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# Arts Without Frontiers Glasgow March 1990

A conference on the effects on the arts of the European Single Market, held in association with  
The Sunday Times and The British Council

Boekmanstichting - Bibliotheek  
Herengracht 415  
1017 BP Amsterdam  
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## Special Fringe Event

VAT rates on the arts post-1992:  
How will it affect your pocket?



**VAT RATES ON THE ARTS POST 1992: How will it affect your pocket?**

(Rudolf Wolfensberger, general secretary, Association for the Performing Arts in the Netherlands and chief executive, Association of Dutch Orchestras)

A personal account of the campaign to lobby against European Commission moves to levy VAT on culture at a higher rate

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**1. The Subject Matter**

Two sets of tax problems arise with the coming of the European Single Market:

- a) When setting up activities across the borders
  - Where do we have to pay taxes?
  - Do we have to pay the VAT in the country of origin of the good or service, or in the country of destination?
  - In the case of co-production and co-financing: in what country will the tax on profit be levied?

As long as the tax systems and rates vary in the various countries, these questions will remain important. The European Commission has decided on the country of destination option, to keep in accord with the situation now. So the paperwork and the fraud will remain the same. As to co-production, we'll have to be very careful in wording our contracts, to ensure taxation is as low as possible and even to avoid double taxation. However, I am not going to talk about these things, but about the problem we all have to deal with, even if we remain in our own country.

**b) The future VAT rate for the arts**

The European Community wants to harmonize the rates sufficiently to allow the opening of the frontiers between the Member States in 1993 without too much distortion in competition. For you here in the UK, as well as for us in Holland, the question is a happy one: how can we as arts managers make the maximum profit out of the uncertainties within the European Community over the harmonization of the VAT rates in 1993? For almost all other Member States however, the problem is a painful and vital one: how to avoid a rather destructive development.

**2. In the Netherlands**

For the past two or three years, I have been executive director of the Association of Dutch Orchestras. But sometimes I open up another ticket window which says Association for the Performing Arts in the Netherlands. That Association includes the orchestras, but also the opera houses, theatre and dance companies, venues etc.

When I started my job, I was surprised that for theatre performances and concerts we have to pay the standard VAT rate, which was then 20%, now 18.5%. For circuses, funfairs and zoos it's the low rate, because they are viewed as educational. So I wrote a couple of letters to the Dutch Ministers of Culture and Finance, and to the National Parliament, and talked with

everybody, civil servants and MP's specialising in art or finance. But nobody wanted to take any initiative to have the tax laws changed before the EEC in Brussels had made up its mind. Out of sheer force of habit I went on trying to convince the authorities.

### 3. Brussels, August 1987

In the meantime, what was going on in Brussels? In August 1987 (before I came into my present job) the European Commission, in accordance with their White Paper, had been busy finding ways to harmonize the VAT systems in the various EC countries. If frontiers, and controls associated with them, are to be removed and the internal market integrated, there would have to be a considerable measure of approximation of indirect taxes. So an approximation of VAT rates was seen as a key stage in the tax harmonization necessary for achieving the internal market.

It posed three technical problems:

- the number of rates to be applied
- the level of the rates
- the allocation of products to the rates.

All Member States, except Denmark and perhaps the UK, nowadays apply at least two VAT rates, some even have five or six different rates. In theory it is true that one single tariff is the most simple. However, it would seem desirable not to upset the tax structures of the majority of the member states, and so the Commission thought it wise to adopt a dual rate system. What about the level of these two rates? This is a crucial question. At present the EC Members apply very different VAT rates, ranging from 0% to 38%, so we have very different consumer prices. Why aren't we all shopping in the cheap countries? If we did, we would cause a serious leakage of business from the high rate countries. That is why all countries have their frontiers protected fiscally. All goods and services to be exported (except small tourist purchases) get their prepaid VAT back, are made tax free (as in airport shops), but in the import country they are imposed with the VAT rate of the country of destination.

This system seems quite simple, but entails enormous red tape, bureaucracy, delay and fraud. The Internal Market's main aim is to get rid of that system (or at least to simplify it). But then, all countries have to assume the same VAT rates, or at least approximately enough to prevent competition distortion.

Changing your VAT rate is difficult. Higher rates mean higher consumer prices, lower rates have to be compensated by higher taxes on income and profit (unless you are willing to diminish government expenditure on provisions like education, the health service, roads, police, etc.) So it may be clear that even seemingly minor shifts in VAT rates, enforced by an eventual EC agreement, may one way or the other face vehement political opposition.

The European Commission, aware of all this when assessing the level of the two VAT rates to be agreed upon, tried to minimise repercussions for the Government budgets. Moreover, they attempted to allow to the member states some margin for fiscal manoeuvrability. Instead of two fixed rates the Commission opted for two rate bands. The standard rate was to be between 14 and 20%, and the reduced rate between 4 and 9%.

The next problem for the European Commission was to establish which goods and services would have the luck to be put into the lower rate category. The Commission wanted to relate its proposals to the present situation in most EC countries. So for the reduced rate the Commission favoured transactions relating to:

- foodstuffs, excluding alcoholic beverages;
- energy products for heating and lighting;
- water supplies;
- pharmaceutical products;
- books, newspapers and periodicals;
- passenger transport.

Accordingly, the proposals were submitted to the member states, represented in the Council of Ministers of Finance, ECOFIN. For this kind of decision ECOFIN needs not just a majority vote, but a 100% consensus. You may have noticed that, according to this proposal, except for books, newspapers and periodicals, all culture is to be put into the standard rate bracket of 14 to 20%.

Now, this all happened in August 1987, but the European Commission has not yet changed its proposal concerning art and culture. I studied all these papers and reports and, as far as I understood what was going on, I found the situation rather depressing and hopeless.

#### 4. ABO Conference, January 1989

Then all of a sudden something happened. In January 1989 I had been invited to the yearly conference of the Association of British Orchestras. On my way to the airport I found myself in the office of the Information Centre of the European Parliament in The Hague. There I saw coming out of the fax machine the Metten report, one of the recommendations of the Committee on Economic and Monetary Affairs and Industrial Policy of the European Parliament on VAT problems, which had to be discussed four days later in the plenary session of the Parliament. I asked for a copy of it, and it turned out to be in favour of a beneficial VAT treatment of culture.

That weekend in London was a rather busy one. Together with a couple of friends and colleagues at the ABO Conference we drafted a nice letter to Lord Plumb, then President of the European Parliament.

*Dear Mr President*

#### European Parliament debate on Harmonisation of VAT

*On Tuesday 17 January 1989, we understand that the European Parliament will decide its views on a number of VAT problems. One of them will be the proposal of the European Commission to harmonise tariff bands and to decide which goods and services will be placed into each band.*

*At an international meeting of representatives of performing arts associations in London on 16 January 1989, it was unanimously agreed that it is essential for the artistic development and financial stability*

*of the performing arts and the free exchange of ideas and achievements, that music and theatre performances in all countries should be recognised as primary vital needs and receive priority fiscal treatment.*

*Therefore we urge you to adopt the recommendation of your Economic and Monetary Affairs Commission in this respect (Report by A Metten 6.12.88).*

*This letter is sent with the authority and full support of those individuals and organisations listed (below).*

*Yours sincerely*

Association of British Orchestras, (Charlotte Ashe, General Administrator)  
Association Nationale des Orchestres Regionaux, (Henri Marquier, Secretary General)  
British Association of Concert Agents, (David Sigall, Chairman)  
Contactorgaan van Nederlandse Orkesten, (Rudolf Wolfensberger, Chief Executive)  
De Danske Landsdelsorkester, (Marianne Demant, General Secretary)  
European Conference of Symphony Orchestras, (Richard Baechi, Chairman)  
Suomen Sinfoniaorkesterit, (Alarik Repo, General Manager)  
International Society of Performing Arts Administrators, (Martin Huber, Director)  
National Campaign for the Arts, (Simon Crine, Director)  
National Federation of Music Societies, (Raymond Fox, Chairman)  
De Norske Teatres og Orkester Forening, (Ole Herman Ramberg, Director)  
Society of West End Theatre, (Rupert Rhymes, Chief Executive)  
Teatrarnas Riksförbund, (Klas Holming, Managing Director)  
Theatrical Management Association, (Rupert Rhymes, Chief Executive)  
Vereniging van Theater - en Televisieproducenten, (Ghislebert Thierens, Chairman)

The list of supporters included some 15 national and international performing arts associations.

We faxed the letter on Monday to the President of the European Parliament in Strasburg, hoping we were in time for their Tuesday meeting.

## 5. European Parliament

What happened that Tuesday, when the Metton report was on the agenda? Nothing happened. The European Commissioner for fiscal matters, Madame Scrivener, had come to the meeting and asked them to postpone the discussion for a couple of weeks, because she wanted more time to come up with new proposals. A couple of weeks later she repeated her request, and in the end the whole item was postponed until after the June elections.

Now, the European Parliament formally awaits the new proposals of the European Commission, but in the wings they are actively involved in the discussion, which is quite different from the earlier situation.

## 6. The Commissioner for Fiscal Affairs

In the meantime, I had sent copies of my letter to the European Commissioner for Culture, Jean Dondelinger, and for Fiscal Affairs, Christiane Scrivener, asking them whether they would invite me to tea. Mr Dondelinger answered that Martine Reicherts, Member of his Cabinet Office, was dealing with fiscal matters and she would be pleased to fix an appointment to discuss these matters with me. Madame Scrivener suggested that, if I needed additional details, I could contact Mr Jean Louise Vergnolle, a Member of her Cabinet.

My first conclusion was a very simple and obvious one. On my own I am not important enough to get through to the top level people. Later on, the talks with both Cabinet Members turned out to be extremely useful. But a question had presented itself: should we have one representative European association for the performing arts? The other track of thought took more time. It was provoked by the argument in Mme Scrivener's letter.

*Dear Mr Wolfensberger*

*Thank you for your letter of 31 January 1989. I have taken note of your view that theatre performances and concerts should be subject to the reduced rate in the framework of the Commission's proposals on the abolition of fiscal frontiers.*

*In these proposals, which form part of the programme for the completion of the Internal Market, the Commission has proposed a system with bands for two VAT rates, a standard rate and a reduced rate. For individual member states the level of these two rates may vary inside rate bands of 14-20% and 4-9% respectively. The Commission's approach in setting these rates was to reflect the general practice of member states. The coverage of the reduced rate was restricted to items of basic necessity, in accordance with the practice in the majority of member states. Thus the Commission did not include theatre performances and concerts in its list of goods and services liable for the reduced rate.*

*However, the Commission's fiscal proposals for completing the Internal market are only a starting point for a long process of consultation and negotiation with the member states and the various Community institutions. Although the Commission's proposals have now been considered in some detail and discussions are in progress, I cannot, at this stage, confirm the final outcome as far as the VAT treatment of theatre performances and concerts is concerned.*

*At this stage I suggest that, if you need additional details, you could contact Mr Vergnolle, who is a Member of my Cabinet.*

*Yours sincerely*

*Ch. Scrivener*

I wondered whether Mme Scrivener was right. In accordance with the practice in the majority of Member States, the Commission had not included concerts and theatre performances in its list of goods and services liable at the reduced rate. So I did some research. What are the current VAT rates in Europe for theatre and music?

These turned out to be as follows:

Belgium	6% or exemption
Germany	7% or exemption
France	2,10 or 5.5%
Greece	6%
Ireland	exemption
Italy	9%
Luxembourg	6% or exemption
Portugal	6 or 8%
Spain	6%

So all these countries apply a reduced VAT rate or maintain an exemption regime. We have to be aware that the UK with 15% and Denmark with 22% only have one single rate, the zero rate in the UK then not being acknowledged by the Commission as a normal reduced rate.

The rest of Europe showed the same picture: 10% or exemption in Austria, non-taxation in Finland, Norway, Sweden and Switzerland, undifferentiated rate (28%) in Iceland. These countries by the way are all very aware of the fact, that they cannot afford too many discrepancies with developments within the European Community. The only real exception seemed to be the Netherlands. However, in March last year, quite unexpectedly the Dutch government expressed its intention to strive after as low as possible VAT rate for culture within the framework of the EC agreements to be made.

Thus, a solution in accordance with standing practice, and in accordance with the Commission's option for a dual rate system, can only result in a beneficial treatment of theatre performances and concerts: either low rate or exemption. The question of exemption is dealt with in a special proposed EC directive.

For arts and culture, would we prefer a low rate or an exemption? That depends. The VAT you charge to your audience on their tickets has to be paid to the tax office, after deduction of the tax you paid on your purchases. However, if the goods or services you sell have got an exemption, you need not charge VAT on your tickets, but won't get back the prepaid tax on purchases. Your accountant will know what is best. (A zero rate of course is extremely profitable: no charge on sales, but nevertheless the opportunity to reclaim prepaid tax on purchases. This was supposed to be so contrary to the principles of VAT taxation, that for a long time the European Commission did not even want to talk about it). We have to be very aware that except for books, the proposed application of the high rate in our domain would be sheer disaster in most EC countries. It would cost us 8 to 10% of our box office income.

So in the end, having collected all this information, I wrote a new letter to Mme Scrivener with copies to everybody, but she did not answer.

## 7. The Political Discussion Blocked

In the meantime she did not have a wonderful time. The discussion in the Council of Finance Ministers about the Commission's Proposals was awfully difficult. In autumn 1989 the

debate seemed totally blocked and the Commission cast a couple of flies to try and satisfy the quibbling countries:

- it suggested removing the ceiling of the standard rate band of 14-20%, to make it easier for Denmark (VAT rate 22%) to concur;
- to please the UK, a temporary, interim allowance has been suggested to maintain the existing 0% rate here on books and childrens clothes (Mrs. Thatcher has become a grandmother).

But as to culture their original 1987 proposal remained unchanged.

Since then, the Council of Finance Ministers seems to have taken the initiative. Within the COREPER, the body of permanent representatives of the member countries in Brussels, a working group of experts was formed, instructed to forget about principles and find an acceptable solution.

#### 8. The Situation Now: Champagne?

What is the situation now? The rate brackets seem to stabilise, with a couple of provisional exceptions, around the previously proposed 4 - 9 and 14-20% ranges. But as rumour has it, the low rate category seems to have been widened. In their December 1989 meeting, the Council of Finance Ministers, is said to have reached a general political agreement which says: the reduced rates will be reserved in particular for essential goods and services meeting a social or cultural policy objective and will be jointly defined. If this turns out to be true, it would be good news indeed. It would give you here in the UK an Internal Market birthday present of 6% extra on box office receipts.

Then we would have to face two implications:

- What will be considered to be essential goods and services meeting a social or cultural policy objective? This has to be worked out now by the expert committees of the Twelve.
- If the low rate category is to be fixed too widely, the whole operation might become too expensive. How do we avoid having arts and culture thrown out again?

#### 9. What is Culture?

What is culture? In the various countries the answers differ widely. Many definitions are possible, but this is useless to the people dealing with fiscal matters. I'll give you a couple of dilemmas concerning full rate or reduced rate/exemption:

books reduced rate: yes, but what about cookery books and telephone directories and does it apply only to printed books, or also floppy discs?

music and theatre: yes?

a Michael Jackson show in a 70 000 seat stadium: no?



In Greece performances in night clubs of the 3rd and 5th category seem to be excluded (this needs in depth research on the spot).

ballet dancing: yes?

belly dancing: no?

exhibitions: yes?

educational grand scale open air theme exhibitions: Yes, except when you just call it amusement parks?

film: yes?

but what about video?

visual arts: yes?

antique paintings from Sotheby's: no?

In Mediterranean countries, they want wine to be included in their cultural definition, or else to be acknowledged as a pharmaceutical product.

#### 10. Too expensive? Advocacy necessary

The other implication is what happens if finally the bookkeepers explain to us it's all becoming too expensive? I'm concerned that in that case the performing arts would fall into the danger zone. All other art forms have one way or the other their permanent and professional lobbying committee or association or whatever. We all know about the Committee of Cultural Consultants, who support the cultural policy of the European Commission. But they are independent and I do not feel represented by them. The performing arts have lots of international associations, but none of them really covers the whole branch and most of them are too small or too weak or just do not want to 'make a fist' in Brussels. What the performing arts do need is one strong European association to talk in Brussels with authority, not just about VAT, which is now a vital issue but will not remain an eternal obsession, but also about development and promotion programmes, the fostering of co-productions, safeguarding producers' rights and cultural policy in general, and having good relationships with our colleagues in the non-EC countries in Western Europe and elsewhere, including our future colleagues in Central and Eastern Europe.

But first of all, when I have returned to my office, I'll write a new letter about VAT to the European Commission. I'll need your support.

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