



**SUPPORT FOR THE TRANSNATIONAL DISTRIBUTION OF EUROPEAN  
FILMS – SUPPORT TO THE INTERNATIONAL SALES AGENTS  
OF EUROPEAN CINEMATOGRAPHIC FILMS**

**CALL FOR PROPOSALS EACEA/07/06**

**GUIDELINES FOR THE SUBMISSION OF PROPOSALS  
TO OBTAIN FINANCIAL SUPPORT**

**NB: This call is subject to the adoption of the MEDIA 2007 programme and the  
availability of the budget (see introduction p. 2)**

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## **1. INTRODUCTION**

This call for proposals is in line with the MEDIA programme 2007-2013 as described in the proposal of the European Commission (see document COM (2004) 470 final – 2004/0151 (COD)).

NB: The Commission's proposal relative to the MEDIA 2007 programme has not yet been adopted by the European Legislator. However, in order to enable a timely implementation of this programme after its adoption by the European Legislator, that should take place shortly, and in order to allow the potential beneficiaries of community support to prepare their proposals at the earliest date, the Agency has decided to publish this Call for Proposals.

The present Call for Proposals does not involve the legal responsibility of the Agency. It can be cancelled and other types of call for proposals may be launched, with appropriate deadlines, in the case of substantial modifications in the legal basis by the European Legislator.

More generally, the implementation in 2007 of Call for Proposals is subject to the following conditions of which the implementation does not depend solely on the Commission or the Agency:

- adoption by the European Parliament and the Council of the European Union of the final text of the legal basis establishing the programme (MEDIA 2007);
- adoption of the work programme relating to the MEDIA programme 2007 after referral to the programme committee; and
- adoption of the European Union budget for the year 2007 by the budget authority.

The measures covered by the Decision include support for the trans-national distribution of European films.

The European Commission is responsible for the MEDIA Programme and for the decision to grant individual European Community funds. However, the Education, Audiovisual and Culture Executive Agency implement the MEDIA Programme on behalf and under the control of the European Commission. The section responsible for the implementation of the call for proposals is the MEDIA programme unit within the Education, Audiovisual and Culture Executive Agency.

## 2. OBJECTIVES

### Objectives of the programme.

In the distribution sector, the objectives of the programme are the following :

- to strengthen the European distribution sector in the field of cinema by encouraging distributors to invest in the production, acquisition, marketing and promotion of non-domestic European cinema films;
- to foster the wider transnational dissemination of non-domestic European films, through incentives to stimulate their distribution and their screening in cinemas, inter alia by encouraging co-ordinated marketing strategies;

Particular attention will be paid to the development of potential in countries or regions with a low audio-visual production capacity and/or a restricted linguistic or geographical area.

### Actions to be implemented.

This call for proposals is aimed at European companies whose activities contribute to the realisation of the above objectives, and in particular at companies specialising in the international distribution of European films (“sales agents”). It explains how to submit a proposal for the generation of a potential fund.

The aim of the support scheme described in this Call for Proposals is to encourage and support the wider transnational distribution of recent European films by providing funds to sales agents, based upon their performance on the market, for further reinvestment in new non-national European films.

The scheme also aims to encourage the development of links between the production and distribution sectors thus improving the market share of European films and the competitiveness of European companies.

The “sales agents” support scheme works in two phases :

1. The generation of a potential Fund, which will be calculated according to the performance of the company on the European market over a given period.
2. Reinvestment : the potential Fund thus generated by each company must be reinvested in :
  - minimum guarantees or advances paid for the international sales rights on new European non-national films;
  - the promotion, marketing and advertising on the market of new non-national European films.

### Financial support

The amount of the financial contribution is determined with respect to the cost and nature of each proposed reinvestment project. Under no circumstance may the amount of the financial contribution awarded by the Agency exceed 50% of the overall costs of each project. The recipient company must guarantee the remaining finance. Support will take the form of a subsidy.

### Agreement

Reinvestment projects agreed by the Agency will be the subject of an Agreement between the Beneficiary and the Agency setting out the terms and conditions of the financial contribution granted.

## **3. CALENDAR**

Applications must be sent to the Agency by the following deadline (the postmark will be taken as proof of timely sending): **22 December 2006 at the latest.**

See Section 10 of this Call for Proposals for a detailed description of the methodology to follow when submitting an application.

Applicants will be informed normally within 4 months of the submission deadline whether or not the Agency has decided to grant them a financial contribution. This decision will be final.

Should an application be unsuccessful, the Agency will inform the applicant as soon as possible and in writing of the reasons for its decision with regards to the criteria established in this Call for Proposals.

## **4. AVAILABLE BUDGET**

The maximum budget available under this Call for Proposals will be 1 M €.  
The Agency reserves the right not to allocate the entire budget.

The amount of the financial contribution to be awarded will be determined within the limits of the available budgetary resources and with regards to the selection and award criteria.

## **5. ELIGIBILITY CRITERIA**

### **A     Formal Criteria :**

Applications duly signed (by the legal representative of the company) must be submitted before the relevant deadlines and use the application forms annexed hereto.

### **B     Definitions :**

For the purposes of this call for proposals, the following definitions shall apply.

## **1. Eligible Countries**

### Participating countries :

This call for proposals is open to companies registered in and owned by nationals from the Member States of the European Union as at 1<sup>st</sup> January 2007 (including Romania and Bulgaria) and countries of the European Economic Agreement participating in the MEDIA plus Programme (Iceland, Liechtenstein and Norway), as well as Switzerland.

### Countries with a low production capacity

For the purposes of this Call for Proposals, the following countries will be considered as countries with a low production capacity: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, Greece, Hungary, Ireland, Iceland, Liechtenstein, Latvia, Lithuania, Luxembourg, Malta, Norway, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden and Switzerland.

## **2. Eligible Companies**

### European company

Company owned, whether directly or by majority participation, by nationals of Member States of the European Union and of the European Economic Agreement (or nationals of the other European countries participating in the Media programme) and registered in one of these countries.

### Sales Agent

Any European company acting as an intermediary agent for the producer, who specialises in the commercial exploitation of a film by marketing and licensing a film to distributors or other purchasers for foreign territories.

The Sales agent must be appointed by the producer of the film by way of a written contract or agreement. A contract / agreement signed between a sales agent and a producer will be considered as an international sales contract / agreement only if it provides for the right of the sales agent to sell the film in at least 10 countries participating in the MEDIA Plus Programme.

### International sales of cinema films.

Any commercial activity designed to promote and sell the exploitation rights to a cinematographic film on the marketplace, in particular to cinema distributors. This activity includes, inter alia :

- the negotiation and execution of contracts licensing the rights to exploit or exhibit the film;
- the promotion and advertising of the film in markets or festivals (screenings, advertising, promotional events)

- the design and dissemination towards potential buyers of promotional material for the film (EPK, stills, slides, “making-of”, ...)
- the design and dissemination towards the press (trade press or other) and the potential audience of the film of promotional material and information (web site, ...).

#### Cinema / Theatrical distribution

Any commercial activity designed to bring to the attention of a wide audience a film for the purpose of exploitation in cinema theatres. Such activity may include aspects of the technical publishing of an audio-visual work (dubbing and subtitling, striking of prints, circulation of prints, etc.) as well as marketing and promotional activities (production of trailers and publicity material, the purchase of advertising space, the organisation of promotional events etc.).

### **3. Eligible Films**

#### European film

Any recent work of fiction (including animated films) or documentary, with a minimum duration of 60 minutes, complying with the following conditions :

- the work has been majority produced by a producer or producers established in the countries participating in the MEDIA Programme. To be considered as the actual producers the production companies must be credited as such. Other elements such as creative control, ownership of exploitation rights and share of profits may also be taken into account to determine who the actual producer is;

and

- the work has been made with a significant participation by professionals who are citizens / residents of the countries participating in the MEDIA Programme. Significant participation is defined as **10** or more points under the following scheme (or the biggest share of points if the total is less than 19 in case of documentaries or animated films) :

+	Points
Director	3
Scriptwriter	3
Composer	1
Actor 1	2
Actor 2	2
Actor 3	2
Artistic Director/Production Design	1
Director of Photography	1
Editor	1
Sound	1
Shooting location	1
Laboratory	1
<b>Total</b>	<b>19</b>

Recent films are those whose first copyright has been established during or after **2002**.

Films consisting of advertising, pornographic or racist material or advocating violence are not eligible for support.

#### National / Non-national European film

European films will be considered as national in that member state or territory participating in the MEDIA Programme whose citizens / residents have participated in the highest proportion in the making of the film, on the basis of the points table shown above. They will be considered as non-national in all the other territories.

## **6. EXCLUSION CRITERIA**

1) Applicants are excluded from participation in this call for proposals if:

- (a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) they have been convicted of an offence concerning their professional conduct by a judgement which has the force of res judicata;
- (c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- (d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country

in which they are established or with those of the country of the contracting authority or those of the country where the project is to be performed;

(e) they have been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;

(f) following another grant award procedure or procurement procedure financed by the Community budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.

Applicants must certify that they are not in one of the situations listed above (by signing the **declaration** in Annex 3 and/or 4).

2) Applicants shall be excluded from the participation at this call for proposals if:

(a) they are subject to a conflict of interest;

(b) they are guilty of misrepresentation in supplying the information required by the Agency as a condition of participation in the relevant call for proposals or fail to supply this information.

N.B.: Administrative and financial penalties of an effective, proportionate and dissuasive nature may be imposed by the Agency on applicants who are excluded under the above grounds, in accordance with the provisions of Articles 93 to 96 of the Financial Regulation (Council Regulation 1605/2002 of 25/6/02) and Articles 133 and 175 of the Implementing Regulation (Commission Regulation 2342/2002 of 23/12/02).

## **7. SELECTION CRITERIA**

The selection criteria make it possible to assess the applicant's legal, operational and financial capacity to complete the proposed project or work plan.

The applicants must provide evidence of:

### **1) Legal Structure:**

The Agency can enter into an agreement only on the basis of satisfactory evidence of the legal form of the applicant, be they a company (private company, charity, association etc.) or an individual.

**The applicant should complete the relevant Legal Entity Form (see below) and must provide the following documents:**

- Private Companies, associations etc.:
  - A copy of the Certificate of Registration/Incorporation (from an Official Journal if appropriate) as well as a copy of the VAT Registration (for those countries where

the Registration & VAT numbers are identical, only one of the above documents is required) and the Articles of Association

- Public Entities:
  - Copy of the decree/act or governmental decision or any other official documents establishing the public body.
- Individuals:
  - Copy of the ID card and/or passport.

Note: Individuals who are registered for VAT will be treated as Private Companies.

**As the legal structure of a company may vary from country to country, the relevant Legal Entity Form is only enclosed with these guidelines in sample form. Applicants must access the appropriate form at**

**[http://europa.eu.int/comm/budget/execution/legal\\_entities\\_fr.htm](http://europa.eu.int/comm/budget/execution/legal_entities_fr.htm) and complete the form in their national language.**

**2) professional competencies, qualifications and/or experience required to complete the proposed project.**

This criterion will be assessed on the basis of the following documents, which must be included in the proposal submitted:

- the curriculum vitae of the legal representative of the company and of the Head of International Sales (if they are not the same person);
- a list of films for which the applicant was the appointed sales agent over the period 2002-2005.

**3) stable and sufficient sources of funding to maintain his activity throughout the period during which the project is being carried out.**

This criterion will be assessed on the basis of the following documents, which must be included in the proposal submitted:

- the complete audited accounts for the last fiscal year for which the accounts have been completed including the balance sheet and profit and loss statement. This should be certified by an approved auditor external to the company;
- for new companies: a bank declaration (document delivered by the bank confirming that the applicant company is the holder of an account which is properly operated);
- the Bank Identification form (see p 3 of Company Application Form) completed by the applicant and certified by the Bank (original signatures are required);
- the Financial Capacity form (see p 5 of Company Application Form) carefully and fully completed. The information (in figures) should be given in national currency and must be based on the certified accounts of the most recent completed fiscal year which are included with the application form. The applicant guarantees that these

figures are precise and verifiable. This information is required to evaluate the financial strength and co-financing capacity of the applicant.

The Agency reserves the right to apply these criteria taking into account the legislative framework of the different countries participating in the Programme.

N.B. If, on the basis of the documents provided, the Agency consider that the financial capacity is not proven or sufficient it may:

- Refuse the application
- Request additional information
- Require a Bank Guarantee
- Propose a subsidy contract without any advance payment.

#### **4) Audit**

For applicants requesting a contribution of more than 500 000 €, the certified accounts must be accompanied with an external audit report done by an approved auditor external to the company<sup>1</sup>. This report certifies the accounts of the last or most recent fiscal year and gives an opinion on the financial viability to implementing the project based on the last audited year end but also on the viability of the company for the current year.

The Agency reserves the right not to select proposals submitted by Sales Agents who have not fulfilled their obligations in the framework of contracts signed in the framework of the MEDIA I, MEDIA II and MEDIA Plus Programmes or other EC-funded programmes.

Applicants who fail to provide the requested documents or who, on the basis of the documents submitted, are judged not to meet the selection criteria, will be excluded.

<sup>1</sup> The approved auditor external to the company must be authorized to the terms of the Eight directive 84/253/CEE of the Council of 10<sup>th</sup> April 1984 on article 54 paragraph 3 point g) of the CEE treaty, regarding the authorization of the individuals in charge of the legal control of accounting documents (JO n°L 126 of 12/05/1984).

## **8. AWARD CRITERIA**

### **A Generation Stage:**

A potential Fund will be attributed to eligible European Sales Agents on the basis of their performance on the European markets (i.e. countries participating in the MEDIA Plus Programme).

The support will take the form of a potential Fund (the “Fund”) available to sales agents for further investments in recent non-national European films.

The amount of potential fund available to each sales agent will be calculated on the following basis :

1. Step 1. The applicant sales agent shall provide evidence of its activity as a sales agent for European cinematographic films. To this end, the sales agent shall prove that :
  - it was, between 01/01/2002 and 31/12/2005, the appointed sales agent of **at least 8 recent European films<sup>1</sup>** (of which at least **1 non-national** film), for which the agreement with the producer provided the right to sell the film in at least 10 countries participating to the MEDIA Plus Programme;
  - **and** that, during the same period, the sales agent **sold** the theatrical rights of **at least 4 of these films in at least 3 countries** participating in the MEDIA Plus Programme, outside the country of origin of the films.

If this first step is successfully completed, the sales agent shall be entitled to a potential support of **EUR 25.000**.

2. Step 2. If (and only if) the applicant sales agent has completed successfully the conditions set out for the first step, an additional potential fund may be available, which will be calculated as **a percentage of the potential fund generated in the framework of the automatic support scheme for theatrical distribution** (Call for proposals 13/2005) by the films and for the territories sold by the sales agent:
  - 10 % for films from countries with a high production capacity (DE, ES, FR, IT, UK);
  - 15 % for films coming from countries or regions "with a low production capacity";
  - 20 % for films coming from new Member States as at 1<sup>st</sup> January 2007 (Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia).

Example : Sales agent X

Step 1 : The sales agent had, between 2002 and 2005, 15 films in international sales, of which 9 were sold in at least 3 non-national countries over the same period.

On the basis of this proof, the sales agent generates a potential fund of EUR 25.000.

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<sup>1</sup> i.e. European films whose first copyright has been established during or after 2002.

Step 2 : the calculation of the potential fund generated by distributors under Call for proposals 13/2005 (automatic support scheme for theatrical distribution) on the basis of cinema admissions made in 2005:

Film	Potential Fund generated by distributors under Call for Proposals 13/2005 (€)	Of which potential fund generated by distributors in territories sold by the sales agent (€)	Potential Fund generated by the Sales Agent for films of big countries (10 %) (€)	Potential Fund generated by the Sales Agent for films of small countries (15 %) (€)	Potential Fund generated by the Sales Agent for films of new countries (20 %) (€)
La marche de l'empereur (FR)	300.000	300.000	30.000		
Sommersturm (DE)	120.000	100.000	10.000		
Intermission (IE)	50.000	50.000		7.500	
District (HU)	65.000	50.000			10.000
Mar adentro (ES)	100.000	90.000	9.000		
Private (IT)	80.000	65.000	6.500		
Der Untergang (DE)	200.000	190.000	19.000		
Stage Beauty (UK)	75.000	75.000	7.500		
Brodre (DA)	40.000	40.000		6.000	
	<b>1.030.000</b>	<b>960.000</b>	<b>81.000</b>	<b>13.500</b>	<b>10.000</b>

The total potential Fund generated by the sales agent further to steps 1 and 2 is therefore € 25.000 + (81.000 + 13.500 + 10.000) € = 129.500 €

The amounts indicated above are provisional and may be subject to modification depending upon the budgetary resources available.

Following the calculation of the potential Fund generated, the Agency will inform each beneficiary of the amount of potential Fund available for reinvestment.

The notification will normally be sent to the beneficiary within 3 months of the deadline of this Call for Proposals.

The notification to the sales agent of the potential Fund generated does not constitute a claim on the European Commission.

## **B Reinvestment Stage**

Sales agents can present reinvestment projects starting from the deadline of this Call.

These projects will be processed by the Agency following the assessment of the “generation” phase of the fund, and will be treated on the basis and within the limits of the potential Fund generated by the sales agent as calculated and notified by the Agency.

The potential Fund can be reinvested :

- In the meeting of Minimum Sales Guarantees for new European **non-national** films.
- , In the meeting of promotion and marketing costs for new European **non-national** films.

The potential Fund can be reinvested in one or several films. Reinvestments in Module 1 (MG) and in Module 2 (promotion costs) for the same film are allowed.

Beneficiaries wishing to reinvest (part of) their potential Fund should send to the Agency a request for reinvestment, using the forms in Annex 4.

Reinvestment projects must be approved by the Agency.

Reinvestment of the potential Fund into completed projects is impossible.

**In order to be eligible, reinvestment projects of the potential fund generated by this Call for proposals need to follow the next 3 conditions :**

- **Cannot start before the deadline of this Call (22/12/2006).**

For the different modules, eligible reinvestment projects cannot start before the following dates :

Module	Earliest start date of the project
1 – Minimum guarantee	The international sales contract/agreement with the producer must be signed at the earliest on <b>22/12/2006</b> .
2 – Promotion and marketing costs	The international sales contract/agreement with the producer must be signed at the earliest on <b>22/12/2006</b> .

- **be submitted to the Agency within the following deadlines :**

Module	Deadline for presentation of the reinvestment project
1 – Minimum guarantee	Within 3 months of the signature of the international sales contract/agreement with the producer
2 – Promotion and marketing costs	Within 3 months of the signature of the international sales contract/agreement with the producer

- **be submitted to the Agency at the latest on 31 December 2007.**

The potential fund which is not reinvested by the beneficiary on this date will be lost.

## **9. FINANCIAL CONDITIONS**

Financial contributions granted in the framework of this Call for Proposals will take the form of subsidies as defined in Article 6 of Council Decision 2000/821/EC. Community Subsidies exist to encourage the implementation of projects which operate thanks to the principle of reinvestments.

If the reinvestment project is selected, an agreement shall be signed between the Agency and the beneficiary, by which the beneficiary shall undertake to allow Agency staff, staff from the Court of Auditors of the European Communities, and persons authorised by them, appropriate access to the sites or premises where the project is being carried out, and to all documents relating to the technical and financial management of the operation. Access by persons authorised by the Agency may be subject to confidentiality arrangements to be agreed between the Agency and the beneficiary.

The beneficiary shall also agree that the Agency and the Court of Auditors of the European Communities and persons authorised by them may verify the use to which the financial contribution is put, in accordance with the Financial Regulation of 25 June 2002 applicable to the general budget of the European Communities as amended, throughout the duration of the project and for five years after its end date.

The beneficiary undertakes to ensure that any partner accepts the same obligation.

Checks by the Agency or the Court of Auditors of the European Communities, or any person authorised by them, may be carried out on the basis of documents or on site.

The Agency is not bound, by sole act of selecting a particular applicant, to agreeing to the level of financial support requested. The award of a contribution does not infer any right to a grant in subsequent years.

Under no circumstances may the amount awarded be greater than the amount requested.

## **10. FINANCIAL SUPPORT**

### **10.1. Amount of the Project Allocation**

The amount of the potential fund that may be drawn for a given reinvestment project may not exceed 50 % of the total cost of the proposed reinvestment project.

Costs which are directly invoiced by the Sales Agents to third parties, such as producers or distributors, shall not be considered as eligible costs.

## **10.2 Payment of the Project Allocation**

Reinvestment projects must be agreed by the Agency.

Reinvestment projects agreed by the Agency will generate an agreement with the Agency setting out the terms and conditions of the financial contribution granted (i.e. the amount of potential fund reinvested in the project, period of eligibility of costs...). Under the proviso that the beneficiary sales agent complies with the terms of the reinvestment agreement, the financial contribution will take the form of a subsidy.

Payment will normally be made in two parts :

- 50% following the signature of the reinvestment agreement by the Agency ;
- the balance on presentation to the Agency and acceptance by the Agency of the final eligible costs of the project, certified by an approved auditor external to the company.

**The beneficiaries will notify the Agency of any major alteration of the project's implementation and budget.**

## **11. EVALUATION AND AWARD PROCEDURE**

### *Duration and validity of the Call for Proposals*

These guidelines are valid for the years 2006 (generation) and 2007 (reinvestments).

### *Deadline for submission of proposals*

Proposals for the "generation" of a potential Fund must be sent (postmark date) on **22/12/2006** at the latest.

### *Assessment of proposals*

The Agency will assess the proposals.

The Agency reserves the right not to process proposals which lack the required documentation (documents listed in the application forms) at the closing date.

The Agency reserves the right to request additional information from applicants before taking any final decision on granting support.

Applicants will be informed as soon as possible of the Agency's decision regarding their proposal. The Commission decision, taken following the recommendation of the Agency, will be final.

## **12. PUBLICITY**

All subsidies allocated during any one financial year are published on the website of the European Institutions during the first six months of the following financial year, after the completion of the audit of the budget under which they were granted. This information may also be published in any other appropriate publication, for example the Official Journal. With the permission of the successful applicant, (unless such information is a threat to the applicants security or could harm the applicant's business interests,) the Agency will publish the name and address of the beneficiary, the subject of the grant, the amount and rate of financing.

Beneficiaries must clearly acknowledge the European Union's contribution in all publications or in conjunction with activities for which the grant is used. The name and logo of the programme as well as the mention "with the support of the MEDIA Programme of the European Union" must appear on all publications, posters, programmes and other products created in relation to the co-financed project

## **13. PRESENTATION AND SUBMISSION OF PROPOSALS**

European sales agent companies applying for the type of support described above must present their proposal in view of the generation of a potential Fund in duplicate by using the attached application forms and providing the required annexes.

Proposals must include the following items (see Annex 3) :

- a) Application form « COMPANY 2006 » in two copies.**
- b) Application form « Films » for European films sold by the sales agent between 01/01/2002 and 31/12/2005 in two copies.**

**as well as the annexes defined in the application forms.**

Proposals and documents must be submitted in duplicate and sent:

- (a) either by post or by courier service, in which case the evidence shall be constituted by the postmark;
  - (b) by hand-delivery in which case the evidence shall be constituted by a signed and dated receipt **(on 22.12.2006 at latest before 15.00 H.)**
- to the following address:

Education, Audiovisual and Culture Executive Agency (EACEA)  
*Constantin Daskalakis*  
BOUR 3/30  
Avenue du Bourget, 1  
B-1140 Brussels  
Belgium

**ENVELOPES SHOULD BE CLEARLY MARKED :**

**“MEDIA Plus - DISTRIBUTION EACEA/07/06 – CINEMA SALES AGENTS”**

Contacts at the European Commission

The Commission service responsible for implementing the MEDIA Plus Programme is the EAC Executive Agency (EACEA).

Any requests for clarification should be addressed to:

Maria Silvia Gatta

[Maria-Silvia.Gatta@ec.europa.eu](mailto:Maria-Silvia.Gatta@ec.europa.eu)

Tél : + 32 2 295 41 15

Gabor Greiner

[Gabor.Greiner@ec.europa.eu](mailto:Gabor.Greiner@ec.europa.eu)

Tel : + 32 2 295 37 75

National contacts

Additional information, as well as guidelines and applications forms in the Community's official languages other than French and English are available at MEDIA Desks and Antennae (list enclosed).

## Annex 1 – FINANCIAL GUIDE

The purpose of this section is to define clearly for the applicants the procedures to follow when completing and submitting reinvestment projects, as well as the normal financial principles which will be applied in the framework of the execution of the agreement for financial support signed with the Agency for the accepted reinvestment projects.

The support scheme for “sales agents” works in two successive phases, which can be summarised as follows:

	<b>Phase 1: GENERATION</b>	<b>Phase 2: REINVESTMENT</b>
<b>Sales Agent</b>	Application from the Sales Agent for the generation of the support <u>Step 1</u> : proof of activity as an international sales agent <u>Step 2</u> : potential fund in proportion to the potential fund generated by distributors in the framework of Call for Proposals 13/2005	Presentation of reinvestment projects
<b>Agency</b>	Calculation of the potential fund generated  Notification to the Sales Agent of the amount of the potential fund available	Acceptance / refusal of the reinvestment project.  Agreement between the Agency and the beneficiary
<b>Payment of a Community Financial Contribution</b>	No	Yes

### 1 Reinvestment Application Forms.

All reinvestment requests must be made using the application forms attached to the current Call for Proposals (Annex 4) together with two copies of the requested documents except where otherwise specified.

Two types of reinvestments are possible:

Module 1      Minimum Guarantee for the international sales of new **non-national** European films.

Module 2      Marketing and promotion costs for new **non-national** European films.

Reinvestment projects must be submitted within the deadlines set out in Section 4.B of these Guidelines.

## 2. **Eligible Costs.**

### 2.1. Duration of the eligible costs.

Only those costs incurred by the beneficiary during the following periods in the execution of the reinvestment project will be eligible.

Module	Period of the Eligible Costs
1 – Minimum guarantees	From the date of the signature of the international sales contract/agreement until <b>16 months</b> after this date
2 – Marketing costs	From the date of the signature of the international sales contract/agreement until <b>16 months</b> after this date

The signature of the agreement shall normally take place between 3 and 6 months after the date of submission of the reinvestment project.

### 2.2. Categories of eligible costs.

In all cases, the costs which are considered as eligible are those that are:-

- directly linked to the sales of the film concerned
- actually incurred by the beneficiary
- identifiable and controllable on the basis of justifying documents
- registered in the accountancy or financial records of the beneficiary.

The beneficiaries of a community support are obliged to maintain a clear analytical accounting of the costs for each supported project. This accounting and classification system will facilitate the verification and certification of the final costs by an approved auditor external to the company necessary for the payment of an eventual financial contribution.

#### 2.2.1 Eligible costs for reinvestment in Module 1 (MG).

Only the costs of the Minimum Guarantee or Advance set out in the international sales contract/ agreement signed between the sales agent and the producer of the film will be eligible.

A contract/agreement signed between a sales agent and a producer will be considered as an international sales contract/agreement only if it provides for the right of the sales agent to sell the film in at least 10 countries participating to the MEDIA Plus Programme.

2.2.2. Eligible costs for reinvestment in Module 2 (Marketing costs).

A contract/agreement signed between a sales agent and a producer will be considered as an international sales contract/agreement only if it provides for the right of the sales agent to sell the film in at least 10 countries participating to the MEDIA Plus Programme.

The categories of eligible costs are clearly identified in the form “Marketing Budget”. We can, in short, distinguish the following categories:

**Costs of Promotion and Publicity (section 1).**

**Publicity Material** : Production of trailers/teaser;; making of showreels / promoreels ;; design, layout and printing of the posters; slides and stills, production of advertising spots for radio and TV, flyers, design and layout of press advertising,.....

**Publicity Spaces**: purchase of advertising spaces (posters in markets / festivals, professional press)

**Promotion**: Promotion material such as press files, organisation of market / festival screenings organisation of press screenings, organisation of test-screenings or recruited audience screenings, production of an EPK (electronic press kit), travel and accommodation of the director / cast of the film for the promotion of the film, design and construction of a web site / homepage for the promotion of the film.....

**Prints and Production Costs (Section 2)**

These costs include the costs related to the optical and digital manufacturing and circulation of the prints/digital copies for the exploitation of the film/trailer in the cinemas : internegative, master and prints/digital copies of the trailers; dubbing and subtitling of the trailers; striking of an internegative and prints of the film, mastering<sup>2</sup> and duplication of the digital copies, dubbing and subtitling the prints/digital copies of the film, insurance, transport and taxes, prints maintenance, costs for the national systems of certification of the film.

DVD or Digital Beta for promotional purposes are to be included in 1.2 Promotion costs.

If the digital costs are eligible according to the list above, the different digital services should be detailed relating to the following :

- master (Digital Source Master (DSM), Digital Cinema Distribution Master (DCDM), specific colour grading for digital release...);
- digital copies : specify what kind of digital copy you use;
- dubbing and subtitling.

**Other Costs (Section 3)**

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<sup>2</sup> Colour grading required for theatrical release, compression of the data, encoding, encryption.

#### Audit Costs.

In the framework of the execution of an eventual financial support agreement, the Agency requires the beneficiary to produce a statement of the final costs. This document must be certified by an approved auditor external to the company on the basis of justifying documents and the accountancy records of the beneficiary. Therefore the costs of this certification are eligible.

#### Other Costs.

These “other costs” have to be clearly identified and detailed in the application form for them to be eligible. Those costs normally associated with the normal running of the company are not eligible under this heading.

### **Indirect costs (Section 4)**

#### Overheads.

A flat amount (or forfeit) up to a maximum of 7% of the direct costs of distribution (Sections 1, 2 & 3) is accepted, within the limit of 14,000 € per project, to cover the following indirect costs of the beneficiary relevant to the project : rent of company offices, insurance, maintenance costs, telecommunications, postal charges, heating, lighting, water, electricity, office supplies, rental of stands on markets and festivals.

The indirect costs are eligible in so far as they do not include any of the costs taken into account in another section of the budget and if they cannot be the object of a direct allocation in the marketing budget.

#### 2.3 Categories of ineligible costs.

***Costs which are directly invoiced by the Sales Agents to third parties, such as producers or distributors, shall not be considered as eligible costs.***

In all cases, the following costs are ineligible:

- entertainment costs, costs for receptions organised for the promotion of the films ;
- unnecessarily high expenses which are unjustified;
- costs which are not identifiable or controllable on the basis of supporting documents
- costs which are not registered in the accountancy or financial records of the beneficiary
- capital investment costs;
- general provisions ( for losses, future debts, etc)

- financial costs (bank charges, costs of opening and maintaining bank accounts, exchange charges and other bank charges)
- debts
- loan interest
- bad debts
- exchange losses
- contributions in kind (such as publicity partnerships with various media).
- VAT unless the beneficiary can show that he is unable to recover it
- Interests owed by the beneficiary to the Commission/Executive Agency (EACEA) for late recovery (if applicable)
- Costs declared and supported in the framework of another action or under another Community grant
- unjustifiably high expenses.

In the event that the applicant is unable to reclaim amounts of VAT related to the expenditure of the project, then these charges may be included in the budget form provided that they are detailed and duly justified. The Applicant must specify whether the amounts stated throughout the budget (revenue and expenditure) are calculated with or without VAT.

#### **4. Financial control and audit.**

Should the reinvestment project be approved by the Agency, an agreement shall be signed between the Agency and the beneficiary, by which the beneficiary shall undertake to allow Agency staff, staff from the Court of Auditors of the European Communities and persons authorised by them, appropriate access to the sites or premises where the project is being carried out and to all documents relating to the technical and financial management of the operation. Access by persons authorised by the Agency may be subject to confidentiality arrangements to be agreed between the Agency and the beneficiary.

The beneficiary shall also agree to the Agency and the Court of Auditors of the European Communities verifying the use to which the financial contribution is put in accordance with the Financial Regulation of 21 December 1977 applicable to the general budget of the Commission, as amended, throughout the duration of the agreement and for five years after its end date.

Controls by the Agency or the Court of Auditors of the European Communities may be carried out on the basis of documents or on the spot.

**5. Exchange Rates.**

The provisional budget must be presented in Euro (€).

For those countries which are not members of the Euro zone, or for expenses incurred in the currencies of countries which are not part of the Euro zone, the exchange rate to be used is the official exchange rate published by the Commission at the beginning of each month for the month in which the reinvestment project is presented.

This exchange rate is available from the MEDIA Desks and Antennae and from the web site of the Commission at <http://europa.eu.int/comm/budget/inforeuro>).

## **Annex 2 - MEDIA DESKS & ANTENNAE**

### **BELGIË/BELGIQUE/BELGIEN (BE)**

*Vlaamse Gemeenschap:*

MEDIA Desk België  
Vlaamse Gemeenschap  
Bijlokekaai 7 F  
B-9000 Gent  
Tel. (32-9) 235 22 65  
Fax (32-9) 235 22 66  
E-mail:

[Info@mediadesk-vlaanderen.be](mailto:Info@mediadesk-vlaanderen.be)

Internet:

<http://www.mediadesk-vlaanderen.be>

**Nathalie Goethals**

*Communauté française:*

MEDIA Desk Belgique  
Communauté française de Belgique  
44, bd Léopold II  
B-1080 Bruxelles  
Tel. (32-2) 413 22 45  
Fax (32-2) 413 20 68  
E-mail:

[mediadesk.belgique@cfwb.be](mailto:mediadesk.belgique@cfwb.be)

Internet:

<http://www.cfwb.be/mediadesk>

**Thierry Leclercq**

### **BALGARIJA (BG)**

MEDIA Desk Bulgaria  
2 - A Kniaz Dondukov Blvd.  
1000 SOFIA  
Bulgaria  
Tel.: +359 2 988 32 24 or 987 03 25  
Fax: +359 2 987 53 69  
E-mail: [info@mediadesk.bg](mailto:info@mediadesk.bg)  
Internet: <http://www.mediadesk.bg>  
**Kamen Balkanski**

### **KYPROS / KIBRIS (CY)**

MEDIA Desk Cyprus  
Othellou 9  
CY-1016 Nicosia  
Cyprus  
Tel: +357 22 305 367  
Fax: +357 22 305 368  
E-mail: [mediadesk@pio.moi.gov.cy](mailto:mediadesk@pio.moi.gov.cy)  
**Ioanna Americanou**

### **CESKA REPUBLIKA (CZ)**

MEDIA Desk CZ  
Česka filmová komora o.p.s.  
Národní 28  
110 00 Prague 1  
The Czech Republic  
Tel.: +420 221 105 209 or  
+420 221 105 210  
Fax: +420 221 105 303  
[Info@mediadesk.cz](mailto:Info@mediadesk.cz)  
[www.mediadesk.cz](http://www.mediadesk.cz)  
**Barbora Ondřejáková**

### **DANMARK (DK)**

MEDIA Desk Danmark  
Vognmagergade, 10  
DK-1120 København  
Tel. (45-33) 74 34 42  
Fax (45-33) 74 34 65  
E-mail: [media@centrum.dk](mailto:media@centrum.dk)  
Internet:  
<http://www.mediadesk.dk>  
**Søren Stevns**

### **DEUTSCHLAND (D)**

MEDIA desk Deutschland  
14-16 Friedensallee  
D-22765 Hamburg  
Tel. (49-40) 390 65 85  
Fax (49-40) 390 86 32  
E-mail: [info@mediadesk.de](mailto:info@mediadesk.de)  
Internet: <http://www.mediadesk.de>  
**Cornelia Hammelmann**

MEDIA Antenne München  
Herzog Wilhelm Str. 16  
D-80331 München  
Tel. (49-89) 54 46 03 30  
Fax (49-89) 54 46 03 40  
E-mail:  
[info@mediaantennemuenchen.de](mailto:info@mediaantennemuenchen.de)  
Internet: <http://www.mediadesk.de>  
**Ingeborg Degener**

MEDIA Antenne Düsseldorf  
14, Kaistraße  
D-40221 Düsseldorf  
Tel. (49-211) 930 50 14  
Fax (49-211) 93 05 05  
E-mail: [media@filmstiftung.de](mailto:media@filmstiftung.de)  
Internet: <http://www.mediadesk.de>  
**Heike Meyer Döring**

MEDIA Antenne Berlin-  
Brandenburg  
August-Bebel-Strasse, 26-53  
D-14482 Potsdam  
Tel. (49-331) 743 87 50  
Fax (49-331) 743 87 59  
E-mail:  
[mediaantenne@medienboard.de](mailto:mediaantenne@medienboard.de)  
Internet: <http://www.mediadesk.de>  
**Susanne Schmitt**

### **ESPAÑA (E)**

MEDIA Desk España  
Ciudad de la Imagen  
C/ Luis Buñuel, 2-2ªA  
E-28223 Pozuelo de Alarcón  
Madrid  
Tel.: (34-91) 512 01 78  
Fax: (34-91) 512 02 29  
E-mail:  
[info@mediadeskspain.com](mailto:info@mediadeskspain.com)  
Internet:  
<http://www.mediadeskspain.com>  
**Jesús Hernández Moyano**

MEDIA Antenne Barcelona  
Mestre Nicolau 23  
E-08021 Barcelona  
Tel. (34-9) 3 552 49 40  
Fax (34-9) 3 552 49 53  
E-mail:  
[media\\_antena.cultura@gencat.net](mailto:media_antena.cultura@gencat.net)  
Internet:  
<http://www.media-cat.com>  
**Alex Navarro**

MEDIA Antenne San Sebastián  
Ramon Maria Lili 7, 1ºB  
E-20002 San Sebastián  
Tel. (34-94) 332 68 37  
Fax (34-94) 327 54 15  
E-mail: [info@mediaeusk.org](mailto:info@mediaeusk.org)  
Internet: <http://www.mediaeusk.org>  
**Verónica Sánchez**

MEDIA Antenne Sevilla  
Casa Museo Murillo  
Santa Teresa, 8  
E-41004 Sevilla  
Tel. (34-95) 503 72 58  
Fax (34-95) 503 72 65  
E-mail:  
[media.epgpc@juntadeandalucia.es](mailto:media.epgpc@juntadeandalucia.es)  
Internet:  
<http://www.antenamediaandalucia.com>  
**Catalina González**

### **EESTI (EE)**

MEDIA Desk Estonia  
c/o Estonian Film Foundation  
Vana – Viru 3  
101 11 TALLINN  
Estonia  
Tel.: +372 6 27 60 65  
Fax: +372 6 27 60 61  
E-mail: [mediadesk@efsa.ee](mailto:mediadesk@efsa.ee)  
Internet: <http://www.mediadesk.efsa.ee>  
**Anu Ernits**

### **HELLAS/GREECE (EL)**

MEDIA Desk Hellas  
11 Fragoudi str. & Al. Pantou  
GR-101 63 Kallithea  
Athens-Greece  
Tel.: (30-210) 725 40 56-7  
Fax: (30-210) 725 40 58  
E-mail: [media-he@otenet.gr](mailto:media-he@otenet.gr)  
Internet: <http://www.mediadesk.gr>  
**Christina Panagopoulou**

### **FRANCE (F)**

MEDIA Desk France  
24, rue Hamelin  
F-75116 Paris  
Tel. (33-1) 47 27 12 77  
Fax (33-1) 47 27 04 15  
E-mail: [mediadesk@wanadoo.fr](mailto:mediadesk@wanadoo.fr)

Internet:  
<http://www.mediadesk.com.fr>  
**Françoise Maupin**

MEDIA Antenne Strasbourg  
1, parc de l'Etoile  
F-67076 Strasbourg  
Tel. (33-3) 88 60 95 89  
Fax (33-3) 88 60 98 57  
E-mail:  
[media@cus-strasbourg.net](mailto:media@cus-strasbourg.net)  
Internet:  
<http://www.strasbourg-film.com>  
**Olivier Trusson**

**IRELAND (IRL)**  
MEDIA Desk Ireland  
6, Eustace Street  
Dublin 2  
Ireland  
Tel. (353-1) 679 18 56  
Fax (353-1) 670 96 08  
E-mail: [info@mediadesk.ie](mailto:info@mediadesk.ie)  
Internet:  
[www.iftn.ie/mediadesk/index.htm](http://www.iftn.ie/mediadesk/index.htm)  
**Siobhan O'Donoghue**

MEDIA Antenna Galway  
Cluain Mhuire Monivea Road  
Galway  
Ireland  
Tel. (353-91) 77 07 28  
Fax (353-91) 77 07 46  
E-mail: [mediaant@iol.ie](mailto:mediaant@iol.ie)  
Internet:  
<http://www.media-antenna.com>  
Eibhlín Ní Mhughhaile

**ISLAND/ICELAND (ISL)**  
MEDIA Desk Island  
14, Tungata  
IS-101 Reykjavík  
Tel. (354) 562 63 66  
Fax (354) 562 71 71  
E-mail: [mediadesk@centrum.is](mailto:mediadesk@centrum.is)  
E-mail: [mediadesk@iff.is](mailto:mediadesk@iff.is)  
Internet:  
<http://www.centrum.is/mediadesk>  
**Sigrídur Vigfusdóttir**

**ITALIA (I)**  
MEDIA Desk Italia  
c/o ANICA  
Viale Regina Margherita, 286  
I-00198 Roma  
Tel. (39-06) 440 46 33  
Fax (39-06) 440 28 65  
E-mail:  
[produzione@mediadesk.it](mailto:produzione@mediadesk.it)  
[formazione@mediadesk.it](mailto:formazione@mediadesk.it)  
[distribuzione@mediadesk.it](mailto:distribuzione@mediadesk.it)  
[mercati@mediadesk.it](mailto:mercati@mediadesk.it)  
Internet: <http://www.mediadesk.it>  
**Giuseppe Massaro**

MEDIA Antenna Torino  
Piazza San Carlo 161  
I-10123 Torino  
Tel. (39-01) 153 98 53  
Fax (39-01) 153 14 90  
E-mail: [media@antennamedia.to.it](mailto:media@antennamedia.to.it)  
Internet:  
<http://www.antennamedia.to.it>  
**Alessandro Signetto / Silvia Sandrone**

**LATVIJA (LV)**  
MEDIA Desk Latvia  
c/o National Film Centre  
Pietavas 10/12  
1050 RIGA  
Latvia  
Tel.: +371 73 588 57  
Fax: +371 73 588 77  
E-mail: [laida.ozola@nfc.gov.lv](mailto:laida.ozola@nfc.gov.lv)  
Internet: [www.mediadesk.lv](http://www.mediadesk.lv)  
**Laida Ozola**

**LIETUVA (LT)**  
Europos "MEDIA" programu biuras  
J. Basanaviciaus 5  
LT-2600 Vilnius  
Lithuania  
Tel./fax: +370 5 2127187  
E-mail: [info@mediadesk.lt](mailto:info@mediadesk.lt)  
Internet: [www.mediadesk.lt](http://www.mediadesk.lt)  
**Ieva Skarzinskaite**

**LUXEMBOURG (L)**  
MEDIA Desk Luxembourg  
Maison de Cassal  
5, rue Large  
L-1917 Luxembourg  
Tel. (352) 478 21 70  
Fax (352) 46 74 95  
E-mail: [mail@mediadesk.etat.lu](mailto:mail@mediadesk.etat.lu)  
Internet: <http://www.mediadesk.lu>  
**Karin Schockweiler**

**MAGYARORSZÁG (HU)**  
MEDIA Desk Hungary  
Varosligeti fasor 38  
H-1068 Budapest  
Tel +361 413 12 69  
Fax +361 413 17 10  
e-mail: [info@mediadesk.hu](mailto:info@mediadesk.hu)  
Internet: [www.mediadesk.hu](http://www.mediadesk.hu)  
**Enikő Kiss**

**MALTA (MT)**  
No MEDIA desk has been established yet  
but you can contact:  
**Acting head of Media desk**  
**Maria Carbonaro**  
EU affairs, Policy Development  
Ministry for Tourism and Culture  
Auberge d'Italie  
Merchants Street  
Valletta CMR 02  
Tel.: +356 22 98 13 11

Fax: +356 22 98 13 09  
E-mail: [mediadesk@gov.mt](mailto:mediadesk@gov.mt)  
Internet: [www.media.org.mt](http://www.media.org.mt)

**NEDERLAND (NL)**  
MEDIA Desk Nederland  
Jan Luykenstraat 2  
NL-1071 CM Amsterdam  
Nederland  
Tel. (31-20) 305 30 40  
Fax (31-20) 675 28 78  
E-mail: [info@mediadesk.nl](mailto:info@mediadesk.nl)  
Internet: <http://www.mediadesk.nl>  
Dominique van Ratingen

**NORGE (NO)**  
MEDIA Desk Norge  
Norsk Filmfond  
PO Box 752 Sentrum  
N-0106 Oslo  
Tel. (47-22) 47 80 40  
Fax (47-22) 47 80 41  
E-mail: [mail@mediadesk.no](mailto:mail@mediadesk.no)  
Internet: <http://www.mediadesk.no>  
**Sidsel Hellebø-Hansson**

**POLSKA (PL)**  
Media Desk Polska  
Ul. Chelmska 19/21  
PL-00-724 Warszawa  
Tel./Fax (48) 22 851 10 74 or  
(48) 22 559 33 10  
E-mail: [biuro@mediadesk.com.pl](mailto:biuro@mediadesk.com.pl)  
Internet: [www.mediadesk.com.pl](http://www.mediadesk.com.pl)  
**Joanna Wendorff**

**PORTUGAL (P)**  
MEDIA Desk Portugal  
Rua São Pedro Alcântara 45.s/l  
P-1269-138 Lisboa  
Tel. (351-21) 347 86 44  
Fax (351-21) 347 86 43  
E-mail: [mediadesk@icam.pt](mailto:mediadesk@icam.pt)  
Internet:  
<http://www.mediadesk.icam.pt>  
**Amélia Tavares**

**SLOVENIA (SI)**  
MEDIA desk Slovenia  
c/o Slovenian Film Fund  
Miklosiceva 38  
SI-1000 Ljubljana  
Tel. +386 1 23 43 216  
Fax +386 1 23 43 219  
e-mail: [mediadesk.slo@film-sklad.si](mailto:mediadesk.slo@film-sklad.si)  
internet: [www.mediadesk.si](http://www.mediadesk.si)  
**Sabina Žakelj**

**SLOVENSKO (SK)**  
MEDIA Desk Slovakia  
Grösslingova 32  
SK-811 09 Bratislava  
Slovak Republic  
Tel. +421 2 526 36 935  
Fax +421 2 526 36 936

[Info@mediadesk.sk](mailto:Info@mediadesk.sk)  
Internet: <http://www.mediadesk.sk>  
**Vladimir Stric**

**SUOMI/FINLAND (FIN)**  
MEDIA Desk Finland  
Finnish Film Foundation  
K 13, Kanavakatu, 12  
FIN-00160 Helsinki  
Tel. (358-9) 62 20 30 13  
Fax (358-9) 62 20 30 70  
E-mail: [kerstin.degerman@ses.fi](mailto:kerstin.degerman@ses.fi)  
Internet: [www.mediadesk.fi](http://www.mediadesk.fi)  
**Kerstin Degerman**

**SVERIGE (S)**  
MEDIA Desk Sverige  
Svenska Filminstitutet  
5, Borgvagen  
S-10252 Stockholm  
Tel. (46-8) 665 12 05  
Fax (46-8) 666 37 55  
E-mail: [mediadesk@sfi.se](mailto:mediadesk@sfi.se)  
Internet: [www.mediadesk.se](http://www.mediadesk.se)  
**Ulrika Nisell**

**UNITED KINGDOM (UK)**  
MEDIA Desk UK  
c/o UK Film Council  
10 Little Portland Street  
UK-London W1W 7JG  
Tel. (44-20) 7861 7511  
Fax: (44-20) 7861 7950  
E-mail: [england@mediadesk.co.uk](mailto:england@mediadesk.co.uk)  
Internet:

<http://www.mediadesk.co.uk>  
**Agnieszka Moody**  
MEDIA desk UK  
Media Service Northern Ireland  
c/o Northern Ireland Film & TV  
Commission  
Third floor, Alfred House  
21, Alfred Street  
Belfast BT2 8ED  
United Kingdom  
Tel. +44-28 9023 2444  
Fax +44-28 9023 9918  
E-mail: [media@niftc.co.uk](mailto:media@niftc.co.uk)  
Internet: [www.mediadesk.co.uk](http://www.mediadesk.co.uk)  
**Cian Smyth**

MEDIA Antenna Glasgow  
249, West George Street  
Glasgow G2 4QE  
United Kingdom  
Tel. (44-141) 302 17 76  
Fax (44-141) 302 17 78  
E-mail: [media.scotland@scottishscreen.com](mailto:media.scotland@scottishscreen.com)  
Internet: <http://www.mediadesk.co.uk>  
**Emma Valentine**

MEDIA Antenna Cardiff  
c/o Creative Industries  
33-35 Stryd Gorllewin Bute/West Bute  
street  
UK- Cardiff, CF10 5LH  
United Kingdom

Tel. (44-2920) 444216  
Fax (44-2920) 444778  
Mobile : (44) 7812 602 157  
E-mail: [gwion.owain@wales-uk.com](mailto:gwion.owain@wales-uk.com)  
Internet: <http://www.mediadesk.co.uk>  
**Gwion Owain**

**ÖSTERREICH (A)**  
MEDIA Desk Austria  
Österreichisches Filminstitut  
Stiftgasse 6  
A-1070 Wien  
Tel. (43-1) 526 97 30-406  
Fax (43-1) 526 97 30-460  
E-mail: [media@filminstitut.at](mailto:media@filminstitut.at)  
Internet: [www.mediadesk.at](http://www.mediadesk.at)

**Gerlinde Seitner**  
**SWITZERLAND (CH)**  
MEDIA Desk Suisse  
Neugasse 6  
CH-8005 Zürich  
Tel. +41 43 960 39 29  
Fax: +41 43 211 40 60  
E-mail: [info@mediadesk.ch](mailto:info@mediadesk.ch)  
Website: [www.mediadesk.ch](http://www.mediadesk.ch)  
**Rachel Schmid**

Updated: 11.07.2006

### **Annex 3 – Application forms for the « generation » of the support**

Application form « Company 2006 »

Application form « Films »

### **Annex 4 – Reinvestment project forms**

Module 1 – Minimum Guarantee

Module 2 – Marketing costs