popularity accelerated in 2018. This, coupled with the company's move into the home via its Google Home personal assistants, should logically reinforce the dominant position of the American company in all the sectors where it is present, at the same time as Android moves in as the pre-installed operating system for auto manufacturers.

104 Joseph Stiglitz, "America Has a Monopoly Problem, and it's Huge", The Nation, October 2017.

105 [David Leonhardt column](#) dated Nov. 25, 2018.

106 Start-up culture is particularly developed around the cultural sectors as we see in France, for example, around the French Tech Culture centre near Avignon.

107 Jean-Hervé Lorenzi avec Mickaël Berrebi, *L'Avenir de notre liberté, faut-il démanteler Google... et quelques autres ?* Paris, Eyrolles, 2017. Title translation: The future of our freedom, must we break-up Google ... and a few others?

The break-up option was broached for Facebook, and European data-protection bodies like France's CNIL prevented Facebook from merging its customer database with that of WhatsApp after it bought the company in 2014.

Amazon was also investigated, in 2015, for its e-book distribution agreements, a short time after a media fight broke out in the United States between Amazon and Hachette, during which Amazon tried to simply destroy the French publisher's ability to set its own prices. The mobilisation of Hachette's American authors at the time was remarkable.

In the *Concurrences* magazine article I mentioned above, the Arcep president Sébastien Soriano asked the real question: "In hindsight, how could we have let companies like DoubleClick, YouTube, WhatsApp or Instagram be bought by Google and Facebook?"¹⁰⁸

In the same interview, Soriano, speaking of the big platforms' *feudal domination strategies*, picked up the idea that the traditional competition regulations were now inadequate. He said he was "pessimistic about the fairness of the imbalances that could develop [...] between distributors and producers [for example, cultural enterprises.] It is easy to see that, between a handful of all-pervasive multinationals and cutting-edge technology on the one hand, and the verticals on the other, the game is lost in advance."

As Paul-Adrien Hyppolite et Antoine Michon underscored in their [report](#), *Les Géants du numérique: un frein à l'innovation?* [Digital Giants: a brake on innovation?], "The anti-competitive practices of Big Tech demonstrate that these companies no longer hesitate to lean on their dominant positions to drive out their competitors, block young innovative firms and thus establish their hegemony at the expense of the rest of society. A clearly vicious circle ensues: their immense financial reserves [...] grow in proportion to these competitive constraints at the same time as they make them possible."¹⁰⁹ They end with the conclusion that today's competition authorities are incapable of action in a sector where the economic models "defy their usual analytical framework."

The American domination poses many problems that go beyond this. Europe's digital sovereignty is an increasingly distant prospect, and confronted with this, observers and policy makers sometimes seem anesthetised, or resigned.¹¹⁰

The loss of Europe's digital sovereignty is all the more serious because the hundreds of billions in profit the big American Internet platforms are accumulating allow them to make the investments required to get ahead in the most promising sectors: robotics, autonomous vehicles, aerospace, artificial intelligence, genetics, nanotechnology, biotechnology, green technology, etc.

First of all, I'd like to return to the question of technological innovation, even if that is not the primary purpose of this book. Having participated in mapping out the "Lisbon strategy" and having watched it fail, it seems to me that Europeans cannot afford to forgo a proper debate over the relevant strategy. Should it be run through the Union or via cooperation agreements between countries?

The fragmentation and the sometimes technocratic management of EU funds often leads to a struggle to trigger long-term industry results. Misadventures like Quaero, the search engine financed by public EU funds between 2005 and 2013, and which ended in failure despite €198 million invested, must not overshadow other essential European initiatives like Galileo, the GPS alternative that is

108 Interview with Sébastien Soriano, *Concurrences* no 3, 2018.

109 Paul-Adrien Hyppolite et Antoine Michon, *Les Géants du numérique: un frein à l'innovation ?* Fondation pour l'innovation politique, November 2018.

110 I was struck by how weak the reaction was to an unsettling decision, announced in *Le Monde* of Sept. 19, 2018, under the headline "Les GAFA ont gagné la bataille de l'auto" [U.S. tech giants win the battle for the car]. Renault-Nissan-Mitsubishi announced that from 2021 the 10 million vehicles produced by the three brands would have the Android operating system preinstalled, following a technology deal with Google. As the journalist Philippe Escande pointed out, the technology-transfer deal included "everything that is likely to represent a significant part of the value of a car in the future."

indispensable for European sovereignty.

During my years in the prime minister's office, we had pushed hard for this European project, which was finally launched in 2001. The lack of clear direction among France, Great Britain and Germany set the project back several years, underscoring how much we need more and not less Europe to retain our technological sovereignty. Franco-German rivalries were, to a large degree, behind the failure of Quaero.

This issue of sovereignty is central, as the British have well understood. Confronted with the risk of a hard Brexit that would cut Britain off from innovative European projects, Theresa May announced in the beginning of September 2018 a fund of more than 200 million pounds to set up an eventual alternative to Galileo.

European technical innovation policy has certainly known many failures. But it is still no less important to reach the critical mass without which most of the key technological projects for the next 20 years are condemned either to failure or short-term takeover by American or Chinese giants.

Eureka had outlined a few perspectives that were visible to the citizens themselves. In a way, the challenge to sequence the human genome, launched at the end of 2000, had produced the same effect. One would have to imagine one or two European initiatives at the level of ambition set by President Kennedy with the Apollo programme, after the shock of the Soviet success with Sputnik: The first extra-terrestrial human colonisation by Europeans? Announcing a vision 10 or 20 years in advance is of no importance. What matters is the ripple effect, positive vision and level of ambition. Europeans need a common dream.

The question of sovereignty is even more relevant now that the theory that private companies, getting progressively out from under the control of States, will determine the technological future of humanity, and probably its actual future, has escaped from science fiction novels and become dangerously close to reality.

Economic support that favours cultural industries

It is important to understand that European innovation policy must not be reserved just for the technology sector, or just for start-ups. This vision, common in the administrations that manage public policies of support for innovation, brings with it a short-sightedness in the allocation of the funds invested.

I was struck to see, when at Sacem we launched in 2016 the first blockchain experiment in the collective management sector, or when we asked for public technology-innovation funds to help us finance our considerable IT investment, how much the idea that we could make such a claim seemed preposterous to our interlocutors at the Ministry of the Economy. As a non-profit society founded in the 19th century as a cooperative to manage authors' rights, how could the Sacem possibly claim such funds? Too bad. Our competitors are now into the heart of the technology, and their means don't even compare to ours.

If the music producer and publisher Kobalt, controlled by Google Ventures, bought a management society comparable to ours, AMRA (American Mechanical Rights Company), that means, one would assume, that our business model did not seem to be condemned to extinction. But Google Ventures, which is not subject to any oversight, nor does it have to be transparent or even profitable, can afford an IT budget ten times that of Sacem¹¹¹.

111 In the second quarter of 2018, the "experimental" activities of Alphabet, Google's parent company, had operating losses totalling \$732 million. It has to be said that, with annual revenue in 2017 of \$110.9 billion, of which 86% was generated by advertising, the group can afford to invest at a loss in just about any market segment. At Sacem, our statutes forbid a deficit or surplus in our accounts of more than 5%.

I am not here to criticise the public effort, national or European, to financially support digital innovation. On the contrary, it seems insufficient to me, as we saw in June 2018, after the release of the report by Cédric Villani on the urgent need for an ambitious policy to finance innovation in the artificial intelligence field. The few tens of millions of euros in public money announced on the occasion are far short of what is needed. In the European Union innovation strategy, people have often sought to oppose the European cultural and digital sectors. But these sectors, both of which are key for the future and the sovereignty of Europe, are victims of the same problem: the absence of regulation designed to deal with the near-absolute domination by American businesses and administrations of the Internet, and now most digital services. The United States effectively controls the networks, the protocols, the addresses, the software and all of the major platforms that dominate on an international scale.

Successes like that of Qwant, the European search engine launched in 2013 by Eric Léandri, supported by both public and private funds¹¹², is a nice illustration of our potential. What is more, Qwant positions itself as an ethical actor, differentiating itself by refusing to exploit its users' personal data, which was, after all, Google's economic model until 2009. Unfortunately, Qwant is under threat from Google's quasi-monopolistic position.

The Juncker Commission had announced a €300 billion investment programme from which we barely see any results¹¹³. For the 2021-2027 EU budget, culture represents 0.001% of the total, a ratio a thousand times weaker than in the member-state budgets, where cultural expenditures represent 1% for a total of €62 billion.¹¹⁴ We talked about the central importance of culture for the future of Europe. Starting over again with culture could begin with a fivefold increase in the EU budget, which would only amount to a modest €1 billion per year.

The implementation of the proposed directive on copyright and neighbouring rights

As I finish writing this book, the fate of the proposed directive on copyright and neighbouring rights remains uncertain. If the text fails, we will have to take up the fight again, or consider pushing for legislation on the national level.

Indeed, if Europeans accept that private international companies, using the power that having control of information networks gives them, can stand in the way of our strategic interests by manipulating public opinion, then after copyright, what will be the next step? Whole sectors of the European economy are in play, as are our education system, health care, etc.

The real question for democracy and for us is this: Which of the two, technology or democracy, must ultimately adapt to the other?

If the Directive is successful, its implementation will be a priority, and will require, through the transposition process, a great deal of vigilance in order to ensure a real evolution of the compensation framework of the European creative economy.

A new treaty for author's right

112 Axel Springer has a 20% stake in Qwant, the European Investment Bank and the Caisse des dépôts are also shareholders.

113 Beyond the risk that announcements are not followed by effects, it is regrettable that funds are diverted from their goal. In France, the tax on electronic communications operators (TOCE), put in place to finance audiovisual efforts, was diverted from its goal. In 2019, 100% of the proceeds would go into the government budget at large. If it were transformed into an innovation fund for the cultural industries, this resource (€300 million) could play an important role.

114 EY report, *ibid.*

Europe cannot stand idly by and watch the “work for hire” model expand across the world via the global extension of models like that of Netflix. Otherwise, the author’s right model, which guarantees the creator’s independence through remuneration, separate from other modes of compensation, such as fees or salaries, will be quickly and permanently weakened.

It is definitely time for Europe to develop a new international treaty, which could be channelled through WIPO or Unesco, or even to begin with a directive, which would seek to establish everywhere, in all cultural industries, the principle of guaranteed proportional remuneration for authors.

It is also an opportunity to emphasise the legitimacy of the various creative-industry remuneration systems like the private copying levy, which can be an important source of income for developing countries, or the resale right, which ensures that artists share a percentage, however small, of income from transactions involving their works.

Here’s another practical measure: a European Parliament resolution that would impose the systematic use, in English, of the wording “Author’s Right & Copyright,” instead of just “Copyright,” in EU documents. The same would apply to the name of the relevant unit at the Commission¹¹⁵. This is a measure that we know would be more than just symbolic.

Regulation of the platforms to preserve cultural diversity

With the [Audiovisual Media Services Directive](#), which requires that at least 30% of content be of European origin on SVOD platforms such as Netflix, Europe is leading the way in terms of regulation to ensure cultural diversity.

It would be logical to extend this regulation to the music streaming platforms. This is particularly pertinent to free streaming services, which are akin to traditional media like radio. On a service like YouTube, users access videos from artists of their choice. Then YouTube’s recommendation engine proposes, on the right side of the screen, a series of similar videos. It would be simple to have the recommendation algorithm provide for a diversity of origins for the works recommended and, to this end, to set a percentage of works, defined by geographical or linguistic origin. The national regulators, such as the CSA in France, could be responsible for the implementation of this measure.

For paid platforms like Deezer or Spotify, such a cultural diversity regulation could be limited to the playlists put together by the platform, obviously excluding user-defined lists.

Preserving cultural diversity and the repertoires of national artists is a legitimate concern, and one that is not limited to France. In Australia, the music industry has entered into negotiations with the streaming platforms, based on the current radio quotas, in order to establish a minimum level of Australian music broadcast online.¹¹⁶

To those who criticise this type of regulation and who consider “quotas” as a kind of old-fashioned protectionism, just remember that in the United States, between 95% and 98% of the works broadcast by media or on the platforms are in English.

A new strategy for the European public domain

¹¹⁵ The European Parliament votes on resolutions when it wishes to publicly announce its opinion on a specific issue or to enjoin a European institution and/or member states to act in a particular area.

¹¹⁶ See https://apraamcos.com.au/media/government/18_Submission-A-Music-Nation_October-2018.pdf

Europe must relaunch Europeana, the digital library initiated by the former BNF president Jean-Noël Jeanneney. The project is currently attached to the Commission's Connecting Europe Facility, which does not know what to do with it and is threatening to turn it into a for-profit enterprise.

We must organise and preserve the European public domain in the form of a database of all the cultural works that have entered the public domain, from literature and music to cinema. Any risk of appropriation by for-profit entities should be avoided, and interoperability and sustainable access should be at the heart of a renewed Europeana, whose patrimonial wealth could contribute a lot to the construction of a European narrative and identity.

The authors' societies could be tapped to use their expertise to contribute to the development of works that enter the public domain.

A Babel project to get beyond the Europe of languages

"The language of Europe is translation." This statement from Umberto Eco is not a joke. It illustrates a fundamental principle: There is no European language, just languages of Europe.

The use of a common language is crucial for political and economic integration. Latin and Greek unified the Roman Empire, for its commercial transactions as well as for intellectual, political or religious exchanges. Russian was the de facto common language for all the peoples of the USSR. The Europeans were deadlocked from the beginning on the issue and so have no equivalent. Yet, what is language, if not the primary definition of what constitutes a cultural identity?

The issue of language is a nagging problem for Brussels. It is probably one of the most important demonstrations of the denial of identity that plagues the European Union and which has contributed to alienating citizens from their common institutions, for example, when the European Commission launches public consultations with only English materials.

In fact, English has fully established itself as the working language of Europeans. But a language is never neutral. Its structure, especially with the domination of American English, conveys patterns of thought – ways of reasoning, participating in dialogue, imposing, too. The situation encourages the imposition of the Anglo-Saxon cultural model with the resigned acceptance of European decision-makers, whose English is often imprecise. What's more, the European elites who are not English speakers are, in fact, handicapped by the use of a language that is not their own.

The absence of a common language in a multicultural political grouping is an essential problem – which could become existential. With Brexit, the Union is losing 95% of its anglophone citizens. With the Irish and the Maltese, less than 1% of the residents of the European Union will be native English speakers.

Believing that the citizens of the Union – even the political and economic elite – will become bilingual in English is naive and wrong. The unwritten choice to keep English as a language of exchange in European bodies will gradually become unacceptable. On the other hand, the ambition that every pupil in the Union should learn two foreign languages is a good thing, but it will not solve the problem.

No nation in the world would accept that political life or administrative work could be done in a language different from that of its citizens. Where there is multilingualism, it must reflect demographic reality. Any political construction that denies its cultural identities is doomed.

Machine translation and voice recognition tools have made considerable progress. Yet they remain stammering and in any case very far from the

technological revolution that we need in order to break free from the language barrier in our conversations.

In the late 1990s, we launched the human genome sequencing project that mobilised scientists in the United States as well as in Europe. Let's start a similar project, called Babel, aimed at producing portable tools within five years, like a wireless earpiece for direct and verbal translation that would allow two speakers of different languages to speak to one another in a natural way. The Commission has proposed an allocation of €5.5 billion a year to a "capacity" fund for common defence spending; let's allocate €500 million to a Babel project whose political effect would be decisive for the European adventure, and which would spark considerable productivity gains in all of the sectors of activity in the Union.

Unite the cultural and digital sectors with a single creative strategy

Explain, rally, propose. That is the strategy we embarked on at a European level, after having taken the initiative in France from 2013 with the movement France Créative.

To turn the tide and do better than just resist the slow erosion of political support for culture, we had to simultaneously change perspective and explain what we really are, particularly through economic studies; rally, get over our differences and divergences, and become a force that proposes.

When I arrived at Sacem in 2012, I was struck by how profoundly the image of cultural actors had deteriorated in the eyes of public and private decision-makers. The cultural sectors were often described as costly to public finances, unnecessarily protected by regulations that were seen as outdated, or assumed to have missed out on the digital revolution.

The observation that we would have to change posture and above all transform the image of the cultural sectors was shared by friends in book publishing and film. I proposed that we rally around a new approach and switch to a discussion that underscored the economic and social value of the cultural sectors, beyond their fundamental symbolic importance.

Our goal: change the image of culture by changing the discourse of the actors in these sectors. Create desire, give sense to, and position support for culture and for author's right as something obvious, for the future of France and Europe.

The decision was taken to launch an economic study, on the occasion of the founding meeting, in October 2012, of the programme that has since become the France Créative association. The participants were, in addition to Nicolas Seydoux, president of Gaumont, who welcomed us in his offices; Guy Verrechia, president of the UGC cinema chain; for music Stéphan Bourdoiseau, CEO of the label Wagram and myself; for book publishing, Vincent Montagne, CEO of Média-Participations and president of the Syndicat national de l'édition, Antoine Gallimard, and Arnaud Nourry, CEO of Hachette.

We also wanted to avoid what Laurence Engel, former chief of staff to the culture minister Aurélie Filippetti, described in her essay [What Can Culture Do?](#)¹¹⁷ as "a false debate between big sentences and small numbers." In other words, "the sterile opposition between the dream part and that of the economic substance of art [in order to] refuse to feed into another stream [...]: the one that would have us believe that the only possible economic model for culture is the free model (for the "consumer") and so the model of poverty (for the producer and for the artist.)"

The publication of the first France Créative study at the end of 2013 did

117 Laurence Engel, *Que peut la culture ?* Paris, Bartillat, 2017.

a lot to help change the often indifferent, sometimes hostile view that many had of culture in France. In fact, it unveiled the full weight of culture, one of the main sectors of the French economy, with more than 1 million direct and indirect jobs and more than €70 billion in value created.

The study caused a stir in French economic circles, more accustomed to criticising the cost of cultural policies. In interviewing me on BFM TV, the journalist Edwige Chevrillon used a phrase that would set a precedent, “culture is bigger than cars.” It’s a fact: the auto industry, a point of national pride, accounted for fewer jobs than the cultural industries.

France Créative unites players in the cultural sectors around the defence of intellectual property and author’s right, and the role they play as a driver of cultural financing and the creation of an intangible heritage for the country. France Créative also fights to defend the space and the funds that the national government and local authorities devote to cultural policies. Without government support, a big part of the creative sector would not survive for lack of a profitable model. The organisation also defends the effective fiscal policy that consists of tax credits or reduced VAT that certain cultural sectors benefit from, in the same manner as other economic sectors that are seen as important for the country.

For the presidential election of 2017, France Créative adopted four axes of proposals that create the foundation for its activity. First: within the framework of the European digital market, promote the strengthening of intellectual property, a fundamental lever for the creation of wealth in the intangible economy. Second axis: support the mobility and international influence of French artists and creative industries. Third axis: protect cultural policy tools that promote employment and economic benefits. The fourth and final axis: guarantee a real artistic education for all children. The founding study, carried out by EY, was followed by three additional studies: one on France, but more importantly the second on Europe; the last is a global study, in partnership with Unesco¹¹⁸.

After getting off to a good start with France Créative, we extended the effort on a European and International level. On April 5, 2014, I took advantage of the Chaillot forum on culture, which brought together in Paris ministers and representatives of cultural sectors from all over Europe, to organise a “Creative Seminar” at Sacem’s headquarters with leaders of authors’ societies and cultural enterprises from around the world. There were also artists there, such as the painter Hervé Di Rosa or the composers Jean-Michel Jarre and Paul Williams, known to the public for his role in the cult film *Phantom of the Paradise*, as well as *MEPs like Jean-Marie Cavada*.

In the introductory note to participants¹¹⁹, I had summed up the ambition: “How can we bring back the balance of power toward creators and make culture, creators and their industries a global priority for a better world in the 21st century?”

In December 2014, the release of the EY-Gesac study entitled [Creating growth: Measuring cultural and creative markets in the EU](#) (PDF) opened doors for us in Brussels. In other European countries we have since had emulators, as in Italy, with Italia Creativa. We also contributed to the launching of an intergroup in the European Parliament called “Creative Industries¹²⁰”

In addition, we engaged in cooperative action with other organisations that were mobilised for European sovereignty. Our coordination with the Open Internet Project was the first common effort between the European digital and cultural sectors, and it had several successes. The collaboration was essential to contributing to the thinking of the European Commission and to the decisions it made about abuse of dominant position, particularly with regards to Google.

118 See www.francecreative.org

119 See the note in the annex.

120 Launched in February 2015 with a Franco-German format, with a kick-off lunch with 6 made speakers: Christian Ehler, German MEP (PPE), et Pervenche Bérès, French MEP (S&D), the French and German culture ministers, Fleur Pellerin et Monika Grütters, my German counterpart, Harald Heker, and me.

We owe this success to the tenacity of Olivier Sichel, then CEO of the price comparison site LeGuide.com, which had been faced with Google's abuse of its dominant position, as the top ten results returned on the first page of the search engine's results trigger 95% of clicks, and Google relegates its competitors into the depths of its rankings.

The first approaches with the Commission's competition authorities, with the competition commissioner Joaquín Almunia, had no effect, and European online guides continued to wither away. Olivier Sichel and his investor, Lagardère, then run by Denis Olivennes, started the Open Internet Project (OIP) in the beginning of 2014, with German and French travel and media companies, notably including the deputy CEO of the Germany's Springer group, Christoph Keese.

The OIP demonstrated, with supporting studies, that Google's attitude was putting the European digital ecosystem in danger and made suggestions for improved respect for principles of equality, neutrality and transparency for the benefit of innovation and of consumers. The arrival in 2014 of the Danish competition commissioner Margrethe Vestager was a game changer. Since then, the winds of change have been blowing, and with them has come an accumulation of fines for the Internet platforms.

I am beginning to hope that the next stage for Europe, which will follow the 2019 elections, will lead to the creation of a real European movement of digital and cultural forces, united for European sovereignty.

Proposals for the reinforcement of European identity

"Europe will not grow by dint of treaties. It will develop directly in the heart of citizens, or will be doomed to fail." – Konrad Adenauer.

The European Union sees itself above all as a political, economic, and institutional concept, with a simple historical, geographical, and cultural background. But, even if the idea of a "constitutional patriotism," dear to Habermas, based on a commitment to democratic values, is virtuous, it does not seem likely to elicit the commitment that needs to be established among citizens and Europe.

In the last [Eurobarometer](#) survey (September 2018), EU citizens were asked to choose, among a list of 12 elements, "the factors which do the most to create a feeling of community." Culture finished in first place, with 29%, followed by history, values, the economy, geography, the rule of law, and ... sport.

The denial of identity on which the Union was built, and which has deepened, is undoubtedly, in the long run, its biggest weakness. The single market, peace, and economic prosperity do not make an identity. But the sense of identity, that of belonging to a history and a common destiny, can be built.

I am thinking here of a sentence by Julien Benda in his *Discours à la nation européenne* in 1933: "It is not the *Zollverein* that made Germany, it was Fichte's *Addresses to the German Nation*, it was the professors of morality that came out of it¹²¹."

There is no European public opinion today, nor a true European elite. This elite is probably less cosmopolitan than it was in the 18th and 19th centuries. Only thorough, deliberate, patient action, which starts in school and reaches all Europeans, can get things back to the basics: giving everyone the feeling of belonging to the same story, to the same civilisation.

121 Julien Benda, *Discours à la nation européenne*, Gallimard, 1979, p. 14.

European discovery classes

Erasmus is one of the Union's popular success stories. The cinema has picked up on this. Let's widen it by creating an Erasmus for Education and Culture.

The idea is to extend the principle of an exchange in the form of a class trip of at least a week in another European country to all primary schools, with EU funding, aimed at getting children to feel, on the one hand, the cultural diversity of the Union, and, on the other hand, to experience what Europe can do concretely for them.

Twinning is a tradition that is appreciated by towns and cities. All primary schools could be twinned with another primary school in Europe, as a way of bringing children from different European cultures together in a concrete manner.

A European cultural pass for primary school kids

In France, the *Pass Culture* project, announced as a electronic wallet offering 18-year-olds reductions for cultural goods, is raising questions. Particularly on its cost and, above all, given the age of the young people targeted, on its real effect in terms of cultural democratisation. At 18, a young person is already defined by his background and educational path.

But the political ambition of the *Pass Culture* is excellent: the gaping inequality in access to culture remains stark, though cultural experiences are essential, as much for professional success as for democratic behaviour in the face of extremes, notably in the context of the growing manipulation of opinion via social networks.

One could imagine, in addition to the *Pass Culture*, and to "lay the groundwork" for it, a cultural passport given to primary school children in the form of a real document, eventually integrated with a citizenship passport, along the lines of a vaccination record. It would describe cultural experiences the child would have: a museum visit, a library or conservatory, a live show in a theatre, classical music or dance, but also assignments to see a film in black and white, listen to jazz or *chanson française*, or a visit to a book shop (30% of French people haven't yet done this). The cultural passport would validate a series of cultural experiences, compulsory for all, through class activities to be organised by the teachers and which would give rise, via school outings, to a "validation" of cultural experience.

Inequality in cultural practices is, indeed, first of all linked to the lack of early experiences: deployed at a European level, for example through a bilateral initiative with another large country to start with, it would allow for the concrete implementation of the idea of a common course of ambitious cultural initiation. This would aim to promote the discovery of great authors and Europe's great works, and thus to nourish our common identity.

A European history chapter

Among the interesting proposals made by the European Commission in the mid-1970s was the creation of a European history textbook. A first step was taken in 2006 with the publication of a Franco-German manual, created by a commission of historians from both countries, and which aims to provide a common vision of the historical narrative from antiquity to the present day.

This project, which was widely welcomed, was criticised in particular

in Poland as a biased construction of the historical view of the Franco-German couple.

The ambition of a history textbook common to all the children of the Union may seem out of reach. Still, a common narrative is essential to the construction of a European identity. The first step could be a common chapter in every history textbook, devoted to the history of Europe as a continent, and as a political project, with recommended reading lists of all the major European authors, obviously starting with *The Iliad* and the *Odyssey*, the founding work of our European identity, which is fully accessible to a young European of today.

A selection of European works could be added and made accessible online on Europeana: literary books but also pictorial, musical or cinematographic works.

Common news programmes

The demise of Euronews is a reality. On the contrary, some states, like France and Germany, are deploying significant resources for a television station like Arte.

The 24-hour news channels and the major national public and private channels only rarely show news from the other countries in Europe. The EU could use a part of its Media programmes to finance an incentive plan for TV channels to broadcast more news about other European countries – or even set mandatory requirements for public channels.

It would mean setting “news quotas” like there are quotas for radio or TV. A certain percentage of news items would have to be about other European countries. Cliché for cliché: Why not run a piece on back-to-school issues, the prettiest villages, holiday recipes, annual sales or festivals in another European country, to give people a change of scenery while at the same time reinforcing neighbourly feelings among Europeans.

Strengthen Europe’s external audio-visual strategy

Now that Euronews has gone private with American-Egyptian ownership, Europeans don’t have any other audio-visual means of external influence apart from national channels. In the face of the growing ambitions of China and Russia, along with that of the Americans, Turks, and certain Arab countries, it is now necessary that the states themselves – in any case those, like France, that have a national ambition for global reach and influence, while still holding on to powerful audio-visual actors and telecoms – rethink their strategies for cultural export and influence. With Brexit, this can only be left up to Deutsche Welle and France Médias Monde (FMM) when it comes to news channels.

But there is not enough investment. The British decided to accelerate the growth of funding for the BBC World Service, which includes radio and digital in more than 30 languages, television stations in Arabic and Persian and a total budget of €431 million in 2019, compared with €350 million for Deutsche Welle (an increase), and €256 million for FMM, to which you could add the €76 million budget for TV5 Monde, but with a total budget in decline and the number of languages limited to 15. Savings requirements led FMM to stop broadcasting its English-language programmes on cable networks in New York and Los Angeles. By comparison, for the United States the BBG (now called [USAGM](#)) has a budget of \$700 million and broadcasts in 60 languages with Voice of America, Radio Free Europe, Radio Free Asia and Radio Sanaa.

With budget cuts as their main concern, public authorities often explain

that they must focus on on-demand digital services and that the current audio-visual tools, based on linear programmes broadcast first on cable and satellite or terrestrial broadcast, are out-dated.

This is a dangerous error. In 2018, only about half of the world's population had access to the Internet (54% or 4.1 billion Internet users) with only 34% in Africa. But 90% of the population listens to radio and nearly 80% has access to television. For France Média Monde (FMM) and its three media outlets (France 24, RFI and MonteCarlo Doualiya), the total audience in 2017 was 150 million people: 107 million in linear and 43 million in digital. Take into account that the coverage of "linear" services is greatly underestimated because the statistics only count one third of the countries where FMM is present. They also do not take into account collective access like in hotels, or the fact that "traditional" programmes are also consumed using digital means.

Incidentally, events demonstrate that it is easier to censor terrestrial broadcast, and particularly Internet, than satellite.

What's true for news channels is also true for other channels and fiction programmes. Here as well, the strategy remains on a national level. When we put together packages for the Canal Plus Overseas launches in Vietnam and the Maghreb, in 2009, American producers like Fox and Disney had formats for which the rights were available for the whole world. The same goes for the BBC, which by default buys the rights to many of its programmes for the entire world. When we approached France Télévisions, they steered us toward TV5 Monde, because they did not have rights available. The situation has not changed.

Mobility for artists

We must encourage artists, authors, directors, composers, actors, and also journalists, to take part in projects in primary school classrooms and secondary schools in other European countries, to achieve a true cultural mix.

The presence of an artist from another European country in schools across the EU would not only promote diversity, it would also raise awareness of what we have in common.

We could get a start on the idea of an "Erasmus for artists," mentioned in the EU's new cultural agenda for 2018, by considering a requirement that all art students study in a different European country at least once during their training¹²².

A Eurovision for European choirs

In most European countries, music classes are given in schools. In France, one of the countries of the Union where participation in early musical practice is lowest¹²³, the Minister of National Education, Jean-Michel Blanquer, has decided to set up choirs in all primary schools.

Choral singing fosters joy and stability, and develops a sense of community. Children could be encouraged to learn at least one song in another European language. An annual competition could select choirs from all the schools in Europe to perform in a high-profile competition. What better way to symbolise our common identity within our diversity than to hear a choir of French children sing a German lullaby or Spanish youth sing a Polish song?

¹²² It must also be noted that this new agenda is more voluntary and leans toward concrete issues, like the obstacles to artists' mobility, double taxation or health insurance.

¹²³ Less than 5% of French children attend music schools, compared with nearly 35% in Sweden, where playing an instrument is obligatory in school.

Put faces on European banknotes to celebrate our common identity in our daily lives

Europeans need to recognise cultural identity through the figures on their euro banknotes, rather than the current sad architectural forms that symbolise the European vacuum.

A citizens' referendum could narrow down the great European artists or philosophers to the right number. Or there could be different series, like with stamps, to make room for a wider variety of names. The dynamics of a such an announcement would be enough to provoke an interesting debate, placing anti-Europeans of every stripe on the defensive.

The process could then take a number of paths: consultation of the European Parliament and the national parliaments, a European Citizens' Initiative (a mechanism that came out of the Lisbon Treaty that allows a group of at least a million citizens from at least a quarter of the EU countries to call on the Commission to propose a directive), a joint initiative of all the academies of Europe, mobilisation of the European Movement or the European Youth Parliament, etc.

Foster the emergence of a European elite for sovereign missions

In the Brussels administration, one meets a lot of people who are competent, caring and sincere in their desire to build Europe. But the downside of an exclusively European civil service was diagnosed long ago. The idea of recruiting a portion of EU officials directly through European exams, which prestigious institutions like the Collège de Bruges prepare candidates for, was a nice federalist idea.

In reality, it was an error and it would be best to eliminate this path and force EU functionaries to have previous experience of at least five to ten years in a member state administration or in the private sector. Otherwise, the Commission will continue to drift away from the concrete concerns of residents of the Union.

On the other hand, the emergence of a European élite in sovereign domains like diplomacy and defence should be considered, even if it is a very small group. In this vein, a European war college could promote the mixing of senior officers. Similarly, for those who seek to attain certain ranks in the national public service, such as in diplomacy, one or two years of joint training could be required.

Common consulates abroad

As far as the diplomatic network is concerned, European states pursue cultural influence in different, sometimes competing, ways: the Institut Français, Goethe Institut, Cervantès, etc. All these networks that are obviously attached to the specific policies of their countries. This does not preclude cooperation, indeed this cultural emulation reflects our European identity, united in diversity.

Similarly, with regard to embassies, it is difficult to see how their operational merger could be contemplated, since the time is ripe for a Europe of nations rather than federalism.

On the other hand, we could go further when it comes to consulates, an area in which the Union has already taken a big step forward. Indeed, since May 1, 2018, following a directive of April 2015, the citizens of the Union residing or travelling outside the European Union can better benefit from the consular protection of another EU country if their own country is not represented in the country they are visiting.

This right is not well known yet it is highly symbolic of our common

belonging to the same protective body. It is guaranteed both by the treaties and by article 46 of the EU Charter of Fundamental Rights. The protection applies in many cases, such as serious illness, arrest or loss of passport, which represent more than 60% of the cases handled.

Several other measures could be considered to strengthen the common sense of belonging: flesh out the right, still little known, on the European passport; open up this possibility in all countries and in all consulates, which would provide a greater level of protection by increasing the number of accessible consulates; unify consular posts when they are in the same city.

Moving towards the concept of a "European consulate" will not be not simple, but it could happen gradually, by training multilingual agents, sharing certain administrative tasks, etc., with the advantage of being able to offer European citizens, especially those who live for extended periods outside the Union, a real chance to meet one another.

Conclusion

“From its birth, Europe has performed not just a universal function, but, in fact, a universalising function. She has fomented the World, by exploring it first, then by providing the intellectual, technical, and political means for a future unity of the “human race.” She remains responsible for a worldwide vocation, which she can only sustain by federating her forces.”

Denis de Rougemont¹²⁴

As I finish writing this book, I would like to pay tribute to the institutions of our Union, after having denounced certain misdeeds. Along with a lot of incomprehension, indifference or hostility, there are also wonderful personalities, both in Parliament and at the Commission, who are sincerely driven by a desire to promote the European dream and the values it embodies, starting with progress, peace, prosperity, and the transcendence of borders. There are also ardent cultural activists, firmly convinced that it should truly be at the core of the European project.

What is more, the Tower-of-Babel aspect of EU institutions, which can often sow confusion, also makes a utopia into reality: Peoples who through history – even recent history – have often been enemies, rub shoulders, in the same offices, the same political parties and the same organisations. There is also something of the Ideal City in the institutions of Brussels and Strasbourg.

Finding a European Member of Parliament in one of the restaurants where all nationalities come together, where all languages are spoken, means coming into contact with the fact that the miracle imagined by a few visionaries, just a few years after the darkest chapter in European history, has truly become reality.

For cultural actors, it is surely a special feeling, because culture is first of all the meeting of another: discovery, creation, intermixing. Unfortunately, Europeans who work in the cultural sectors – creators, artists, workers in all the crafts, do not come into contact with this facet of the Brussels reality. They only hear the faraway echo, the often harmful consequences of the episodes that have been discussed, the violence of battles that are often difficult to explain, so much so that it appears only natural that the European Union should fight hard for, not against its cultural industries – to fight above all for the highest cultural ambition, for the best protection possible for all that comprises its identity, which is to say cultural diversity, in particular the European model of author’s right and of collective management.

This is achieved through responsible protective actions, through strong regulation that preserves the framework specific to Europe and imposes, along with the principles of an ambitious cultural diversity, a fair sharing of value with the giants of the digital world.

To achieve this, the European cultural forces must unite and work together, *with* the digital actors of Europe.

For the next five years, the real question that Commission officials should ask themselves is how to go from 7 to 10 million European jobs in culture and the creative industries, while at the same time strengthening Europe’s global reach.

124 Denis de Rougemont, *Vingt-huit siècles d’Europe*, op. cit., p. 35.

Beyond the prominence of the CCI and the role of these sectors, the question of Europe's cultural identity must finally be addressed.

United in diversity, according to the Union's motto, this identity is made up of an intense cultural diversity that stretches from one end of the Continent to the other. With neither chauvinism nor naïve optimism, the European Union must rearm itself on the cultural battlefield and defend the identity of Europe.

Trying to define Europe through its cultural identity would surely have led to an impasse during the creation of its institutions. But today we must take that route to break the deadlock the Union finds itself in.

Alexis de Tocqueville said that "among democratic nations, each generation is a new people." Today's European youth did not see the Union take shape, grow, and prosper. The vast majority no longer believe that globalisation is a positive thing.

The European Community, and later the Union, were built on the conviction that the project for peace meant sacrificing national identities in favour of universal values. On the contrary, the project for power Europe needs, the only thing that can save it from the crisis that is consuming it, requires developing a European identity and coming to terms with its history and its grandeur.

Even if Eurosceptics abound, a lot of European citizens seek new hope in a world dominated by authoritarian, demagogic and often threatening regimes, which makes the idea of a community of interests and destinies among Europeans more apparent.

Now that its collapse seems possible, the appeal of the Union is taking shape more clearly. In October 2018, 64% of French people believed that France benefitted from its EU membership, the highest score since 1983. They say to themselves, like Goethe, "Let us rejoice that we are living in this part of the world, even though things should even become more lively still in Europe¹²⁵."

For the peoples of Europe, doubt in its institutions stems as much from their excessive meddling in daily life as from their inaction in a number of areas. It is up to Europe to prove that it can concentrate on the essential, strengthen collective sovereignty, and take charge of the destiny that its long history allows it to claim.

Obviously, the modern European project can no longer impose its will on the rest of the world by force. But at the same time it cannot afford *not* to have a will. Europe has an identity. It has a mission. It must once again take charge of a destiny of peaceful and mediating global influence.

Otherwise, the neo-sovereignist United States, the Chinese and the Russians – with their imperial and nationalistic affirmations – or other areas of the world, including on our borders, will seek to impose on us a destiny that runs counter to our history, our culture, and our values. It is up to Europeans to restart the adventure together, by giving one another the will to build, in one generation, a European public opinion and European elites, through the recognition of a common European identity.

The European Parliament that came out of the May 2019 elections will have to guide the programme of the future Commission. We wanted to make a few simple proposals here.

Seneca the Younger wrote, "It is not because things are difficult that we do not dare; it is because we do not dare that things are difficult."

None of the proposals described at the end of this book are very complicated to implement.

125 Letter from Goethe to Schiller, cited by Denis de Rougemont, in *Vingt-huit siècles d'Europe*, op. cit., p. 35.

List of annexes

1. EY-Gesac study: [English web page](#) ; [full report in English](#) (PDF). Also visit francecreative.org
2. History of Sacem (French document) **TK producteur**
3. Op-ed: "Breton artists defend Sacem," *Ouest France*, 3 December, 2013. English translation by James Connell.
4. Op-ed: "Cultural industries are the future of Europe," by Jean-Noël Tronc, *Le Figaro*, 16 June 2013. English translation by James Connell.
5. Op-ed: "Let's do away with the digital exception," by Roland Héguy and Jean-Noël Tronc, *Les Echos*, 15 November 2013. English translation by James Connell.
6. Op-ed: "Copyright directive: defending the press against the tech giants' lobbying," by Pierre Louette, Pascal Rogard and Jean-Noël Tronc, *Le Figaro*, 2 July 2018. English translation by James Connell.
7. Op-ed: "[Neighbouring rights: a question of life or death](#)" by Sammy Ketz (AFP) printed in French in *Le Monde*, 26 August 2018. (**producteur TK**)
8. Appel du Palais-Royal (**TK: VA original**)
9. Op-ed: "Another failure for the copyright directive would be a black day for the creative world," by Jean-Noël Tronc, *Le Monde*, 11 September 2018
10. *A creative agenda for the Digital Single Market*, framework document for the workshop of 5 April 2014.
11. Commemorative plaque for Sacem members who died for France
12. Distributing royalties to creators: a tradition of innovation (**une VA official?**)
13. Living from royalties, patience and battle (**une VA official?**)
14. Private copying: a 100-year wait (**une VA official?**)

1. EY-Gesac Study: *CREATING GROWTH, Measuring cultural and creative markets in the EU, Dec. 2014*

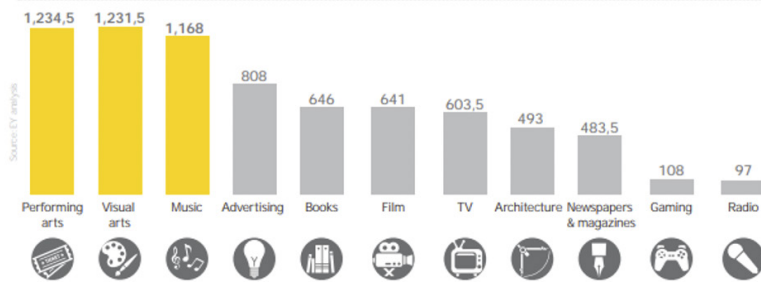
<http://www.creatingeurope.eu/>



Employment

More than 7m Europeans are directly or indirectly employed in creative and cultural activities – 3.3% of the EU's active population. Performing arts (1,234,500), visual arts (1,231,500) and music (1,168,000) employ more than 1m people each, followed by advertising (818,000), books (646,000) and film (641,000).

Employment (in thousands) - 2012



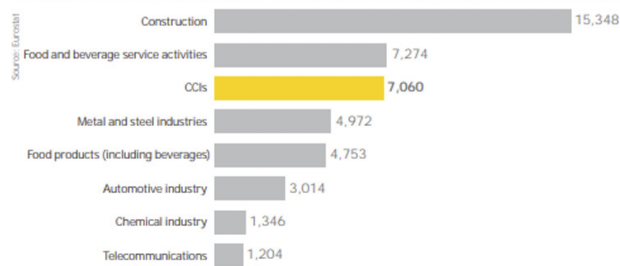
Total for jobs and markets have been estimated after removal of double-counting. For markets, the sum of sectors figures, €554.7b, exceeds the consolidated total, €535.9b (rounded figure). For instance, live music is counted in both Performing arts and Music sectors (see Methodology).



Benchmarking the cultural and creative industries

In terms of jobs, CCIs in the EU employ as many people as the food and beverage service industry does. They provide work for nearly 2.5 times more people than automotive manufacturers and 5 times more than the chemical industry.


Employment (in thousands) - 2012




2. Sacem's origins

L'histoire de la Sacem


LES FONDATEURS




ERNEST BOURGET
AUTEUR



PAUL HENRION
COMPOSITEUR




VICTOR PARIZOT
COMPOSITEUR



JULES COLOMBIER
ÉDITEUR

L'ORIGINE



Le café des Ambassadeurs

« Hier, Ernest Bourget, Paul Henrion et Victor Parizot, compositeurs et auteurs bien connus, ont refusé de payer leurs consommations, déclarant qu'ils ne devaient rien puisque le propriétaire du café-concert utilisait leurs œuvres à son bénéfice, faisant fi des droits des auteurs et de leur rétribution. Une action judiciaire va vraisemblablement s'ensuivre [...] ». C'est ainsi que les gazettes parisiennes relaient en mars 1847 l'incident du café-concert « Les Ambassadeurs » au cours duquel ces trois créateurs avaient découvert que leur musique était jouée sans leur consentement.


Un procès s'ensuit et, le 8 septembre 1847, le tribunal de commerce de la Seine rendait un jugement défendant de faire chanter aux « Ambassadeurs » les œuvres de Bourget. Après plusieurs procès et la confirmation de la décision par la cour d'appel de Paris, le 26 avril 1849, Bourget, Parizot, et Henrion, aidés par un mécène, l'éditeur Jules Colombier, posent les bases d'une société mutuelle, le « Syndicat des Auteurs, Compositeurs et Editeurs de Musique », installé 63, rue Sainte Anne à Paris, qui devient, sous sa forme définitive, la « Société des Auteurs, Compositeurs et Editeurs de Musique » le 28 février 1851. Les statuts prévoient que la Société a pour objet « la protection mutuelle » de ses membres « envers les entrepreneurs de spectacle et établissements publics qui exécutent des œuvres musicales ». Parmi les 43 coassociés fondateurs, figuraient aussi Halévy, Scribe, Auber, Darcier, etc.

La Sacem est donc une création de la II^e République.


QUELQUES MEMBRES ILLUSTRÉS

Victor Hugo, Hector Berlioz, Richard Wagner, Giuseppe Verdi, Jacques Offenbach, Camille Saint-Saëns, Georges Bizet, Aristide Bruant, Claude Debussy, Maurice Ravel, Guillaume Apollinaire, Igor Stravinsky, Serge Prokofiev, Georges Auric, Jacques Prévert, Antoine de Saint-Exupéry, Marguerite Monnot, Dimitri Chostakovitch, Django Reinhardt, Charles Trenet, Aimé Césaire, Louis Amade, Edith Piaf, Henri Dutilleul, Léo Ferré, Pierre Delanoë, Boris Vian, Andrée Chérid, Eddy Marnay, Jean Dréjac, Georges Brassens, Maurice Jarre, Jacques Demarny, Gilbert Bécaud, Serge Gainsbourg, Barbara, Jean Ferrat, Georges Moustaki, Claude François, Etienne Roda-Gil, Michel Berger, Alain Bashung, Daniel Balavoine...





SOCIÉTÉ DES AUTEURS, COMPOSITEURS
ET ÉDITEURS DE MUSIQUE



3. “Breton artists defend Sacem,”

Ouest France, 3 December 2013

Point of view. By Dan Ar Braz, Miss Blue, Miossec and other Breton songwriters and composers, members of the Sacem¹²⁶.

On the radio recently, a merchant was heard complaining “**about taxes, duties, Sacem!**” This conflation makes no sense! Sacem stands for “Society of authors, composers and publishers of music.” It is “our” society, a private enterprise – like the one owned by the merchant who was complaining – and not some annex of the tax authorities.

Sacem, a non-profit private-sector entity, is the “coop” for creators: a cooperative where we pool our works – the music we compose, the lyrics and songs we write – to be stronger together. Thanks to this union, we get to negotiate our remuneration with media, producers, concert halls and everyone who plays music in public, so we enjoy the fruit of our labour.

“Royalties, our only salary”

Sacem is the only salary creators get (only a minority earns other income from public performances). Last year it distributed royalties to more than 50,000 authors and composers in France, and more than 120,000 others around the world. Sacem also supported more than 1,700 creative and artistic projects, including more than 150 in Brittany (festivals, theatres, self-production, training...), with its cultural action.

As authors, composers, arrangers and publishers, we are individual investors, independent workers: We create a piece of music, we write lyrics, and we are not paid during the writing of our creations. Our royalties are a deferred payment: we only get them if your works are played, if they meet the ears of an audience. We are not wealthy (nearly half of us get royalties that amount to less than minimum wage); the pay we get is always uncertain and dependant on the recognition of the public.

When a merchant decides to play our music, it is through Sacem, with the collection of royalties, that we get paid for this artistic work. The fees paid by the merchants depend on how they use music. If music is central to their activity (discothèques, concert producers...), the cost will be higher than if they use it as simple background music. For many shops, it is less than one euro per day. Less than a euro daily, so that creators may live.

126 1. Adèle, Gweltaz Adeux (EV), F. and N. Boisnard (Archimède), O. Bouganne, F. Budet, P. Butler, L. Capart, T. Chazelle, L. Cherhal, J. Chocun, J.-L. Jossic (Tri Yann), J. Cougnasse, D. Coutant, L. Cros, S. Danet (Soldat Louis), F. Dauloudet, D. Darricarrère (Do you like), Da Silva, K. W. Davis (Malted Milk), G. Delahaye, R. Detressan (Soldat Louis), T. Fournier, A. Fradin (Malted Milk), E. Grandjean, C. Guyomard, Gwennyn, J. Herissé, Alexis HK, K. Huet, K. Kacel, D. Lambert, J.-L. Le Vallegant, Manou (Elmer Food Beat), C. Mehat, Miossec, D. Monceau, J. Mourier (Digresk), G. Oryema, P. Paichereau, P. Papin, H. Pluviose, P. Preumont, A. Rechin (Pony Pony Run Run), J.-P. Riou (Red Cardell), C. Rocher (Nautilus), V. Rodriguez, G. Servat, A. Simon, D. Sonic, A. Stivell, V. Spatari, J.-P. Vidal.

4. "Cultural industries are the future of Europe,"

by Jean-Noël Tronc, *Le Figaro*, 16 June, 2013

The cultural exception simultaneously motivates and causes tension. As actors for culture and the cultural industries, we have often been on the defensive. Sometimes awkwardly. But the current battle has nothing to do with the battle of the past or with any "French exception."

There are millions of jobs at stake and Europe's creative and digital future is in play. All the cultural industries are concerned. That is why more than 4,000 music creators from more than 20 countries have already mobilised for the cultural exception.

Not to complain, though the climate is uncertain and the sector gets little support, but to explain just how much culture, far from being a problem, is a part of the solution for the future of France as well as Europe. Because the cultural and creative industries are a source of value – and especially jobs, often not outsourceable jobs – as well as wealth and growth. From music to film, and including graphic arts, audio-visual works, and press and publishing, these industries are at the core of the digital economy. They are in fact the future of digital for France and for Europe.

To do this, we need to get out of our defensive postures to change the balance of power, and above all, change the way our sectors are perceived, in order to carry more weight and assert our influence in the European debate. It is so crucial at this pivotal moment in history, where the cultural exception, though hard-won 20 years ago, is once again under serious challenge.

Now is the time for Europe to stop playing against its own side. By including audio-visual and cultural services in its free-trade agreement with the United States, Europe would be fighting the wrong battle.

Contrary to what happened in 1993, it would not be the United States asking for the end to the cultural exception, but the European Commission itself. One of the arguments is that in the future we would have to negotiate for cultural services with China; as if China would open its cultural market to the rest of the world. Such naïveté is laughable!

The future of Europe's digital industries depends on its cultural industries, with its global champions in music, film, video games and publishing. Europe lost all of its power in IT, consumer electronics and telecoms over the last 20 years. Sadly, we have to face these facts. So for 2014 we need a real "creative agenda" for Europe, far more credible than the defunct "Lisbon strategy" adopted in 2000, which was supposed to have made the EU into the "the most competitive and dynamic knowledge economy in the world"... Out of this illusion there remains a "digital agenda" that is constantly rehashed, with dwindling credibility, by a European machine with a vision problem.

Defending the cultural exception means fighting for Europe, for its future, for its unique model for author's right and collective management – which allows hundreds of thousands of creators and publishers across Europe to be paid and remain independent – and for effective mechanisms like the private copying levy. Invented by the Germans, imported into France in 1985 (the Lang law), and now present almost everywhere in Europe, this system enables all consumers to make copies freely, via a minimal contribution taken on the margins of importers of electronic goods, all of which are made outside Europe.

Defending the cultural exception also – and above all – means clinging to freedom and equal opportunity for works of the imagination. It also means

taking on board that that it is legitimate to preserve *la chanson française*, the incarnation of the nation's artistic sensibility, guaranteed by the radio quotas that have made France one of the only markets where national productions make up the majority of musical output.

Defending the cultural exception means, at the end of the day, taking a positive and proactive position. It is up to us, the actors of the cultural industries, to introduce concrete proposals into the European debate ahead of the 2014 elections. Artistic education, taxation for online cultural content, or the ability to access European cultural offerings on the big online platforms are among the first avenues of thought.

No, defending the cultural exception is neither old fashioned nor outdated. What is old fashioned, on the other hand, is to carry on ignoring what the Gallois report on French competitiveness reminded us of in the Autumn: The cultural industries, along with aerospace and agribusiness, are among our country's rare areas of excellence.

5. “Let’s get rid of the digital exception,” by Roland Héguy and Jean-Noël Tronc,

[Les Echos](#), 15 November 2013

In raising the question of taxation of the digital economy, the European Council of 24/25 October 2013 laid down the first markers of an awakening to the real issues involved in effective European digital regulation. For sectors like ours, these issues are extremely topical. For what do the hospitality industry and the cultural sector have in common? First, our sectors are characterised by a high number of jobs: more than 1 million for culture and about 900,000 for hotels and restaurants. The jobs share these characteristics: They are, for the most part, un-outsourcable; they are spread over the whole territory and are varied, offering employment perspectives for young degree-holders and for those without training. These are important characteristics in a country where youth unemployment and barriers to entry into the work force are two of the worst symptoms of the recession.

Also, the size of the economic actors varies widely, from big international groups and even global sector champions, down to micro-enterprises and independent entrepreneurs.

Finally, our sectors are both completely active in the digital economy and solidly ensconced in the daily lives of our citizens and in the territorial fabric. Getting together for a meal, socialising or going out, listening to music, going to see a film or reading a book, playing video games, visiting a museum or an exhibition – all of these activities are daily, positive experiences, shared by millions of French people.

However, a serious threat is hanging over our development: our sectors suffer from uneven regulation, a real “digital exception” that favours “over the top” players, the big non-European digital companies. These players implement highly effective tax-avoidance and territorialisation strategies outside of France, often attain abnormal positions of market dominance, and create very few jobs in Europe. According to a recent study by Roland Berger, a treatment under ordinary law would mean that these companies would pay 22 times more tax in France than they do today.

For our sectors, which are the future of jobs and growth, a choice must be made now. In a few months, a new European Commission and Parliament will be installed. So that the next five years are not lost, we must put an end to the incantatory speeches that would limit Europe’s digital strategic outlook to maintaining, to our detriment, an exorbitant regime that benefits a few big non-European actors – all in the name of an ambition that is more than magical thinking than realistic industrial strategy: creating a “European Google.” It was in the name of this “strategy” that the Quaero programme was able to get €198 million in European investment, for the result we all know: it was quietly dropped.

Yet a proactive and realistic industrial strategy *is* possible in France and in Europe. It must first aim to support sectors as diverse as ours, which have in common the fact that they represent the jobs of today and the jobs of the future in Europe.

Roland Héguy is president of the hospitality trade confederation *l’Union des métiers et des industries de l’hôtellerie*.

Jean-Noël Tronc is CEO of Sacem, *la Société des auteurs, compositeurs et éditeurs de musique*.

6. “Copyright directive: defending the press and culture against the tech giants’ lobbying,” by Pierre Louette, Pascal Rogard et Jean-Noël Tronc

[Le Figaro, 2 July 2018](#)

Next July 5 certainly will not be a day like any other. It won't be especially for those who wish to live in Europe in a fair digital world. On that day, European parliamentarians will make a major policy decision by voting on the proposed copyright directive for the digital era. Another technical – or even technocratic – text? No, a text with ambition and purpose. It lays out a vision that we support and share, a vision of a digital universe that must continue to evolve and ensure that Europeans benefit from its tremendous opportunities for creation, pluralism and quality information, all while guaranteeing that creators and producers of works have the right to be fairly paid and associated with the sharing of value.

What are we talking about? The text that MEPs will vote on next Thursday in Strasbourg contains fundamental provisions to make the Internet a balanced space, a place where European creators and journalists will have access to the tools they need to interact on equal footing with the giants of the Internet. Unfortunately, as has been the case for many years, this legitimate and much-needed debate over author's right and neighbouring rights in the digital world has been misappropriated and diverted. It has turned into a pathetic, antidemocratic farce. How else would you describe the efforts launched by the over-financed lobbies to saturate our MEPs and spam their inboxes? What level of indecency have we reached when there are flyers circulating that compare MEPs who vote in favour of this text to the military censors of the Great War?

How can the EU defeat “fake news” when some of its representatives are producing it and trying to make people believe that author's right and neighbouring rights are killing freedom on the Internet? When arguments give way to caricatures, threats and slander, it is democracy that comes away weakened. And creators, producers, publishers and journalists come away insulted. Those who constantly defend the freedom to create, the freedom of expression and information, who want to be seen, read, listened to, even criticised, would somehow have become the henchmen of organised and systematic censorship. Reading these crusaders of a world without faith or law, one would think that living from one's art and getting paid for producing and distributing works or articles in a digital world were some kind of heresy that would be a grievous attack on Europeans' freedom. Those who are scheming so that Europe tears itself apart over copyright and gives up have not understood that the freedom they are pretending to serve is not true freedom. Or perhaps it is just the freedom of the strongest to be able to continue to impose their laws and conditions. And that is a *contrario* the undermining of the weaker, an effort to prevent the newspaper editor, the producer, the composer, the writer, the filmmaker, all of them European, from claiming the right to a share of the value and fair remuneration.

In this debate there are no ancients and moderns, technophiles and luddites, censors and libertarians. While some indulge in the construction of false oppositions, we prefer the simplicity of truth: No, the tech giants are not our enemies. Yes, the Internet can and should be a space where European citizens can create, get information, be cultivated or be entertained. No, author's right

and neighbouring rights are not dusty old concepts in this digital world. You could even say that it is because of intellectual property, this legacy that comes from the French Revolution and Beaumarchais, that freedom of creation, expression and information can develop and grow in this digital era.

Let us be clear, this July 5, MEPs will be pronouncing on much more than copyright. Either Europe will refuse to vote in favour of the text, in which case it will be resigned to its status as a digital colony with a reduced freedom of the press, dropping those behind the creative powers and the professional journalism of the Old Continent. Or, as it did recently by creating rules that protect the private lives of its citizens, Europe will take its destiny into its own hands and defend its sovereignty by drawing up a new balance between the development of digital platforms, the preservation of freedom of expression and crucial support for its creators and those who keep European democracy and culture alive.

Clearly, what emerges from the Brussels ballot boxes on July 5 will be a particular vision of Europe!

Pierre Louette is CEO of Groupe Les Échos/Le Parisien.

Pascal Rogard is CEO of SACD, *Société des auteurs et compositeurs dramatiques*.

Jean-Noël Tronc is CEO of Sacem, Société des auteurs, compositeurs et éditeurs de musique.

7. “Neighbouring” rights: a question of life or death” by Sammy Ketz

In an op-ed published simultaneously by a number of European media outlets on Aug. 26-27 2018, Sammy Ketz — then AFP’s Baghdad bureau chief – and 78 journalists pushed for the adoption of the EU copyright reform in order to protect the press from the Internet giants’ plundering. Below is the [English version published on the AFP website](#).

[In July 2018, the European Parliament rejected the copyright reform that aimed to adapt European rules to the Internet age. This directive had been defended by creators, artists and news publishers. The reform was to have created “neighbouring rights” that would have allowed newspapers, magazines and news agencies like Agence France-Presse to be paid when their articles were republished online. The copyright reform will be debated again in the European Parliament during the September plenary session.]

Dear Members of the European Parliament,

I was on a mission to write a reportage in Mosul, the Islamic State group’s former capital in northern Iraq, about children returning to a school shut down for three years by the jihadists. I was thinking of how best to describe the joy of those children as they returned to their long-forbidden desks in that ruined city.

Sitting at a restaurant with the photographer, video journalist and AFP driver before heading back to Baghdad, I read on my laptop an article about the European debate on neighbouring rights and the plan to apply them to the press. It grabbed my attention but did not come as a shock.

After five years crossing a war-shattered Syria where on several occasions I narrowly escaped being killed by snipers’ bullets or seasoned gunners’ shells, I had just arrived in Iraq for the third time since the US invasion of 2003.

In more than 40 years of reporting, I have seen the number of journalists on the ground steadily diminish while the dangers relentlessly increase. We have become targets and our reporting missions cost more and more. Gone are the days when I could go to a war in a jacket, or in shirtsleeves, an ID card in my pocket, alongside a photographer or video journalist. Now you need bullet-proof jackets, armoured cars, sometimes bodyguards, and insurance. Who pays for these expenses? The media, and it is a heavy cost.

Yet, even though they pay for the content and send the journalists who will risk their lives to produce a reliable, complete, trustworthy and diverse news service, it is not they who reap the profits but the internet platforms, which help themselves without paying a cent. It is as if a stranger came along and shamelessly snatched the fruit of your labour. It is morally and democratically unjustifiable.

So many friends have stopped reporting because their media organisation closed or could no longer pay them. Up until the day they put away their pens and cameras, we had shared the terrible fear of hiding behind a wall that trembled as intensely as we did from the impact of the explosions; the indescribable

joy when we succeeded, when we could tell the world the “truth” that we had seen with our own eyes; the extraordinary meetings with warlords and their heavily armed men who smiled as they toyed with their pistols or daggers and watched as we interviewed their bosses; the poignant sorrow when faced with dazed, trapped civilians, the women awkwardly protecting their children as bullets scraped the walls of the shelter in which they had found brief refuge.

The media have suffered a long time before reacting, struggling with the consequences rather than the cause. For lack of money, they have laid off staff almost to the point of the absurd: newspapers that are barely staffed with journalists. Now they are asking for their rights to be respected so they can carry on reporting the news. They are asking for the sales revenue to be shared with those who produce the content, whether they are media or artists. This is the meaning of “neighbouring rights”.

We can no longer swallow the lie spread by Google and Facebook that a directive on “neighbouring rights” would threaten people’s ability to access the internet for free. No. Free access to the web will endure because the internet giants, which now use editorial content for free, can reimburse the media without asking consumers to pay.

Difficult? Impossible? Not at all. Facebook made \$16 billion in profits in 2017 and Google \$12.7 billion. They simply have to pay their dues. That way the media will survive and the internet titans will be contributing to the diversity and freedom of the press they claim to support.

I am convinced that the members of parliament who have been misled by deceptive lobbying now understand that non-paying access to the internet is not at risk. At stake is the freedom of the press because when newspapers run out of journalists that freedom, which is supported by members of parliament from every political side, will be gone.

Countless times I have been face to face with people who were blockaded, isolated, and defenseless, who asked just one thing: “Tell people what you have seen. That way we have a chance of being saved.” Should I reply: “No, do not raise your hopes. We are the last journalists. Soon there will be no more because we are disappearing for lack of money?”

Remember that Facebook and Google employ no journalists and produce no editorial content. But they get paid for the advertising linked to content that journalists produce.

Every day, journalists investigate all aspects of life so as to inform their fellow citizens. Every year, prizes are awarded the most courageous, intrepid, talented journalists. We cannot allow this fleecing of the media of their rightful revenue to culminate in a day without prizes, for lack of candidates with the means to report on the ground.

It is time to react. The European Parliament must vote massively in favour of “neighbouring rights” for the survival of democracy and one of its most remarkable symbols: journalism.

Sammy Ketz, AFP Bagdad Bureau Chief, Bayeux Calvados-Normandy Prize for War Reporters 2003, Albert Londres Prize 1988.

**8. "Appel du Palais-Royal," read by the author,
composer and performer Emily Loizeau
on Sept. 6 2018 in the gardens of the Palais Royal**

Nous sommes un peuple d'histoires.

De l'enfance aux soirs de nos existences, nous nous nourrissons des récits que l'imagination humaine nous offre.

Qu'est-ce qu'un être humain sans histoire ?

En lisant, en regardant nos écrans de téléphones et nos télévisions, en nous rendant dans un musée, dans des librairies, dans des cinémas, en restant au lit, nos vies sont nourries par ces récits.

Mais aujourd'hui nos sons, nos mots, nos images, sont menacés.

Ils ne le sont pas par la censure d'un État comme nous avons pu le connaître dans notre histoire européenne.

Ils le sont par les nouveaux ogres qui nous livrent ces histoires.

À l'heure où nos droits d'auteur s'amenuisent, les grandes plateformes Internet comme YouTube et Facebook se nourrissent des émotions et des créations que nous leur livrons.

Qu'en font-ils ?

De la pâte à publicité.

Nous respectent-t-ils en tant que créateurs ?

Non.

Nous rémunèrent-ils en tant qu'artisans des émotions humaines ?

Une misère.

Gagnent-ils de l'argent avec cette nourriture que nous leur donnons quotidiennement et qui fait leur valeur ?

Des milliards.

Youtube rémunère 10 fois moins les musiciens que Deezer ou Spotify qui ne sont déjà pas de grands généreux.

Ces chiffres sont secrets.

Protégés par des accords de confidentialité.

Faudrait-il que la culture soit négociée par des avocats, qui laissent derrière leurs contrats signés des silences menaçants ?

L'obscurité est l'atout des ogres.

Ils n'aiment pas la lumière.

Ils n'aiment pas être dérangés.

Est-ce le monde dans lequel nous souhaitons vivre ?

Dans un monde d'ogres ?

D'ogres incontestables ? Qui ne payent pas leurs impôts ? Qui ne payent pas leurs créateurs de contenus ? Qui aspirent les informations de nos vies privées pour vendre mieux, pour vendre plus ?

Souhaitons-nous être réduits à des produits publicitaires ou sommes-nous encore des citoyens libres et lucides ?

Ne restons pas isolés derrière nos écrans.

Individuellement, nous, les créateurs, nous ne sommes rien. Mais avec vous, vous qui nous lisez, avec vous qui nous regardez, avec vous qui nous écoutez, nous sommes plus forts. Comme le disait Victor Hugo, nous sommes une « force qui va ».

Exigeons des contre-pouvoirs face aux grandes plateformes Internet qui influencent tant nos vies quotidiennes.

Ne laissons pas le destin de nos récits dans les mains de plateformes qui n'aiment pas les histoires. Ils vendent nos goûts.

Leur génie technologique ne doit pas être une excuse à leur impunité.

Fabriquons des digues pour repousser les ogres vers la mer. Nous les créateurs, mais aussi nous citoyens français, citoyens européens, demandons solennellement, que la directive sur les droits d'auteurs soit adoptée.

Les ogres ne pourront plus entrer dans nos maisons sans sonner à nos portes.

Ils ne pourront plus prendre une partie de nos vies, la plus belle, sans demander notre permission, et sans verser pour cela une rémunération juste.

Parlementaires européens, montrez aux ogres que la force des démocraties et des citoyens est inaliénable. Nous doutons souvent de l'utilité de l'Union européenne. Montrez-nous à quoi sert cette Europe, montrez-nous pourquoi les citoyens vous ont élus.

Vous êtes nos représentants, ne soyez pas les servants des machines qui veulent faire taire le débat et surtout ne pas rendre de compte.

Aujourd'hui 67% des Européens pensent que les ogres, les GAFAs, ont plus de pouvoir que vous.

Comment en sommes-nous arrivés là ? Réveillez-vous !

Défendons nos histoires, nos émotions, nos couleurs. Votez le 12 septembre le texte sur les droits d'auteur.

C'est l'appel du Palais-Royal.

9. “Another failure for the copyright directive would be a black day for creativity,” by Jean-Noël Tronc, *Le Monde*, September 11, 2018

The Sacem CEO Jean-Noël Tronc urges the European Parliament not to damage copyright as it prepares to review on September 12 its position on the proposed directive

On Wednesday September 12 in Strasbourg, symbolic shrine of European history, the 751 MEPs will come together for a doubly important meeting. First the president of the European Commission, Jean-Claude Juncker, will make his speech on the state of the European Union, the last in a five-year mandate marked by what is now an existential crisis for the EU. Second, because our MEPs will once again examine the proposed European copyright directive after having failed to reach agreement on a text on July 5. What happens on Wednesday will have a decisive impact on the future of Europe, far beyond the text itself. The sovereignty of our Union is at stake. Before we discuss what could happen, it is important to remember where this directive came from. It is the result of the European Commission’s relentless commitment to reform the European copyright framework on the grounds that the current regime would not work and would impede the free movement of cultural goods. Which is obviously not true! The everyday reality for hundreds of millions of European web users is that they have access to all kinds of cultural works — and all the information possible — thanks to the Internet. The Internet platforms facilitate artists’ access to audiences. Electronic commerce makes it possible to download books, films, music, etc. from any spot in the Union.

The problem is obviously elsewhere: It started with two big directives – the e-commerce directive in 2000 and the 2001 copyright directive. A colossal imbalance has since been forming between, on the one hand, the vacuuming up by a few big American platforms of all the advertising revenue — thanks in particular to the massive use of works created by European authors and articles from our press – and on the other hand the European forces of creation and information that are paid poorly, or not at all, but who are increasingly dependent on these same tech giants. This is what we call the value gap. Instead of focusing on this problem, the Commission preferred to completely review the legal framework of copyright regulation. With this draft directive, the Commission opened up a Pandora’s box and, by declaring at the start of his mandate in 2014 the need to “break down national barriers” in terms of copyright, President Juncker sent a powerful message.

In so doing he paved the way for those who constantly seek to add exceptions to author’s right, to the point of making the rule itself the exception in the digital universe. It’s an attack against culture, an attack against authors, for whom author’s right was the key to freedom and escape from the ancient guardianships of kings, religion or rich benefactors. An attack, actually, against one of the most dynamic sides of the European economy, since author’s right is one of the pillars of the European cultural industries, which account for €540 billion in accumulated revenues and around 7 million jobs, as a 2014 Ernst & Young study showed.

Neighbouring rights for the press

The same attack is happening in the European Parliament. An objective assessment of the legal framework for copyright in Europe was called for, yet the sole MEP from the Pirate Party, a tiny group that made fighting intellectual property into an obsession, was given the responsibility for compiling a report on the issue. It was like entrusting a butcher with a report on the merits of vegetarianism.

Though it started under the darkest of skies, this draft directive, thanks to unrelenting work by a number of MEPs, is currently less unbalanced. Even if the original intent inevitably led to the proposal of new exceptions to copyright, at least the idea that an urgent correction of the value gap was needed has led to two proposed measures. One of them (article 11) finally recognises, through the creation of a neighbouring right for the press, that platforms like Google or Facebook, which use news articles and thus the work of the press, must make payments in compensation. The other (article 13) creates the conditions for a normalised, contractual relationship with platforms like YouTube, which continue to hide behind a fictional lack of responsibility for content that allows them to pay artists and authors 10 times less than services like Spotify or Deezer.

On Wednesday in the European Parliament, three scenarios are possible: the first is another rejection of the negotiating mandate, or the sending back of certain articles to commissions for examination. Given that there is little time left in this European term, that would mean the draft directive would be buried.

The second scenario would be that Parliament adopts a balanced version of the directive with its new exceptions. The exceptions were always unwelcome, but at least in exchange we would gain new rights for our press, a pillar of our European democracy, and the conditions that could create better protection and remuneration for our authors. We still would have to make sure that, during the “trialogue” stage, which brings together the Council, the Commission and the Parliament, this precarious balance would not be called into question to the detriment of the European creative and cultural sectors.

There is also a third possibility to fear, the worst-case scenario: The adoption by Parliament of the mandate for negotiation, but on the basis of versions that would effectively cancel out the desired effects of articles 11 and 13, or worse. Certain amendments provide, for example, for a general exception for small businesses. On what grounds? Innovation, they say.

But author’s right fuels creative innovation and only depends on the income earned by the entity that exploits the protected works for profit, whatever the size of the enterprise involved. Similarly, for the press, certain amendments would mean that Google News could fall outside the perimeter of the new neighbouring rights, even though Google has more than 95% of the market share throughout Europe.

Another failure of the directive would be a black day for the Europe of culture and creation. One company’s incredibly violent lobbying campaign – including the threat to cut Internet links to the press, real censorship, already deployed to thwart legislative measures in Spain and Germany – would have once again succeeded in dictating the law. Our elected representatives must ponder these numbers: A Harris Interactive poll showed that 61% of European citizens are worried that the technology giants may “influence the functioning of democracy” and two-thirds think “the tech giants are now more powerful than the institutions of the European Union.” To all of our MEPs, we say, with seriousness: On September 12, vote for a creative Europe, do not vote for a submissive Europe.

10. Framing document for the seminar of April 5, 2014: A creative agenda for the Digital Single Market

How can we bring back the balance of power toward Creators and make Culture, Creators and their industries a worldwide priority for a better world in the XXIst century?

Why?

To brainstorm on a Global Cultural and Creative Sectors strategy and agenda. This could eventually lead to the creation of a broader and permanent initiative, depending on our discussions.

We want to informally regroup key peoples from all cultural and creative sectors, whether they are artists or other professional, including some politicians and journalists, to brainstorm about the global strategy needed to change the existing balance of power and influence between culture, creators and creative industries and those who oppose them and contribute to the weakening of their situation. We believe this is a global challenge and battle and that we can and must organize at worldwide level. Why do we need to act (also) globally? Because parts of the stakes are already to be dealt with at global level:

- Google, or IT manufacturers but also copyleft activists are global and/or act globally as efficient lobbies;
- What is done by the EU or the US has impact all over the world, decisions taken anywhere to reduce the protection of author's right may have negative impact anywhere else on the planet;
- Debate on copyright/copyleft, piracy, author's right are more and more global through academics and social networks; International organizations such as WIPO or UNESCO are involved in the matter;
- With CISAC, the international organization of Authors societies representing more than 3 million creators from all cultural genres and from all over the world, we have a tool that has been totally under-used so far but that is currently being reshuffled;
- Good solutions can come from everywhere;
- Last but not least, because together we are stronger.

We believe that we need to make an assessment of the past and our real situation. Over the last 15 years, public opinion and politicians support to culture, to creators and their rights, especially Author's right and intellectual property, to fiscal, financial or other pro-culture regulations, have been strongly challenged and often diminished, when not destroyed. In the meantime the digital dominant players with the support of media, politicians, and often public opinion, have been treating us like declining sectors of the past or doomed-to-be-extinct players. We believe that the strategies our sectors have been pursuing in the past 15 years have often been wrong. Too defensive, too divided, too local, too aggressive sometimes. Not ambitious enough.

We have seriously been losing ground. We want to change the course of things by defining a new global strategy for cultural and creative industries: (a) Explaining that we are part of the solution to the problems of today's world, not part of the problem. (b) Rally people from all cultural and creative sectors, wherever they live, whatever they do. (c) Propose new solutions, even very global one, to stop being the "No" party" as it has often been the case until now in the battles for intellectual property and support to culture we have fought.

We believe that there are reasons for hope. Times are changing. We can shift the balance of power back to us. We make hundreds of millions of people happy to be living together. We will never be over-ambitious. If we can adapt and change the way we act, the sky will be the limit. The Creative Revolution can be a very powerful and popular movement when put into motion.

Who has taken the initiative?

Jean-Noël Tronc, CEO of SACEM, and with the involvement of France Creative partners for the selection of participants to this Seminar. France Créative is an informal group of representatives from 9, and now 10 cultural and creative industries (CCI) of France (visual arts, music, book publishing, movie, press, TV, radio, live events, video games, advertising).

What are the expectations for this seminar?

This seminar must be constructive and should allow us to reach the following objectives:

- to brainstorm on the necessary changes in the strategy that culture and creative industries have been pursuing;
- to share the same analysis of the situation, needed strategy and level of ambition;
- to discuss on propositions that could be made, general and not specific, so that they could interest all or most of the 10 sectors both at a local, regional and global level;
- to discuss propositions that could be made – general, not specific – so that they could interest all or most of the 10 sectors both at a local, regional and global level;
- to discuss the strategy, both in terms of policy and communication;
- and by doing this, to create the first layer of an informal group of people with a common vision and ambition who could regroup many more times in the years to come;

Who is invited?

People with ideas, influence and/or power in the CCI sectors. From all over Europe but also from other regions, even if the first seminar will be mainly European for geographic/timing reasons. Authors, artists, CEOs, journalists, politicians, etc. Participants will come from the 10 CCI sectors.

The group should be 40 to 50.

What will be the Seminar agenda and method for discussion?

e want to make this informal, friendly, positive, operational:

- Informal: every participant is equal, whatever is age, talent, celebrity, skill or level of responsibility. We will follow Chatham House Rules: echoes can be given of the meeting, but every participant's interventions will stay confidential. We have chosen who is invited. People who come are all involved and often very busy. We come together for the pursuit of general interest. This is not a meet & greet meeting.
- Friendly:
 - We need to have a very open discussion. We want to create a common vision between very different people. Everyone must be able to talk. We will use the lingua franca, English, so everyone must be able to understand and speak in English. Everyone must be careful to respect others, especially those of us whose skills in English are limited or whose voice is soft.
 - We will moderate the all discussion and we must all accept to be asked to leave the floor to others.
 - This is not a meeting dedicated to artists, or to experts in intellectual property, or to philosophers, or to CEOs. It is an intended blend of every of these, plus others. We must listen to the others. Every invited person has been selected for being someone who will bring value to the group. We must avoid to going too much into detail on this or that.
 - We are here for fun and the pleasure of exchanging ideas to re-shape our future.
- ▪ Positive:
 - No everlasting regrets of the past. No "I've been saying that for the last 10 years!" We are here to prepare the 10 next years.
 - No "People are wrong, we are right and Politicians don't understand." It can be true for some of them but we must act with the world as it is (and contribute to changing it) and as far as politicians are concerned, they have been elected to act, let's see how we can better influence them so that they take better decisions.
 - No "divided tribes' feud", no accusations, no intra or inter-cultural sector critiques, no "majors should have done this" or "artists should stop saying that".
 - No franco-centrism : we start in Paris and French will be over-representated. This is about a global community regardless of culture, expertise or nationalities. One World, many visions and above all cultural diversity is our most precious richness. And of course, for the French, no "cultural exception lecturing to our foreign friends";-)

11. Commemorative plaque for Sacem members who died for France

The commemorative plaque for Sacem members who died for France or were victims of Nazi barbarism bears witness to the great diversity of Sacem creators, composers and authors, but also poets such as Guillaume Apollinaire, Irène Némirovsky, Robert Desnos, Max Jacob, Antoine de Saint-Exupéry...

PRODUCTEUR : IMAGE

12. Distributing royalties to creators: A tradition of innovation

Sacem's main mission is to redistribute (as a noun, it's known as a "distribution") to its members the royalties that it was able to collect and that are owed to artists when their works are played or broadcast by users (in concert, on television, in stores, on the Internet...). The work of identifying the beneficiaries and the amounts due is an essential task that is becoming increasingly complex. To do this you have to bring together two types of information: data related to the use of works, whether it be playlists performed by an artist during a concert, or the list of "streams" played by a Deezer subscriber; and data about the rightsholders concerned for each work – one piece can have as many as several dozen different rightsholders. For example, an American study showed that an average piece of urban music has nine different rightsholders. That shows how important "documentation" is for a society like Sacem that represents more than 100 million different works from around the world, with each work giving rise to dozens of pieces of information.

The goal of the royalty "distribution" process is to be as quick and as precise as possible, without getting too expensive, and while keeping to a strict minimum the amounts that could not be matched to a beneficiary and that therefore go toward reducing the management fees the society deducts from its members.

Yesterday... counters and big logbooks

Pictured here is a page from the 1862-1866 logbook showing the amounts Giuseppe Verdi, a Sacem member, withdrew in cash in exchange for a signature at each quarterly distribution.

776

M. Verdi

Le Receveur donne par M. Verdi à M. Sacem les droits sur ses œuvres, en vertu de l'acte d'attribution de ses œuvres - voir feuille 122-123.

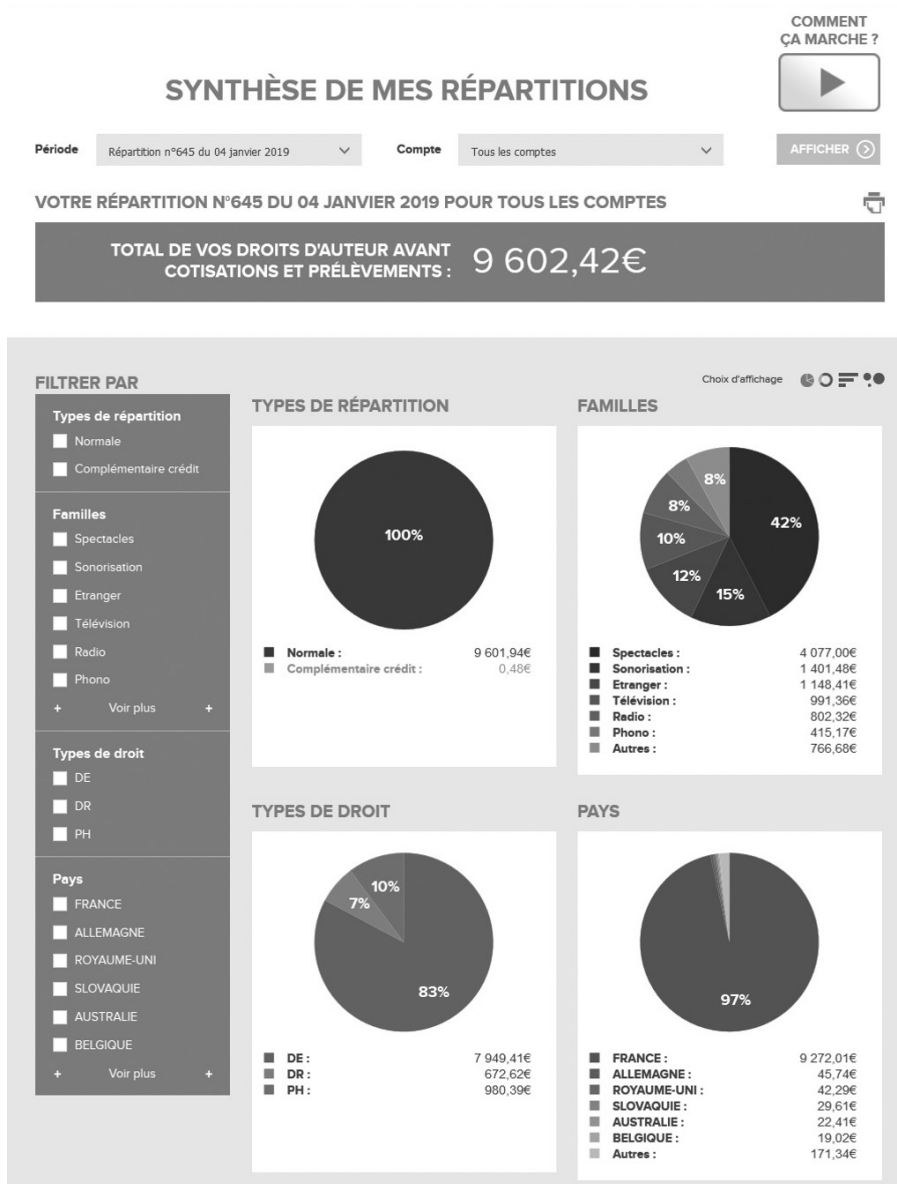
Créancier des Répartitions.	Montant des Avances.	Montant des Répartitions.	Date des Emargements.	Emargements.
Avril 1862		20 53	le 17 Avril 1862	L. Euseby p. m. g. Verdi
Juillet 27 1862		137 33	le 16 juillet 1862	L. Euseby
Octobre 1862		106 75	le 28 8 ^{me} 1862	L. Euseby
Janvier 1863		100 27	le 14 Janvier 1863	L. Euseby
Avril 1863		116 71	le 14 Avril 1863	L. Euseby
Juillet 1863		102 49	le 14 Juillet 1863	L. Euseby
Octobre "		87 62	le 14 8 ^{me} 1863	L. Euseby
Janvier 1863		144 27	le 26 Janvier 1863	L. Euseby
Avril 1864		132 62	le 19 Avril 1864	L. Euseby
Juillet "		231 71	13. Juillet 1864	L. Euseby
Octobre 1864		176 62	le 14 Octobre 1864	L. Euseby
Janvier 1865		261 99	le 17 Janvier 1865	L. Euseby
Avril 1865		240 74	le 19 Avril 1865	L. Euseby
Juillet 1865		317 94		
Octobre "		372 03		
		669 97	le 14 8 ^{me} 1865	L. Euseby
Janvier 1866		376 33	le 16 Janvier 1866	L. Euseby
Avril "		461 83	le 11 Avril 1866	L. Euseby

The logbook for Giuseppe Verdi's royalties from Sacem in 1862. Fonds Sacem

And today... a website with every detail involving distribution

Today, Sacem members have their own personal area on the website, where their royalties are shown, complete with graphics and details of their source (television, radio, concerts, Internet...). The details on royalties are so precise that members can see whether their work was downloaded from an Internet platform in Ukraine, how many times it was downloaded, and how much they were paid for that.

Liste des utilisations			Historique de l'œuvre			Documentation de l'œuvre	
FILTRER PAR			1 filtre activé				
AFFICHER <input type="checkbox"/> Œuvres liées <input type="checkbox"/> Détails répartition <input type="checkbox"/> Répertoire <input type="checkbox"/> Clés de répartition							
Familles ^	Types d'utilisation v	Utilisateurs v	Pays v	Période de traitement v	Quantité f	Catalog éditeur	Mes droits ^ (en €)
Online	Plateforme Web	Youtube	BELGIQUE	06/2018	13869		0,99
Online	Plateforme Web	Youtube	REP.TCHEQUE	06/2018	2060		0,07
Online	Plateforme Web	Youtube	FINLANDE	06/2018	899		0,08
Online	Plateforme Web	Youtube	FRANCE	06/2018	12044		1,28
Online	Plateforme Web	Youtube	ALLEMAGNE	06/2018	8765		0,84
Online	Plateforme Web	Youtube	GRECE	06/2018	187504		5,61
Online	Plateforme Web	Youtube	ISRAEL	06/2018	1300		0,06
Online	Plateforme Web	Youtube	PAYS-BAS	06/2018	1019		0,11
Online	Plateforme Web	Youtube	RUSSIE	06/2018	3358		0,11
Online	Plateforme Web	Youtube	ESPAGNE	06/2018	3831		0,15
TOTAL							161,92



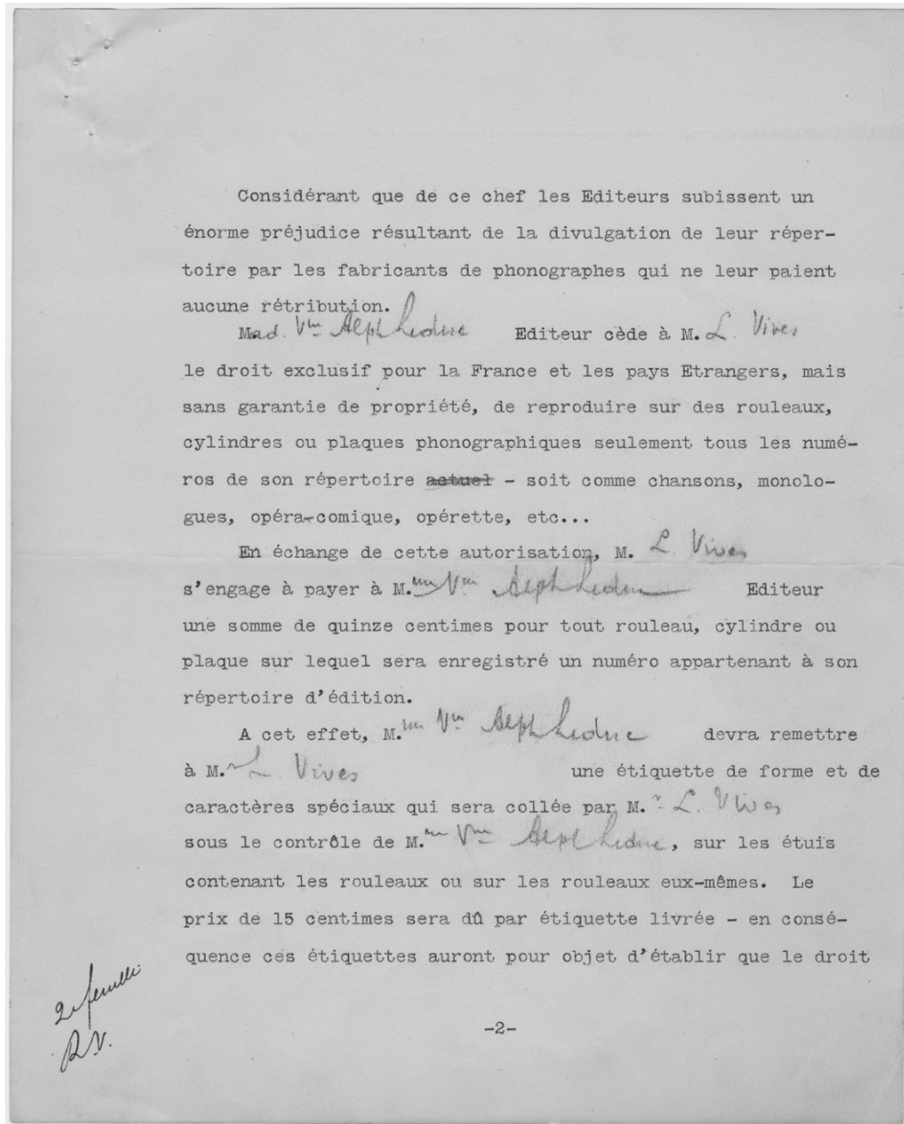
A screen grab showing a distribution of 2019 royalties details of their provenance. From the Sacem website creators' and publishers' section.

13. Living from royalties, patience and struggle

Author's right came about during the French Revolution, stemming from the laws created on January 13 and August 6 in 1791, and those of 19 and 24 July, 1793. But the road from laws to pecuniary rights is often long and strewn with pitfalls for creators, who quickly understood that there is strength only in unity when it comes to the use of their works. Here are some choice examples.

Musical recordings: 112 years without royalties

In the nineteenth century, musical works were reproduced via music boxes, mechanical pianos, [*limonaires*](#)... which sold like hotcakes, much to the profit of their manufacturers. In 1877, the first cylinders, ancestors of vinyl records, appeared, and from 1898 on, phonographs proliferated. But in all of these cases, no payments were made to the creators and publishers whose works were used, though the 1793 law could have been applied.



A 1906 letter from the publisher Alphonse Leduc entrusting the collection of his rights from record producers to Lucien Vivès. Fonds Sacem.

It took several lawsuits before a pioneer in the defense of author's right, Lucien Vivès, with the support of several publishers, won the right for the publishers and for creators to be paid each time a work was recorded on a disk. Still, it wasn't until February 1905, 112 years after the law of 1793, that authors, composers and publishers started getting royalties for their work....

14. Private copying: A 100-year wait



As techniques to distribute and copy music evolve, author's right is a constant.

As early as the [Berne Convention](#), adopted in 1886, the principle of an exception for private copying was proposed. In 1957, it made its appearance in France's great law on intellectual property. In 1963, recordable cassettes from Philips came on the market. Music was copied from radio, from vinyl disks; it was being exchanged or sold, but creators were not being compensated for the loss of revenue. In France the Lang law instituted in 1985 the levy of a financial participation on the part of makers of blank tapes – and later new recording media like blank CDs and DVDs, USB keys, external disk drives, mobile phones – to compensate creators. One hundred years went by from principle to application.

List of websites

To learn more about author's right, Sacem's MOOC:
<https://societe.sacem.fr/actualites/sacem-universite>

Europe for Creators:
<https://www.europeforcreators.eu/>

France Créative:
<https://francecreative.org/>

Musée Sacem:
<https://musee.sacem.fr/>

Acknowledgements

Catherine Boissière, Stéphane Cossé, David El Sayegh, Lorenzo Ferrero, Héloïse Fontanel, Philippe Léglise-Costa, Frédéric Martel, Blaise Mistler, Vincent Montagne, Jean-Marie Moreau, Jean-Claude Petit, Laurent Petitgirard, Maurice Ronai, for their encouragement and intelligent advice.
Claire Giraudin et Édith de Cornulier-Lucinière who, with their attentive proofreading, helped me get this work finished.