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UNIVERSITY
of
GLASGOW

11 February 2007

Dear Mr Matthews

1. I enclose a submission to the Consultation on The Draft Culture Bill (Somehow, I couldn't get this to work electronically - but I can always send you an attachment if you wish).
2. Also enclosed is a confirmation form for the Consultation meeting, which will be attended by my colleague Susan Galloway.
3. If you could drop me a line that all has been safely received, I would appreciate it. My email is : p.schlesinger@ccpt.arts.gla.ac.uk.

With kind regards

Philip Schlesinger

Response to the Consultation on the Draft Culture (Scotland) Bill from the Centre for Cultural Policy Research (CCPR), University of Glasgow

In general

CCPR is concerned that the Draft Bill interprets cultural questions either as largely economic questions concerned with global competitiveness or as social questions largely concerned with social inclusion. Both of these are important perspectives but should not crowd out a more fundamental concern with culture as offering diverse forms of creative expression and representation for a range of identities within a nation that looks outward to the world at large. It is important that cultural policy – in order to maintain a distinct vision of what the nation might achieve - does not become identical with, or entirely subordinate to economic policy or social policy.

We also think that unresolved and largely unacknowledged tensions exist between taking an economically driven approach and an approach that is centred on making culture accessible and available to as many as possible. These have shaped the drafting of the Bill and for that reason warrant much more public debate. The underlying assumptions will shape the mission and functioning of the national agencies, in particular Creative Scotland, which is at the heart of this Bill.

We have restricted ourselves in this submission to commenting on two of the five matters dealt with by the Draft Bill.

Local cultural entitlements

In this case, there has been a shift from the language of ‘cultural rights’ as originally outlined in the First Ministers St Andrews Day Speech 2003 to that of ‘entitlements’ (<http://www.scotland.gov.uk/News/News-Extras/176>). We take that to be a weakening of the political and philosophical commitment originally outlined. In the Draft Bill, the nature of these entitlements is not defined. Local Authorities’ are simply required to ‘have regard’ to them. This is a significant step back from the idea of an enforceable right and may well perpetuate disparities of provision, rather than promoting a universal strengthening of cultural activities and services across Scotland, consistent with the principle of equality of access. That ‘entitlements’ will be subject entirely to Local Authorities’ discretion potentially undermines the implementation of a national policy. ‘Entitlements’ thus conceived do not constitute a guarantee of a minimum level of provision.

Creative Scotland

Creative Scotland is described as the ‘national cultural development body’. The fusion of the residual functions of the Scottish Arts Council with Scottish Screen (minus the archive) is argued for principally on the grounds of efficiency (para. 3.3. p.6). Presumably, it will be an obligation on the co-terminus board to ensure that efficiency savings do come about in any reorganisation. But what is actually envisaged? What will the new, combined organisational culture be like, as the intended merger combines two very diverse organisations? It is worth pointing out that ‘efficiency’ should really be a subordinate issue to the purposes that Creative Scotland is intended to fulfil. These are

very wide (as described in paras 3.3-3.8, pp.6-7) and their coherence needs to be debated if a successful organisation is to be formed and is not to be over tasked.

One issue that has caused some public concern is the proposed relationship of Creative Scotland to the Scottish Ministers. This is of such signal importance that it warrants very careful consideration of the drafting. In para. 3.10, p.7 of the introduction, we are told that the agency will have ‘a close relationship with Ministers’. It is further stated that Creative Scotland will receive directions ‘which they must follow’ – a rather peremptory approach. Although the intention is to distinguish between Ministers’ roles in setting a strategic course as opposed to making operational decisions, in practice this distinction can get very confused. It is important that Ministers’ powers be accompanied by proper safeguards against the possibility of political intervention in operational decisions.

The drafting as it stands does not reassure. In Schedule 1, clause 16, sub-clause (1) of the Draft Bill (p.35), the powers are formulated as ‘directions of a general or specific character’ (which could leave little room for autonomy) and as ‘guidance’ as ‘to the exercise of Creative Scotland’s functions’. In both cases these have an imperative character, as is plainly stated in sub-clause (2):

‘Creative Scotland *must* comply with any directions given to it by the Scottish Ministers under this schedule and *must* have regard to any guidance issued.’ (p.18; emphases added)

The choice, therefore, for the Creative Scotland board is either to demonstrate compliance or being required to ‘have regard’, which is a rather fine distinction to say the least. Not having regard equates to non-compliance. Any concern about the limitations on discretion and autonomy are surely borne out by the tenor of the Explanatory Notes, 80, p.52, where it is stated: ‘Where Ministers give guidance, Creative Scotland must have regard to it. That means that, while they do not have to follow guidance exactly, they must consider and take account of it in their decisions and actions.’

In conclusion

In the run-up to the final formation of Creative Scotland the opportunity should be taken to scan the horizon for major trends in the fields of culture, media and communications that will affect how the organisation is constructed. Good practice elsewhere should be carefully considered. And careful attention should also be given to wider debates about cultural policy elsewhere in the UK, in the EU, and further afield.

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