

CONCERNS OVER CULTURE INDUSTRIES BILL

1. Introduction

The Draft Cultural Industry Bill as presented is focused primarily on the creation of economic value i.e. to provide fiscal incentives, income tax concessions and financial assistance through a special fund with a view to having it passed by Parliament this year. It does not speak to attracting projects into the country that will also bring income in terms of foreign currency into the country. It speaks merely to outgoings from the public purse, not to incomings into the public purse.

2. The Cultural Policy Context

Creative and Cultural industry is derived from, among other things, the overall “culture”. The Bill therefore needs a cultural policy framework to inform and guide it. In the first place this requires a definition, as above-stated. It needs to have a policy development framework, as well as the current funding/service delivery and tax reduced/exempt framework. Developing policy and funding projects should go hand in hand.

Re-invention, re-engineering, reform of prescriptions for “culture” appear on the cultural landscape everywhere – i.e. worldwide. Going beyond facts and finance, the re-shaping of cultural policies as we know them are being significantly influenced by shifts in values and new processes of cultural production and dissemination: influences that are behavioral, environmental and digital. Boundaries and barriers between forms and types of “culture” are eroding. National heritage needs to be offered protection while contemporary creation is promoted. Given the emphasis on the export of national cultural products and an increased emphasis on cultural tourism and 'creative industries' how does this re-engineering reshape the “culture” of a nation? Especially so when “culture” is the basis for the identity of the nation? This Bill must address these seemingly contrary forces engaged in this push-and-pull dynamic. The public financing of “culture” must not ignore this dynamic or else we will end up promoting one aspect of the “culture” while effectively strangling others.

It should be a rights-based framework where “culture” and heritage are related to the theme of the right to “culture” framed as a human right and includes, but is not limited to: rights to access to “culture”, participation in “culture”, and the right to freedom of expression on “culture”. John A. Foote has written, “Ethics provide the perspective, motivation and values to help ensure democratic and equitable participation in cultural development, diversity and dialogue. Rights serve as the fundamental underpinning and inspiration of cultural creativity and participation and provide the jurisprudence regarding violations of binding conventions and of other no less important instruments.”(Ethics and Rights Issues in Cultural Policy in Europe -"Compendium of Cultural Policies and Trends in Europe, 13th edition", 2012) This idea needs to be written into the fabric of this legislation.

There are not sufficient aspects related to “culture” in general and what this might mean in the local economy. This presents a difficulty since “culture” has not been defined in the draft Bill.

3. Culture and Definitions

It does not speak to the developmental value of “culture” or how the “culture” economy will contribute to the overall developmental thrust of “culture” in the country. There is in the document however a set of listings of ideas with very ambiguous and unclear definitions (when definitions do exist) that are not broken down into sequential patterns to enable persons to understand and interpret them in a meaningful way. There is an oversimplification and vague approach to the content. Every single one of the areas should be explained and properly elaborated on in order for prospective stakeholders to clearly interpret what is meant.

“Cultural goals and services mean goods which result from individual or collective capacity and activities aimed at satisfying cultural interests or needs,” says the Bill. What are cultural interests and needs?

The Bill continues in a similar vein, encompassing several different layers and categories of cultural and heritage ideas but these amount to listings and not precise clarifications as to what is intended. In law one does not assume and there is far too much scope for assumptions to be made, even when we know and understand fully that the implications for “culture” are broad.

The players in the “culture” economy – from individual artists to international publishing houses – create more than just economic value. They create a valuable contribution towards the cultural development, the mores and norms of the country.

4. Investment in Research and Development

There is need to stimulate local research into the creation of cultural policy frameworks, allowing Creative Knowledge, learning and Innovation to also reflect domestic needs. A new cultural Industries Bill will ensure that there will be adequate and ongoing investment in Research and Development in the area of “Culture” that would lead to more efficient and strategic use of information, encouraging and motivating foreign investment and trade in “culture” as well as driving local investment. Access to developed countries information, content development and distribution systems as well as growing integration between the two need to be promoted.

5. Definitions

The “culture” industries and the creative industries are an economic sector in their own right. They need to be combined with clear policy strategies with specific focal points. The cultural /creative industries are being seen as a new key industrial sector within the already existing “culture”. Traditionally neither the arts nor heritage are defined as cultural industries, they co-exist quite effectively with the commercial cultural industries. The Bill is structured to include both private (commercial, for-profit) cultural industries, but not clear is its relationship to public (not-for-profit) cultural industries and organizations.

The term “creative industries”, which is commonly used in the international discussion, includes, but is not limited to, the advertising industry and the manufacture of software and games. “Culture” industries sectors are characterized by their cross-sectoral quality; the “culture” industries cut across a diversity of economic sectors, including production as well as the services (including construction) and distribution sectors.

The discussion on the concept of “culture” industries, started many years ago, is ongoing in the public debate about the “culture” industries tradition and in the current emerging discussion. However, discussions commenced years ago are, in this fast-moving market, now outdated, like

the draft Bill. The local discussion needs to consider this for the Bill well beyond the market type definition that currently exists and that purports to offer fiscal incentives. The concept of ““culture” industries” must be understood in the Barbadian context.

The newly gained importance of the “culture” industries leads to the involvement of more and more players as the “culture” industries and the creative industries are an expanding complex of economic sectors ultimately affecting most (if not all) Barbados industries.

6. Some questions that need asking are:

- (a) How must “culture” be defined in the local context?
- (b) What are creative industries in relation to overall “culture”?
- (c) What is the economic definition and what is its importance in the Barbadian context?
- (d) i.e. what might be specially defined products to support domestic and international Market differentiation?
- (e) What are the cultural core industries of Barbados? What are they focused on? What are the emerging new industries? How do traditional industries fit in?
- (f) What are “culture” industries and what are Creative industries? Is there a difference? How do we know and should there be any difference in allocation of fiscal incentives for the two?

7. Access, Participation and Dialogue

In this regard, a structured dialogue process that aims to increase participation and transparency in Cultural policy-making is an essential tool to ensuring that cultural stakeholders, at all levels, are involved in elaborating effective and comprehensive policies which have “culture” and creativity at their core. The group feels that this process of engagement has been far too limited. The main point addressed is not the lack of access to the document but certainly the time and organization to ensure that contributions are effective and meaningful. A structured dialogue would ensure that local civil society actors, economists, academics, lawyers, technicians and “Creatives” are not only given a clear mandate to discuss and make recommendations, but a due process by which access to the advisors and ministries is guaranteed as well as feedback and transparency

with regard to the content and any amendments being made. For participation and evaluation to be meaningful, there must be a feedback mechanism and open channels of public discussion. Many Stakeholder meetings and think-tanks achieve a particular goal in as much as they allow persons to express opinions but they do not do the work of professional in-depth research.

There is need for a national debate as well as the sect-oral debate now taking place. It is not enough to place the issue on the Barbados Government Information Service as people will not necessarily seek this out as readily as would be intended. Moreover Barbados is still an oral “culture” – a dedicated Facebook discussion or other social media discussion should have been promoted and facilitated

8. The Role of the State and Civil Society Participation

Models of governance in “culture”: A trend associated with fundamental changes that are taking place as regards the models of governance in “culture” calls for a profound re-examination of the role of civil society in the management of “culture”. There is a break-down of state authority in many sectors and dimensions; this may, and should indeed, lead to a growing involvement of non-state participants in the control and management of commercial interests in cultural industries. The role of the state in developing and implementing cultural policy, and the impact of regulatory mechanisms of the state that influence the management of cultural goods and services and the protection of standards and rights, need more careful and judicious assessment, especially as regards the institutional framework being set up to promote cultural industry, as proposed in the Bill. The framework for government engagement with institutions needs far more strategic oversight in order to appear more inclusive and not exclusive. The terms of engagement with private sector bodies needs to be framed to suit the needs of the modern market that will not inhibit, but exhibit and promote, the sector both domestically and internationally. The draft Bill does not adequately address the potential for inclusion of private sector cultural agents, especially international investors and does not go far enough in driving the hand of local private sector to support the emerging “culture” industry.

There is need for divisions within the “culture” ministry to oversee the operations of the individual arms of “culture” – a cultural officer at the

NCF can no longer efficiently perform this role – given the exponential growth of arts across the country. The Bill needs to address this deficit by offering to reform the sector into separate arts divisions – with the NCF playing a more advisory role. As such the divisions will be allowed to operate more independently yet in a coordinated fashion with the “culture” ministry. The current breakdown as defined in the Bill is inappropriate for the contemporary cultural, economic and market context. The divisions of “culture” would then work alongside the private sector and other non-governmental type agencies already subsidized by the government. Each division should have a policy and strategy-setting role for their particular art form, and contribute to overall policy and strategy development. They will have direct and ongoing contact and communication with schools, communities and individual artists and have prior documented understanding of market and policy needs at the domestic, local, regional and international level and help create conditions for their efficient interaction.

The powers of the committee are not well defined, if at all. What rules exist to ensure that the committee is compliant and within what timeframe does it operate and process documents and project proposals? What dispute mechanism procedures exist to resolve issues and challenges? What will ensure that authorization of projects are fair and just? What is the avenue of appeal of committee decisions?

9. Financing and Funding for Culture

When national income grows, governments sometimes spend more on certain aspects of “culture”. The current economic situation demands that government relies heavily on non governmental sources for financing of “culture” and arts activities. It must therefore seek to create conditions that foster and enable investment from a variety of sources – both traditional and non-traditional, that support the arts. The scope and levels of taxation offered in the Draft Cultural Industries Bill is not extensive and deep enough to warrant a serious shift, i.e. increase in private sector and individual involvement. This needs to be examined in order to broaden the scope and application of incentives, all forms of indirect subsidies, to help improve the potential for ongoing and more contributions from the private sector.

A number of options may be considered that include: private and publicly run lotteries for “culture” (in the same way as for sports development); incentives in the form of tax donations beyond those currently in the Bill for sponsorship (both individual and corporate), application of a preferential VAT rate or exemption from same to cultural practitioners, incentives to boost bequeathing of valuables, the creation of foundations to support private sector development in “culture”, the creation of inheritance taxes, deductions for credits etc, with clear and precise legal definitions. There is also a shift to percentage legislation (used frequently in civil society fundraising) where donors pay a percentage of their income to certain organizations. This could be a significant benefit to cultural industries development. Provision for International cooperation ventures and incentives need deepening. There is a perception that the time to receive benefits may be exceedingly lengthy and ceilings may be unfavourably set – given the costs to government. This group calls therefore for stronger examination and research into the quantitative inputs in order to broaden the range as well as the quality of incentives.

In relation to the specific tranche of funding available: This is a finite amount of money. What purpose will the Bill serve once the funds are all exhausted? This needs clarification. If the Bill is created to service the fund, it falls short of stating the timeframe for said fund to be spent, the provenance of funding whether government or otherwise, especially in an economic environment in which the public treasury is empty, and whether there are special ‘conditionalities’ to be met by the donor. The public deserves to know the source of funding.

Clear Policies need developing for foreign investment in the cultural industries, including magazine and newspaper publishing, fashion, music, film and other industries. In addition, funding opportunities and alternatives are not set out in the Bill. A 50 million dollar fund is a very small amount of money considering the enormity of the task. Does the Bill provide for ongoing fundraising outside of the 50 million? Will 50 million always be guaranteed in the pot - or is there a timeline for the disbursement, depending on the source of the funding to the government? Should the funds be the rationale for the Bill, or should the Bill be created to help organize additional funding mechanisms?

There are 3 main systems of financing “culture”: (a) In state driven top down systems there is a lack of transparency and too much room for

lobbying as the case in some European countries, which impacts on the distribution of funds. The likelihood of this occurring in Barbados is strong given that in the state-driven system, bureaucrats and politicians decide how to distribute public funds. The main disadvantage is that the system is not transparent.

(b) The second system fosters the “arm’s length” principle: cultural bodies are regulated to prevent political interference in decision-making. The government finances “culture” and heritage, but “at arm’s length”. It goes through other institutions. This model is preferred to the first as it reduces lobbying and allows the institutions to operate relatively independent of the state. The current system in Barbados is not arms’ length and the level of independence and autonomous decision-making is challenged by the model proposed.

(c) In the third system, an independent arts council or national cultural body gives expert advice about artistic quality and the way funds should be distributed. It has only an advisory task; the government, i.e., the Minister of “culture”, makes the final decision and thus actually allocates the public resources. The stated advantage in the literature is that the government can shape cultural policy without making judgment on artistic quality. Once again, however, there is room for lobbying with the risk that funds always go to the same cultural institutions, leaving little space for new entrants. A competitive field would seem to be what is required to make the Barbados cultural industry sector function better. Competition is hallmark of better and more efficient industry. Recipients of financing in Barbados are now based primarily on relationship building and lobby. In addition: *“supply subsidies allocated by committees of experts might lead to the creation of small elite”* (Ploeg 2002: 349); the experts who judge art are often part of the art world themselves and their survival is linked to the survival of that sector. In both the second and third systems, it is crucial for the government to set clear strategies in cultural policies and clear rules for the distribution of funds to avoid the risk of lobbying. It is also important to introduce the right incentives to sit on committees – keeping them rather small to avoid conflicts that may impede reaching an agreement – and to clearly set tasks and priorities.

10. Typical Areas Identified for Action in Cultural Industries Development

The challenges most often identified in local industry operations and development are as follows: Intellectual property protection in alignment and cooperation with the Berne Conventions (of which Barbados is a signatory) and commercialization, lack of Research and Development (R&D) priority, lack of investment in human, creative capital, and business support mechanisms for young artists, lack of professional training institutions, marketing and branding. The above outline reflects broadly the degree and extent of priority areas required to convert cultural industries into its vast export potential.

To counteract the above impediments to the development of cultural industries as trade, recommendations are made for improving government-industry relations through (a) the harmonization of government policy on trade, industrial, and intellectual property policies; (b) documentation of the economic impact of the cultural industries and establishment of benchmarks to promote jobs, business development, and export expansion; (c) increasing local and regional content on the airwaves (radio and TV) through local content legislation or regulation where needed;(d) development of cultural industry associations to represent the interest of the sector; (e)development of a code of ethics and standards for remuneration rates and work practice; (f) improving access to finance, credit, and business support services for emerging and export-ready firms and artists; (g) enforcement of anti-piracy laws, protect copyrights; (h)establishment of public awareness campaigns; (i)expansion of linkages between the cultural industries, the tourism sector, and the wider economy; development of internet-readiness for alternative broadcasting; (j) marketing and distribution of cultural goods, services, and events; (k) upgrading of the human resource capabilities of the cultural sector through training in the arts, as well as training in arts administration, management, and cultural entrepreneurship. The Bill needs to individually address these areas in terms of both industry and policy, providing a broader operational and conceptual framework by which the industry will function. This has implications for not only immediate funding available but for the future sustainability and development of the industry.

11. Training and Education

Not sufficient attention is paid to training and education programmes available for future cultural industry professionals and how these are to be

addressed. This requires examination of public policy objectives from a content and audience perspective; it needs to address efficient Monitoring and Evaluation as well as Research and Development systems to support creation, production, distribution, consumption, preservation and development of arts. Increasing market share projections internationally requires development of protocols for international engagement but also clear mechanisms for developing the domestic market.

Identify key learning areas for a national curriculum, stages of development and support mechanisms, institutional, funding etc. to address gaps in provision of systematic training as well as inclusion of spaces for artists to work in schools and communities. This could mean provision for out of school arts projects etc. A Cultural industry Bill must address technological and cultural literacy in communities – where artistic creation and environmental and social conduct may be addressed through the arts and sports.

12. Project Development

The Bill does not appear to make specific provision for “interdisciplinary” projects. It is assumed that such projects do not fall within the existing funding guidelines of the Bill. There may also be others that do not meet the funding criteria but are nevertheless representative of the cultural industry market. The Bill makes no provision for the broadest acceptance, construction and interpretation of art projects. The designation of particular sectors to the exclusion of others indicates that the promotion of projects is primarily export driven in particular cultural fields without sufficient emphasis on the development of the domestic market and the creation of export ready firms.

The role of the Barbados Arts Council needs developing to make its function match its description. Currently it operates as a semi-autonomous body with a limited sphere of influence. Its role needs to be addressed to serve a much bigger developmental function.

The heritage portfolio must be addressed for a broader and more in-depth range of meaning because of the different means of archiving through different publishing media, including broadcasting as well all documentary heritage, which needs a home of its own in addition to libraries and museums, historical buildings and parks.

How is Barbadian content defined? Citizenship, residence, theme, subject matter, production location, rights ownership, international and domestic distribution would appear to be important considerations in funding and investment in cultural industries. Laws may also be expanded for the inclusion of tax returns or percentage returns from such productions to government under particular circumstances where the government may enter a joint venture with the foreign company or a local company may enter a joint venture with the foreign owned company. These options need to be better explored.

The Bill needs to stress need for the full participation of women. Enhancing women's participation in cultural development and in cultural industries helps to improve communities and the nation.

As part of its developmental thrust there needs to be detailed programming on the participation of marginalized youth in the cultural life of the country. Access to cultural activities is an area that helps reduce conflict and crime in communities, develops positive attitudes and will help to build the social infrastructure required for developing the “culture” market and reduce elitism in “culture” and arts.

13. Cultural Industries Sectors

Conventional ideas about distinctions between the work and value of cultural “professionals” and “amateurs” are becoming, and being made, increasingly meaningless. The economics of music and other artistic disciplines have been transformed. The notions of ‘cultural meaning’ are being re-examined. This means that there is need for a much broader application and focus on cultural industry participants than before and that funding approval mechanisms have to be more rigorously and clearly defined in order to meet the needs of “Creatives” operating in a more diverse industry. The sectors identified therefore need much broader definition and treatment.

The sectors in the Bill are not sub-divided as they ought to be: It requires a classification model according to statistical, social and market importance from the standpoint of perceived and realistic export potential as well as social and cultural value. For example there is no mention of Media.

14. Media

In general, in terms of policy, there are issues to deal with such as new technology, altering media usage habits and blurring some distinctions between broadcasting and telecommunications; media enterprises turning to convergence (media cross-ownership and consolidation). Yet the media is not mentioned in the Bill as a viable cultural industries sector which merits support. There is need to balance policy objectives in light of technological change between the shifting paradigms of media content given the new economic interests of the media industry and its influence and interaction with international technological media and affinity to IT industries.

15. Copyright

There is no adequate provision for Copyright in the current Bill and in general, Copyright is not at all well developed in Barbados. While government has set the framework for overarching copyrighting through the Berne Conventions, because Copyright is itself an evolving concept within the current technological development and adjusting patterns of ownership of rights, there is still scope to address Copyright and IP legislation as part of this Bill. Government has to look carefully at the levies regime and see how to modernize it without damaging the rights to protection of authors. In today's modern regime of IP, small business development, rights of university students to copy materials etc should not be impeded by outdated laws. Questions such as "fair use" which allows portions of material to be used without permission have to be addressed in the modern IP industry – which has lost traditional controls.

16. Sub Groups

There are many other sub-groups within this model from the main Sectors mentioned in the Bill, which require more careful examination.

This would include as an example support for the following:

(1) Music Industry

- a. own-account composers, arranging of music
- b. music companies, orchestras, bands and choirs
- c. Publishing of sound recordings and printed music
- d. theatre performances and concerts
- e. Technical activities in support of cultural and entertaining services

- f. Retail sale of musical instruments and music
- g. festivals
- h. traditional music
- i. capacity development and training in communities
- 65. Book Market
 - a. own-account writers
 - b. Publishing of books, except directories
 - c. Retail sale of books and technical journals
 - d. encouraging national writers in residence programmes at UWI for example
 - e. international and local festivals
 - f. capacity development and training in communities, schools
 - g. development of private training facilities

(2) Art Market

- a. Activities of own-account artists
- b. Retail sale of art
- c. Museum shops (estimate) and organisation of art exhibitions
- d. training and capacity development

(3) Film Industry facilitation and growth

- a. Activities of own-account stage, motion picture, radio and television artists and video game productions
- b. Film and video productions
- c. Film and video distribution
- d. international filming production rights and procedures

(4) Broadcasting Industry

- a. Radio and television activities
- b. media development and capacity building
- c. funding for more local programming for international audiences

(5) Performing Arts Market

- a. Activities of own-account stage, film, radio and television artists
- b. own-account performers
- c. Activities of theatre ensembles
- d. Organisation of theatre performances and concerts

- e. Operation of theatre and concert halls and similar facilities
- f. Operation of variety theatres and tourism cabarets
- g. Technical activities in support of cultural and entertaining services
- h. Expansion of linkages to domestic tourism market
- i. international cooperation ventures in performing arts
- j. management companies
- k. Activities of dancing schools
- l. Other entertainment activities

(6) Design Industry

- a. Machinery and industrial plan design
- b. Fashion design related to textiles, jewellery, furniture and the like
- c. Activities of advertising consultants, window dressing

(7) Architectural Market

- a. architectural activities in building construction and interior design
- b. town, city and regional planning
- c. landscape architecture
- d. development of an architecture curriculum based on heritage and traditional values

(8) Press Market

- a. own-account journalists and press-photographers
- b. News agencies activities
- c. Publishing of directories
- d. Publishing of newspapers
- e. Publishing of journals and periodicals
- f. Online media and publishing

(9) Advertising Market

- a. Activities of advertising consultants, window dressing
- b. advertising media and activities of advertising agencies

(10) Software / Games Industry

- a. Publishing of software
- b. Software consultancy
- c. software development and other digital activities

- d. development of a digital industries component to the Bill, given the importance of digital industry to the new “culture” market and economy

11. Heritage and Libraries

- a. Cultural restorers
- b. Library and archives activities
- c. Preservation of historical sites and buildings
- d. Botanical and zoological gardens and nature reserves activities
- e. Development of Fair and amusement park activities
- f. Other tourism related ventures.